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THIS IS A NON-EVICTION PLAN, NO NON-PURCHASING TENANT WILL BE EVICTED BY REASON OF CONVERSION TO CONDOMINIUM OWNERSHIP.

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**CONDOMINIUM OFFERING PLAN**

**BEEKMAN LANDING CONDOMINIUM**

*This Plan Has  
Been Amended  
See Inside Front Cover*

130 Beekman Street  
a/k/a 227-231 Water Street  
New York, New York 10038

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|                                                       |                 |
|-------------------------------------------------------|-----------------|
| Total Purchase Price of all 18 Residential Units..... | \$12,409,785.00 |
| Capital Reserve Fund .....                            | \$ 343,656.64*  |

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\*This fund will be established by contribution by the Sponsor as required by law.

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**BEEKMAN LANDING CONDOMINIUM**

*Business Address of Condominium:*

c/o BARR & ASSOCIATES  
866 United Nations Plaza, Suite 415  
New York, New York 10017

*Name and Address of Sponsor:*

Beekman-Water Associates, LLC  
c/o Philips International Holding Corp.  
417 Fifth Avenue, 3rd Floor  
New York, New York 10016

*Name and Address of Sales Agent:*

The Halstead Property Company  
408 Columbus Avenue  
New York, NY 10024

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**Date of Acceptance for Filing: February 2, 2001**

**This Plan may not be used for more than twelve (12) months from the date of filing of the Plan  
unless extended by amendment.**

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**SEE PAGE 1 FOR SPECIAL RISKS TO PURCHASERS**

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THIS OFFERING PLAN IS THE ENTIRE OFFER TO SELL THE CONDOMINIUM UNITS. NEW YORK LAW REQUIRES THE SPONSOR TO DISCLOSE ALL MATERIAL INFORMATION IN THIS PLAN AND TO FILE THIS PLAN WITH THE NEW YORK STATE DEPARTMENT OF LAW PRIOR TO SELLING OR OFFERING TO SELL ANY CONDOMINIUM UNIT. FILING WITH THE DEPARTMENT OF LAW DOES NOT MEAN THAT THE DEPARTMENT OR ANY OTHER GOVERNMENT AGENCY HAS APPROVED THIS OFFERING.

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### **A. SPECIAL RISKS**

1. The condominium has received a certificate of eligibility 421G tax exemption and abatement which took effect on July 1, 1999. The exemption will be in effect for thirteen years and the abatement will be in effect for fifteen years and they will run concurrently. The projected taxes for the first year of operation assumes that there will be zero taxes for the year because the exemption and abatement would be in effect. Such exemption and abatement will pass through to individual unit owners and it is expected that there will be either no or substantially reduced taxes due on any unit in the building from July 1, 1999 through June 30, 2008 when the taxes will begin to increase due to the phasing out of the 421-g tax benefits. On July 1, 2014 the building will no longer have any tax exemption or abatement. (see tax opinion letter starting on page H-1). If for any reason the property ceases to qualify for the Section 421-G exemption/abatement benefits in the New York City fiscal year 2000/2001 the taxes payable on the projected 2000/2001 assessed value of \$765,000 will be approximately \$83,010 and will be primarily apportioned among the individual condominium units based on the percent of Common Interest. Purchasers are advised to consult their attorney and/or tax advisor regarding this exemption/abatement program and any tax consequences it may have on a condominium purchase. See Section of the Offering Plan entitled "Real Estate Taxes" and "Opinion of Counsel."

2. The Limited Common Elements which are enjoyed exclusively by the respective Unit Owners who are solely responsible for the repair and maintenance of such Limited Common Elements are as follows: a) patio/yard appurtenant to Units 1C and 1D; b) terraces appurtenant to Units 4A, 5A, and 5B; and c) fireplaces within Units 1A, 1B, 1C, 2A, 2B, 2C, 2MC, 3A, 3B, 3C, 4A, 4B and 4C. See Article 7 (c) of the Declaration of Condominium. The Owners having exclusive use of a patio or terraces may not build any structure in the patio or terrace space. The Board of Managers and/or their agents shall have unimpeded access to the patio space and terraces for the purposes of making inspections and repairs to the building.

3. The condominium is located in the South Street Seaport historic landmark district. The facade must be maintained in accordance with the rules and regulations of the New York City Landmarks Law and the New York City Landmarks Commission.

4. Purchasers from the Sponsor are obligated to pay New York City and New York State Transfer Taxes and other charges that are normally the obligation of a Seller. The consideration taxed will include the amount of tax paid by the Purchaser imposed in connection with the sale of the Unit. See the Section of the Plan entitled "Unit closing Costs and Adjustments".

5. At the time of closing, each purchaser will be required to reimburse Sponsor an amount equal to one (1) month of common charges which shall be used to establish a Working Capital Fund. See section of the Offering Plan entitled "Working Capital Fund".

6. The Sponsor is not offering financing as part of this general offering. There are a number of banks that provide financing for condominium purchasers but the Sponsor makes no representation about the availability of such financing.

Pursuant to existing law and regulation the Sponsor may declare the Plan effective based on a 15% minimum number of Unit sales. It is possible that the Sponsor may be able to convert the building with fewer than the minimum number of sales if purchasers counted towards effectiveness do not ultimately purchase a Unit.

Purchasers should note that banks and other lenders impose various restrictions on loans, including requiring that a certain percentage of Units be sold before the lender will consider making a loan. Thus it may be possible for a Purchaser to experience difficulty obtaining a loan in a building where the percentage of units purchased is lower than a lender's particular sales minimum. Pursuant to the terms of the offering Plan the Purchase Agreements submitted to the Sponsor are contingent on a Purchaser being able to obtain financing or seventy-five (75%) percent of the purchase price. If the Purchaser, acting in good faith, cannot obtain a loan for up to seventy-five (75%) of the purchase price, the Purchaser is entitled to receive the return of their Contract Deposit. It may be difficult for a Purchaser to resell their Unit if the Prospective buyer(s) are unable to obtain a loan due to the percentage of units sold in the Condominium at the time such buyer seeks financing. See the section of the offering Plan entitled "Financing for Qualified Purchasers".

7. Purchasers will be given at least thirty (30) days written notice of the date, time and place of closing and for the payment of the balance of the purchase price. Upon Purchaser's failure to pay the balance of the purchase price or upon Purchaser's other default, Sponsor may elect to cancel the Purchase Agreement by thirty (30) days written notice to Purchaser. If Sponsor elects to cancel the Purchase Agreement, Purchaser shall have thirty (30) days from the giving of the cancellation notice to cure the specified default. TIME IS OF THE ESSENCE TO REMEDY SUCH DEFAULT WITHIN SAID THIRTY DAY PERIOD. The term "time is of the Essence" means that if the Purchaser does not cure the default within said thirty (30) day period the Purchase Agreement will be cancelled and the Sponsor will be entitled to retain the Contract Deposit not to exceed ten (10%) percent of the Purchase Price plus the cost of any additional completed work to the Unit ordered by the Purchaser. See the Section of the Plan entitled "Procedure to Purchase".

8. Each individual Unit Owner is responsible for the repair, maintenance and/or replacement of the video panel within the Unit that is hooked up to the common intercom video system.

Those Unit Owners with a fireplace in their Unit are responsible for the care, maintenance and/or replacement of their fireplace and the exhaust system servicing the fireplaces in the building.

9. If a tenant or other person occupying a Unit does not voluntarily vacate such Unit by the date on which his lease (as the same may be renewed) expires or the date when his right to continued occupancy terminates, whichever is later, a Purchaser of such Unit may be required, at his own expense, to institute a summary dispossess proceeding or other action in court. No representation or warranty is made as to the length of time which may elapse before actual possession of any Unit may be obtained. See the section of the Offering Plan entitled "Obligations of Owners of Dwelling Units Occupied by Non-Purchasing Tenants".

10. If a Purchaser makes a contract Deposit in excess of \$100,000 for the purchase of a Unit, such deposit will not be federally insured in excess of \$100,000.00. See the section of the offering Plan entitled "Procedure to Purchase".

11. No bond or other security has been furnished to secure Sponsor's obligations to pay common charges, special assessments and real estate taxes with respect to the Unsold Units. See the Section of the Plan entitled "Rights and Obligations Of The Sponsor".

12. The Unsold Units owned by the Sponsor after the mortgage conversion will continue to serve as collateral for a loan from the North Fork Bank ("Bank") with a branch at 1001 Avenue of the Americas, New York, NY 10018 until the mortgage loan is satisfied. Each Unsold Unit will be released from the Bank's Mortgage as, if and when a Unit is transferred to a bona fide Purchaser for their own occupancy or the occupancy by members of their immediate family under the terms provided in the mortgage. If one or more of the Unsold Units are acquired by the Bank or its designee following a mortgage foreclosure or by deed in lieu thereof, the Bank or its designee shall have all of the rights, privileges, exemptions, indemnities and other benefits reserved to the Sponsor under this Plan and the Condominium Documents with respect to such Unsold Unit or Units. So long as North Fork Bank has a security interest in any of the Units owned by he Sponsor, the Declaration may not be amended without the prior written consent of North Fork Bank. See the Section of the Plan entitled, "Definitions" as it relates to the term "Sponsor" and Article 18 of the Declaration of Condominium entitled "Amendment to this Declaration".

13. On September 1, 2001 when the budget is projected to commence, approximately two and a third years of the 13-15 year tax exemption and/or abatement will have expired. Purchasers will not have the benefit of the tax deduction and/or abatement for any

period prior to the first transfer of ownership of a Unit which may occur even later than the projected commencement date.

14. Purchasers of Units with lot line windows should be aware that lot line windows may be blocked if adjoining property owners build up their property. In the event of such construction the lot line windows may not be available for use for light and/or ventilation. The following Units have east side lot line windows which may be impacted if the adjoining property owner builds up their property: Unit 3C has 4 windows, Unit 4C has 4 windows and Unit 5A has 3 windows. Affected lot line windows, if any, should be filled in and in some cases dry wall construction will be sufficient. The current costs is approximately \$600.00 per window and it will be the obligation of the Condominium to bear the cost of blocking the affected windows, if as and when it becomes necessary.

15. Before the Offering Plan is declared effective the Sponsor reserves its rights not to renew leases. See the Section of the Plan entitled "Rights of Existing Tenants".



**PART I****INTRODUCTION****Nature of the Transaction**

The purpose of the Plan is to set forth all of the terms of the offer. The Plan may be amended from time to time when an amendment is filed with the New York State Department of Law (the "Department of Law") and served on purchasers and Unit Owners. The Condominium shall be established and be subject to the New York Condominium Act.

Beekman-Water Associates, L.L.C. (the "Sponsor"), having its principal office at 417 Fifth Avenue, 3rd Floor, New York, New York 10016 acquired the property on September 29, 1997 and presents this Offering Plan (the "Plan") for the establishment of condominium ownership of approximately 21,801 square feet of land (the "Land") together with the building thereon known by street numbers 130 Beekman Street a/k/a 227, 229 & 231 Water Street, New York, N.Y. 10038 and all appurtenances thereto (collectively called the "Building"). The Land and Building are hereinafter collectively referred to as the "Property". The condominium shall be known as "Beekman Landing Condominium" and is hereinafter referred to as the "Condominium".

All capitalized terms without definitions are defined below in the subsection "Certain Definitions".

**The Offer**

The Sponsor hereby offers 18 Residential Units for sale under this Plan. The purchase prices and estimated Common Charges for each of these Units are listed in Schedule A "Offering Prices and Related Information".

All apartments are decontrolled.

See Schedule A for price information. Each tenant in occupancy on the date the Plan was accepted for filing by the Department of Law has the exclusive right during the first 90 days after the Presentation Date of this Plan to purchase the Residential Unit occupied by such tenant. There will be no increase in prices to such tenants during such exclusive purchase period. The Sponsor will not accept purchase agreements from non-tenant purchasers for occupied Units during any exclusive period.

This is a non-eviction plan. Non-purchasing tenants may not be evicted pursuant to the provisions of General Business Law Section 352-eeee (see "Rights of Existing Tenants").

The prices set forth in Schedule A are not subject to approval by the Department of Law or any other government agency.



The Plan contains all of the detailed terms of the transaction. Copies of the Plan, all documents referred to in the Plan and all Exhibits submitted to the Department of Law in connection with the filing of the Plan will be available for inspection without charge and for copying at a reasonable charge to prospective purchasers and their attorneys at the office of the selling agent or Sponsor.

THE PURCHASE OF A CONDOMINIUM UNIT HAS MANY SIGNIFICANT LEGAL AND FINANCIAL CONSEQUENCES. THE ATTORNEY GENERAL STRONGLY URGES YOU TO READ THIS OFFERING PLAN CAREFULLY AND TO CONSULT WITH AN ATTORNEY BEFORE SIGNING A PURCHASE AGREEMENT.

### **Basic Aspects of Condominium Ownership**

Each purchaser owns his Unit outright and is entitled to exclusive possession of his Unit together with an interest in and right to use the Common Elements, and exclusive right to use Limited Common Elements, if any.

In addition, each Unit Owner will own, in common with every other Unit Owner, an undivided percentage interest in all parts of the Property other than the Units themselves (the "Common Elements") which Common Elements will include, without limitation, the Land and the roofs, exterior walls, foundations and supports of the Building. Limited Common Elements include the patio/yard used exclusively by the respective Unit Owner(s) of Unit 1C and 1D and the terraces attached to units 4A, 5A, and 5B must be separately maintained by the Unit Owner who has exclusive use thereof. The Limited Common Elements may be used only by the Unit Owner to whose Unit such Limited Common Elements are appurtenant.

In addition to the foregoing, each individual Unit Owner is responsible for the repair, maintenance and/or replacement of the video panel within the Unit that is hooked up to the common intercom video system, the air conditioning fan motor in the air conditioning unit within the Unit with its condenser on the roof. Those Unit Owners with a fireplace in their Unit are responsible for the care, maintenance and/or replacement of their fireplace and the exhaust system servicing the fireplaces in the building.

Each Unit Owner must pay Common Charges in accordance with the New York Condominium Act, Sections 339(i) and (m).

Each Unit Owner is obligated to comply with the Declaration, the By-Laws, Rules and Regulations and any other requirements of the Condominium Board.

The Units may only be used for residential purposes and/or any home occupation, as otherwise allowed by law. The Sponsor/holder of Unsold Shares may use any available apartment as a model apartment or sales office. Units other than Unsold Units are subject to a right of first refusal in favor of the Condominium Board in the event of sale or leasing. Unit Owners

may freely mortgage their Units subject only to compliance with certain filing requirements contained in the Condominium's By-Laws (see "Rights and Obligations of the Unit Owners and the Condominium Board"). The authority to manage the affairs of the Condominium is vested in the Condominium Board. Unit Owners may vote for members of the Condominium Board.

Each Unit will be taxed as a separate tax lot for real estate tax and assessment purposes, and each individual Unit Owner will be solely responsible for the payment of all real estate taxes and assessments on his Unit. The Sponsor has received a certificate of eligibility 421G tax exemption and abatement which took effect on July 1, 1999. The exemption will be in effect for thirteen years and the abatement will be in effect for fifteen years and they will run concurrently. The projected taxes for the first year of operation assumes that there will be zero taxes for the year because the exemption and abatement would be in effect. Such exemption and abatement will pass through to individual unit owners and it is expected that there will be either no or substantially reduced taxes due on any unit in the building from July 1, 1999 through June 30, 2008 when the taxes will begin to increase due to the phasing out of the 421-g tax benefits. On July 1, 2014 the building will no longer have any tax exemption or abatement. (see tax opinion letter starting on page H-1). If for any reason the property ceases to qualify for the Section 421-G exemption/ abatement benefits in the New York City fiscal year 2000/2001 the taxes payable on the projected 2000/2001 assessed value of \$765,000 will be approximately \$83,010 and will be primarily apportioned among the individual condominium units based on the percent of Common Interest. No Unit Owner will be liable for the payment of and no Unit will be subject to any lien arising out of the non-payment of, real estate taxes or assessments levied against any other Unit. Purchasers are advised to consult their attorney and/or tax advisor regarding this exemption/abatement program and any tax consequences it may have on a condominium purchase. On September 1, 2001 when the budget is projected to commence, approximately two and a third years of the 13-15 year tax exemption and/or abatement will have expired. Purchasers will not have the benefit of the tax deduction and/or abatement for any period prior to the first transfer of ownership of a Unit which may occur even later than the projected commencement date.

Each Unit Owner may decorate the interior of this Unit in any manner that he desires, subject to compliance with the Condominium's By-Laws and the Rules and Regulations promulgated pursuant thereto, and will be solely responsible for the cost and expense of maintaining, repairing and painting his Unit and for the cost of any insurance he purchases to cover his personal property in the Unit and his liability to others for personal injury or property damage as a result of occurrences in his Unit. (See "Rights and Obligations of the Unit Owners and the Condominium Board" for further discussion.)

## Definitions

The term "Condominium Documents" means the Declaration, together with the By-Laws, the Rules and Regulations and the Floor Plans, each of which will be recorded or filed simultaneously with the recording of the Declaration.

The term "Exclusive Period" means the period in which all bona fide tenants in occupancy on the filing date of the Plan shall have the exclusive right to purchase their Unit.

The term "First Closing" means the first date upon which title to a Unit is conveyed to a purchaser under this Plan.

The term "Initial Control Period" means the period ending on the earlier of (a) the closing of title under this Plan to Units having more than 50% of the aggregate Common Interests appertaining to all Residential Units or (b) five years after the First Closing.

The term "Managing Agent" means Philips International Holding Corp.

The term "non-purchasing tenant" means the tenant in occupancy of an apartment at the time the conversion of the property to condominium ownership who did not purchase such apartment.

The term "Plan" means the Offering Plan (Parts I and II) and Parts A, B, C and D of the Exhibits to the Offering Plan which were submitted to the Department of Law.

The terms "Presentation Date", "presentation", "presented" and words of similar import mean the date hand delivery of a copy of this Plan to all offerees is completed or five (5) days after it is mailed to those offerees who were not personally served, whichever is later.

The term "Residential Unit" means any of the 18 residential apartments in the Building being offered for sale under this Plan and designated as such in the Declaration, together with its appurtenant Common Interest.

The term "Sponsor" means Beekman-Water Associates, L.L.C. If one or more Unsold Units are acquired by North Fork Bank or its designee following a mortgage foreclosure or by deed in lieu thereof, North Fork Bank or such designee ("as applicable") shall have all of the rights, privileges, exemptions, indemnities and other benefits reserved to Sponsor under this Plan and the condominium documents with respect to such Unsold Unit or Units.

The term "tenant" means a person, person(s) or entities that are in possession of an apartment pursuant to a written lease with

the Sponsor prior to the conversion of the property to condominium ownership.

The term "Units" means, collectively, the Residential Units. Each Residential Unit consists of the area enclosed horizontally by the exterior face of the exterior masonry walls of the Building and by the centerline of the masonry walls and partitions dividing the Units from corridors, elevator shaft, stair common elements or other units. Vertically, each Residential Unit consists of the space between the upper face of the subfloor and the upper face of the drywall ceiling on each of one or two floors. Doors, windows and skylights which open from or form the border of a unit shall be deemed part of the unit.

The term "Unit Owners" means the respective owners of the Residential Units.

The term "Unsold Units" means the Residential Units owned by Sponsor or its designee at the time in question.

See Exhibit C to the Declaration of Condominium for a complete list of definitions applicable to the Condominium Documents.

### DESCRIPTION OF PROPERTY AND IMPROVEMENTS

The condominium is located in the South Street Seaport district in lower Manhattan, County of New York and State of New York. The South Street Seaport area is a historic landmark district. The facade must be maintained in accordance with the rules and regulations of the New York City Landmarks Law and the New York City Landmarks Commission. The existing exterior walls were maintained and repaired and the interior of the building was completely rehabilitated during 1998 with all new materials and a new roof was installed, as well as a new elevator.

Kitchen appliances (Frigidare Range: Model #FGF378WCC, Frigidare Refrigerator: Model #FRS24ZSF, Frigidare Dishwasher, microwave, washer/dryer) and cabinets (Designer Cabinet Accessories), countertops (Corian), tiles, plumbing fixtures, hardwood floors (Maple) and all other Unit improvements are included in the price of the unit.

Each Unit has been pre-wired for cable service and each Unit also has an ISDN line pre-installed to provide more efficient internet access. These services within each unit may be obtained on an individual basis.

A video intercom system is provided for communication between each Unit and the vestibule at the residential entry. The system includes an electronic strike at the front door capable of being actuated from the video panel within each Unit.

Wood burning fireplaces are provided in Units 1A, 1B, 1C, 2A, 2B, 2C, 2MC, 3A, 3B, 3C, 4A, 4B and 4C. Each Unit Owner who has a fireplace in their Unit is responsible for the care, maintenance and/or replacement of their fireplace and the exhaust system servicing the fireplaces in the building.

Each Unit has an independent split type air conditioner (air handler in the room and its condenser is on the roof). The Condominium has a service contract that includes the maintenance and repair of the air conditioner, the cost of which is included in the monthly Common Charges. The common areas have no air conditioning.

The front entrance to the Building provides direct access to 130 Beekman Street.

The Property was rehabilitated in accordance with all applicable zoning and building laws, regulations, Codes and other requirements, including requirements of the City of New York Building Code and applicable zoning requirements.



## LOCATION AND AREA INFORMATION

### **Location**

The Property is located at the corner of **Beekman Street and Water Street** in lower Manhattan. It is located in the South Street Seaport Historic District. The area is characterized by cobble-stoned streets and low density low rise nineteenth century buildings as well as businesses connected to the South Street Seaport. New tax incentives offered by the City of New York has spurred recent redevelopment activity in the area to produce additional residential housing.

### **Surrounding Area**

The South Street Seaport area is a well known historic district and is a popular tourist destination with cultural events and a variety of stores and restaurants. The area is within walking distance of both Wall Street to the South and the City Hall area to the North.

### **Transportation**

All major subway and bus lines serving lower Manhattan are within walking distance of the Property. In addition, various ferry services are operating near the Seaport.

### **Recreational Facilities**

There are scattered recreational facilities nearby primarily associated with the Waterfront. The most notable park facilities are Battery Park to the South and City Hall park to the North.

### **School, Religious and Medical Facilities**

New York City Public schools and religious and private schools are located within the district or in adjacent districts. New York Downtown Hospital, affiliated with NYU Medical Center, is located a few blocks away from the property.

### **Police, Fire, Water, Sanitation, Snow Removal and Road Maintenance. Sewers**

The City of New York provides these services. The First Police Precinct is located at 16 Erickson Place, off Canal Street approximately one mile from the building. New York City Fire Department, Engine Company 4 and Ladder 15 are located at 42 South Street at Old Slip approximately 1/4 mile from the property.

### **Zoning**

The property is in a C6-4 zone that allows a variety of commercial or residential uses.

# SCHEDULE A -SELLING PRICES

| <u>Units</u> | <u>Rooms<br/>Bedroom<br/>and Baths</u><br>[1] | <u>Approx.<br/>Total<br/>Area</u><br>[2] | <u>Offering<br/>Price<br/>to Tenant in<br/>Occupancy*</u><br>[3] | <u>Offering<br/>Price<br/>to Non-<br/>Resident<br/>Purchaser</u><br>[4] | <u>Percent<br/>Common<br/>Interest</u><br>[5] | <u>Projected<br/>Yearly<br/>Common<br/>Charges**</u><br>[6] | <u>Projected<br/>Monthly<br/>Common<br/>Charges**</u><br>[6] | <u>Projected<br/>R/E Taxes<br/>Monthly**</u><br>[7] | <u>Annual<br/>R/E<br/>Taxes</u><br>[7] | <u>Total<br/>Monthly<br/>Carrying<br/>Charges</u><br>[8] |
|--------------|-----------------------------------------------|------------------------------------------|------------------------------------------------------------------|-------------------------------------------------------------------------|-----------------------------------------------|-------------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------|----------------------------------------|----------------------------------------------------------|
| 1A           | 3.5/1-F                                       | 1,025                                    | \$ 535,050                                                       | \$ 579,637                                                              | 4.32                                          | \$ 5,287.68                                                 | 440.64                                                       | 0                                                   | 0                                      | 440.64                                                   |
| 1B           | 2.5/2-F                                       | 1,072                                    | \$ 559,584                                                       | \$ 606,216                                                              | 4.54                                          | \$ 5,556.96                                                 | 463.08                                                       | 0                                                   | 0                                      | 463.08                                                   |
| 1C           | 3.5/1-P-F                                     | 1,113                                    | \$ 594,342                                                       | \$ 643,870                                                              | 5.98                                          | \$ 7,319.52                                                 | 609.96                                                       | 0                                                   | 0                                      | 609.96                                                   |
| 1D           | 2.5/2-P                                       | 1,176                                    | \$ 627,984                                                       | \$ 680,316                                                              | 6.27                                          | \$ 7,674.48                                                 | 639.54                                                       | 0                                                   | 0                                      | 639.54                                                   |
| 2A           | 3.5/2-F                                       | 1,286                                    | \$ 655,860                                                       | \$ 710,515                                                              | 5.55                                          | \$ 6,793.20                                                 | 566.10                                                       | 0                                                   | 0                                      | 566.10                                                   |
| 2B           | 2.5/1-F                                       | 807                                      | \$ 353,466                                                       | \$ 382,921                                                              | 3.34                                          | \$ 4,088.16                                                 | 340.68                                                       | 0                                                   | 0                                      | 340.68                                                   |
| 2C           | 3.5/1-F                                       | 1,084                                    | \$ 506,844                                                       | \$ 549,081                                                              | 4.61                                          | \$ 5,642.64                                                 | 470.22                                                       | 0                                                   | 0                                      | 470.22                                                   |
| 2D           | 2.5/1                                         | 814                                      | \$ 341,460                                                       | \$ 369,915                                                              | 3.37                                          | \$ 4,124.88                                                 | 343.74                                                       | 0                                                   | 0                                      | 343.74                                                   |
| 2MC          | 3.5/1-F                                       | 1,099                                    | \$ 513,864                                                       | \$ 556,686                                                              | 4.68                                          | \$ 5,728.32                                                 | 477.36                                                       | 0                                                   | 0                                      | 477.36                                                   |
| 3A           | 3.5/2-F                                       | 1,257                                    | \$ 655,632                                                       | \$ 710,268                                                              | 5.41                                          | \$ 6,621.84                                                 | 551.82                                                       | 0                                                   | 0                                      | 551.82                                                   |
| 3B           | 2.5/1-F                                       | 886                                      | \$ 398,700                                                       | \$ 431,925                                                              | 3.70                                          | \$ 4,528.80                                                 | 377.40                                                       | 0                                                   | 0                                      | 377.40                                                   |
| 3C           | 3.5/1-F                                       | 1,164                                    | \$ 544,752                                                       | \$ 590,148                                                              | 4.98                                          | \$ 6,095.52                                                 | 507.96                                                       | 0                                                   | 0                                      | 507.96                                                   |
| 3D           | 4.5/2.5-D                                     | 1,564                                    | \$ 834,642                                                       | \$ 904,195                                                              | 6.78                                          | \$ 8,298.72                                                 | 691.56                                                       | 0                                                   | 0                                      | 691.56                                                   |
| 4A           | 3.5/2-T-F                                     | 1,307                                    | \$ 673,896                                                       | \$ 730,054                                                              | 7.07                                          | \$ 8,653.68                                                 | 721.14                                                       | 0                                                   | 0                                      | 721.14                                                   |
| 4B           | 2.5/1-F                                       | 886                                      | \$ 404,016                                                       | \$ 437,684                                                              | 3.70                                          | \$ 4,528.80                                                 | 377.40                                                       | 0                                                   | 0                                      | 377.40                                                   |
| 4C           | 3.5/1-F                                       | 1,164                                    | \$ 551,736                                                       | \$ 597,714                                                              | 4.98                                          | \$ 6,095.52                                                 | 507.96                                                       | 0                                                   | 0                                      | 507.96                                                   |
| 5A           | 5.5/3-T-D                                     | 2,365                                    | \$ 1,560,900                                                     | \$ 1,690,975                                                            | 11.91                                         | \$ 14,577.84                                                | 1,214.82                                                     | 0                                                   | 0                                      | 1,214.82                                                 |
| <u>5B</u>    | <u>5.5/3-T-D</u>                              | <u>1,732</u>                             | <u>\$ 1,142,460</u>                                              | <u>\$ 1,237,665</u>                                                     | <u>8.81</u>                                   | <u>\$ 10,783.44</u>                                         | <u>898.62</u>                                                | <u>0</u>                                            | <u>0</u>                               | <u>898.62</u>                                            |
| 18 Apts.     | Totals:                                       | 21,801                                   | \$ 11,455,188                                                    | \$ 12,409,785                                                           | 100%                                          | \$ 122,400.00                                               | 10,200.00                                                    | 0                                                   | 0                                      | 10,200.00                                                |

D=Duplex

T=Terrace

P=Patio/Yard

F=Woodburning Fireplace

\*During the initial 90 day Exclusive Period

\*\*For the period of September 1, 2001-August 31, 2002

## FOOTNOTES TO SCHEDULE A

1. The number of rooms listed for each unit is based upon the New York City Zoning Resolution definition. For more details regarding the rooms within the units, please consult the floor plans in Part II.

2. The amounts stated are the approximate square footages and, if relevant are exclusive of the square footage of the terraces. Each Unit consists of the area enclosed horizontally by the exterior face of the exterior masonry walls of the Building and by the centerline of the masonry walls and partitions dividing the Units from corridors, elevator shaft, stair common elements or other units. Vertically, each Unit consists of the space between the upper face of the subfloor and the upper face of the drywall ceiling on each of one or two floors. Doors, windows and skylights which open from or form the border of a unit shall be deemed part of the unit.

3. The price stated is offered during the initial ninety (90) day Exclusive Period.

4. No change in the sale prices will be made other than pursuant to a duly filed amendment, except that the Sponsor reserves the right to decrease the sales prices below the Offering Plan prices without filing an amendment to the Plan at any time during the offering where a reduction in sales price does not constitute a general offering, but is rather the result of an individual negotiated purchase.

5. The percentage of Common Interest for Residential Units has been calculated in accordance with Section 339(i) (ii) of the Condominium Act on the basis of the approximate proportion which the floor area (i.e. square foot area) of each unit bears to the total floor area (i.e. total square foot area) of all the units as of the date of the Declaration and taking into account the substantially exclusive advantages enjoyed by six (6) of the units in parts of the common elements.

6. Monthly common charges are projected for the first year of operation (see Schedule B, Part 1). These common charges do not include certain costs for which the unit owner will be responsible such as repairs to the interior of the unit (see rights and obligations of the unit owners and certain Limited Common Elements restricted to the use of certain unit owners and domestic utility costs for electricity).

7. The building received a 421G exemption and abatement (approved April 29, 1999) effective July 1, 1999 that has resulted in zero taxes on the condominium (including individual units). The projections have been prepared by Tuchman, Katz, Schwartz, Gelles & Korngold, 6 East 45<sup>th</sup> Street, New York, NY 10017 (Opinion Letter March 8, 2000). Although a real estate tax increase is not anticipated, for illustration purposes if the transition assessed valuation were to be increased by ten (10%) percent (from \$765,000 to \$841,500) at the current tax rate of \$10.851 per \$100, the average increase per unit would be approximately \$38.43 per month.

8. The amount stated represents the sum of projected monthly common charges for the first year of operation (September 1, 2001-August 31, 2002) and projected real estate taxes with the Section 421-G benefits in effect. The projected carrying charges do not include certain costs for which the Unit Owner is responsible, such as, but not limited to, repairs to the interior of the Unit, maintenance and/or replacement of Limited Common Elements which are enjoyed exclusively by Unit Owners in certain of the Units, separately metered electricity, cable television, video panel in the Unit, maintenance, insurance, telephone and debt service on financing, if any, obtained in order to purchase the Unit.

SCHEDULE B  
Beekman Landing Condominium  
New York, New York

BUDGET FOR THE FIRST YEAR  
OF CONDOMINIUM OPERATION

September 1, 2001 to August 31, 2002

PROJECTED INCOME:

|                         |            |
|-------------------------|------------|
| Common Charges (Note 1) | \$ 122,400 |
|                         | =====      |

PROJECTED EXPENSES

|                                                  |        |
|--------------------------------------------------|--------|
| Labor (Note 2)                                   | 30,600 |
| Utilities (Electricity and Natural Gas) (Note 3) | 24,600 |
| Water Meter (Note 4)                             | 3,000  |
| Repairs, Maintenance and Supplies (Note 5)       | 10,800 |
| Service Contracts (Note 6)                       | 23,400 |
| Insurance (Note 7)                               | 11,300 |
| Management Fees (Note 8)                         | 12,000 |
| Audit Fees (Note 9)                              | 3,000  |
| Contingency Fund (Note 10)                       | 3,700  |

|       |            |
|-------|------------|
|       | -----      |
| Total | \$ 122,400 |
|       | =====      |



Footnotes to Schedule B  
Beekman Landing Condominium  
New York, New York

Budget for the First Year  
of Condominium Operation  
September 1, 2001-August 31, 2002

(1) Common Charges-(Budget \$122,400)

These estimates of operating expenses and income have been made by the Sponsor for the first year of condominium operation assumed to begin September 1, 2001-August 31, 2002 based upon one year and nine months' actual operation and the operation of other comparable buildings.

(2) Labor Costs-(Budget \$30,600)

The building staff consists of one (1) non-union, non-resident Superintendent who resides within one block of the building. This Superintendent works an average of thirty (30) hours per week. This figure is intended to cover the cost of all labor including payroll taxes. The amount budgeted is based on one part-time, non-resident superintendent. The duties of the superintendent will include cleaning, general repair and maintenance of the lobby, basement, stairs and sidewalks, landscape, common areas, common areas of the garbage, and all other common areas as needed; operation of the trash compactors, putting out trash for collection, and checking the operation of the boiler and burners.

(3) Utilities (electricity and natural gas)-(Budget \$24,600)

The projection for the electricity for power and light and the projection for natural gas for heating, hot water and for individual apartment cooking is based upon 1/1/2000-9/30/2000 actual charges annualized plus five (5%) percent increase.

The projection does not include the cost of electricity for each individual unit. The units shall be individually metered and billed directly.

Electricity is generated by the utility company by means of fuel oil as primary energy source. If the cost of oil used to generate electricity increases, it is likely that electricity rates will increase. It is believed that the projected figure would be sufficient to cover any reasonable increase in the cost of electricity or gas resulting from the foregoing during the first year of condominium operation.

(4) Water Meter Charges-(Budget \$3,000)

The Units will not be individually metered for water. The budget figure has been estimated based upon estimated annual water and sewer charges based on a metered method in accordance with rates currently in effect in New York City. The estimated cost includes an adjustment for sales tax but no provision has been made for a possible increase in the rates by the City of New York.

(5) Repairs, Maintenance and Supplies-(Budget \$10,800)

The budgeted figure does not include improvements and repairs and maintenance of, or supplies for individual Units and certain Limited Common Elements (see paragraph 2 of the Special Risks section of the plan). Each individual Unit Owner is responsible for improvements, repairs to maintenance of, and supplies for his Unit and certain Limited Common Elements irrevocably restricted to his use. The estimate includes maintenance of and repairs to all Common Elements. This item also includes telephone, dues and permits. The amount is based upon 1/1/00-9/30/00 actual charges annualized plus a five (5%) percent increase.

(6) Service Contracts-(Budget \$23,400)

The budget reflects the following service contracts:

| <u>Contractor</u>                                                                  | <u>Service</u>          | <u>Annual Cost<br/>Including Tax</u> | <u>Termination<br/>Date</u> |
|------------------------------------------------------------------------------------|-------------------------|--------------------------------------|-----------------------------|
| AAA Sure Pest Control Co.<br>469 West 157 <sup>th</sup> Street, New York, NY 10032 | Exterminator            | \$605.00                             | December 31, 2001           |
| Chapman & Evans, Inc.<br>40-29 27 <sup>th</sup> Street, Long Island City, NY 11101 | Air Conditioning Maint. | \$16,605.00                          | December 31, 2001           |
| J.L. Young Mechanical, Inc.<br>600 Rutgers Road, North Babylon, NY 11703           | Sprinkler Inspection    | \$1,119.00                           | December 31, 2001           |
| R.D. Mortman, LLC<br>100 Leuning Street, S. Hackensack NJ 07606                    | Boiler Service          | \$1,680.00                           | December 31, 2001           |
| Rotavele Elevator Company<br>7-06 149 <sup>th</sup> Street, Whitestone, NY 11357   | Elevator Maintenance    | \$3,391.00                           | April 30, 2004              |

(7) Insurance (Budget \$11,300)

The budgeted figure for insurance is based upon an October 30, 2000 proposal provided by Praxis International. For the most part, insurance will be provided by master policies written by several different insurance carriers. The budgeted figure includes:

|                                                                         | <u>Premium</u> |
|-------------------------------------------------------------------------|----------------|
| Property: Building and Loss of Rents \$120,000,000 (limit any one loss) | \$4,308        |
| Form - "Special"                                                        |                |
| Valuation - replacement cost                                            |                |
| Co Insurance - waived                                                   |                |

|                                |                               |                            |         |
|--------------------------------|-------------------------------|----------------------------|---------|
|                                | Deductible - \$5,000          |                            |         |
|                                | Building Ordinance - included |                            |         |
|                                | Flood & Quake - included      |                            |         |
| Boiler/Machinery               | Limit-                        | \$50,000,000               | \$225   |
| General Liability              | Limit                         | \$1,000,000 / \$2,000,000  | \$3,813 |
| Umbrella Liability             | Limit                         | \$25,000,000               | \$191   |
| Excess Umbrella                | Total Limit                   | \$200,000,000              | \$92    |
| Directors & Officers Liability | Limit                         | \$1,000,000                | \$1,235 |
| Pollution Liability            | (Term) Limit                  | \$5,000,000 / \$15,000,000 | \$163   |
| Workers Comp.                  | Statutory                     |                            | \$1,231 |
| NYS Disability                 | Statutory                     |                            | \$42    |

No coverage is provided for such risks as fire and casualty losses to the contents of each individual Unit, nor does the coverage take into account any future replacements or additions to either the Units or the fixtures and improvements contained therein. In addition, no liability coverage for an individual Unit Owner is included in the coverage provided above. Prospective purchasers should consult their attorney or insurance agent to determine the advisability of obtaining insurance for their own risk of liability and fire and casualty losses.

(8) Management-(Budget \$12,000)

At or prior to the first closing of title to the Unit, the Condominium will enter into a three (3) year management agreement with Philips International Holding Corp., as managing agent at a fee of \$12,000 per year (\$1,000 per month).

(9) Auditing-(Budget \$3,000)

This figure reflects the estimated cost of retaining an accountant to prepare an audited year end fiscal statement and Federal and State and City tax returns for the first calendar year of condominium operation. The estimate is based upon the fee quotation provided to the Sponsor by Mr. Ben Goldberg, a certified public accountant with the accounting firm of Reilly, Deane and Raboy with an office at 60 East 42<sup>nd</sup> Street, New York, NY 10165. It is not anticipated that there will be a need for any legal services and no provision has been made to retain an attorney to advise the Board of Managers in connection with the Condominium's normal business operations. The amount reflected does not cover extraordinary costs or expenses for additional services rendered or costs incurred to conduct litigation on behalf of the Condominium.

(10) Contingency Fund-(Budget \$3,700)

This budget item is intended to provide funds for unanticipated expenses and/or increases in the projected expenses.

If the actual or anticipated date of commencement of condominium operation is to be delayed more than six (6) months from the budget year projected in the offering plan, the plan must be amended to include a revised budget disclosing current projections. If such amended projections exceed the original projections by twenty-five percent (25%) or more, the sponsor must offer all purchasers the right to rescind and a reasonable period of time that is not less than fifteen (15) days after the date of presentation of such amendment to exercise the right, whether or not Sponsor offers to guarantee the previous budget projection. Sponsor must return any deposit or down payment to purchasers who rescind within a reasonable period of time not to exceed fifteen (15) days. Sponsor may not declare a plan effective where there are any material changes to the budget if these changes have not been disclosed by a duly filed amendment to the offering plan.

IN THE OPINION OF BEEKMAN-WATER ASSOCIATES LLC., THE PROJECTED RECEIPTS ARE ADEQUATE TO MEET THE ESTIMATED EXPENSES FOR THE FISCAL YEAR OF OPERATION COMMENCING SEPTEMBER 1, 2001. THE FOREGOING SCHEDULE, HOWEVER, IS NOT INTENDED AND SHOULD NOT BE TAKEN AS A GUARANTEE OR WARRANTY BY ANYONE THAT THE ANNUAL COMMON CHARGES OR OTHER INCOME OR EXPENSES FOR SUCH FISCAL YEAR OR ANY SUBSEQUENT YEAR OF OPERATION OF THE PROPERTY BY THE CONDOMINIUM WILL BE AS SET FORTH IN SAID SCHEDULE, AND IT IS POSSIBLE THAT THE ACTUAL COMMON CHARGES AND OTHER ITEMS OF INCOME AND EXPENSE WILL VARY FROM THE AMOUNTS SHOWN IN THE SCHEDULE.

SPONSOR HAS RESERVED THE RIGHT TO MODIFY, RENEW AND REPLACE EXISTING SERVICE, MAINTENANCE, EMPLOYMENT, CONCESSIONAIRE AND OTHER AGREEMENTS AND TO ENTER INTO NEW AGREEMENTS THAT WILL BE BINDING ON THE BOARD OF MANAGERS UPON COMMENCEMENT OF CONDOMINIUM OPERATION. ALL SUCH MODIFICATIONS, RENEWALS AND REPLACEMENTS THERETO WILL BE REFLECTED IN AN AMENDMENT TO THIS PLAN IF THEY MATERIALLY ALTER STATEMENTS MADE HEREIN.

**Goodstein Realty Commercial, LLC**12 East 52<sup>nd</sup> Street, New York, NY 10022

Tel: 212.751.0900 Fax: 212.751.0033

[www.goodsteinrealty.com](http://www.goodsteinrealty.com)

December 21, 2000

New York State Department of Law  
Real Estate Financing Bureau  
120 Broadway  
New York, NY 10271

Re: Beekman Landing Condominium  
130 Beekman Street, New York, NY 10038

Ladies/Gentlemen:

We are licensed real estate brokers and a division of the Goodstein Organization. Principals of the firm have been in the business for more than 15 years. We have acted as selling agents in respect of New York cooperatives and condominium apartments, and have been consulted by numerous offering plan sponsors in respect to adequacy of budgetary forecasts.

We have examined the allocation of the Common Interest to the Units in the proposed Condominium and, based on the respective square footages of the Units, the respective exclusive advantages of the Units each to the other and the allocation of the pertinent Common Interest to the Units, we are of the opinion that the allocation of the Common Interest to each Unit is in the approximate proportion that the fair value of the Unit is to the aggregate fair value of all of the Units offered under the Plan; and further, that based upon floor space, subject to the location of such space, and factors of relative value to other space in the Condominium, the uniqueness of a Unit, and the overall dimensions of a particular Unit, and that such allocation is in compliance with Section 339-i(1)(ii) of the Real Property Law.

You are authorized to reproduce this letter, and insert copies in the proposed Offering Plan.

Very truly yours,

GOODSTEIN REALTY COMMERCIAL, LLC

Robert S. Broder  
Executive Managing Director



Barr & Associates  
866 United Nations Plaza, Suite 415  
New York, N.Y. 10017  
(212) 355-2323  
Facsimile  
(212) 355-0503

December 21, 2000

New York State Department of Law  
Real Estate Financing Bureau  
120 Broadway  
New York, NY 10271

Re: Beekman Landing Condominium  
130 Beekman Street, New York, NY 10038

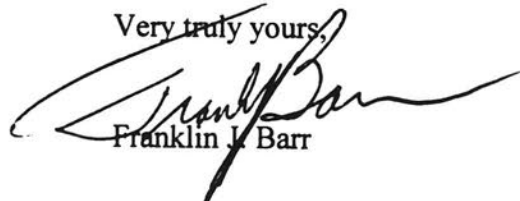
Dear Ladies & Gentlemen:

I am an attorney duly licensed to practice law in the State of New York. I prepared the Offering Plan for Condominium conversion of the above captioned premises.

It is the opinion of counsel that the allocation of the percentages of Common Interest to the Units utilized by S. Schwartz Associates, Consulting Engineers and Goodstein Realty Commercial, LLC is in compliance with Section 339-i (1)(ii) of the Real Property Law of the State of New York.

I consent to the inclusion of this letter in the Offering Plan.

Very truly yours,



Franklin J. Barr

## **CHANGES IN PRICES AND UNITS**

### **Changes in Price**

The offering price to be paid by tenants in occupancy on the date the Plan was accepted for filing which is applicable during the exclusive purchase period will not be increased during any such exclusive purchase period.

The offering price as set forth in Schedule A must be changed by a duly filed amendment to the Plan when the change in price is an across the board increase or decrease affecting one or more lines of Units or Unit models, or is to be advertised, or is a price increase for an individual Purchaser. The Sponsor may enter into an agreement with an individual Purchaser to sell one or more Units at prices lower than those set forth in Schedule A without filing an amendment. Prices and other sales terms of the Purchase Agreement are negotiable.

### **Changes in Units**

No change will be made in the size or number of Units, their respective percentages of common interest or in the size or quality of Common Elements except by amendment to the Plan and to the Declaration.

Unless an affected Purchaser consents, no material change will be made in Unit size, layout, or percentage of Common Interest if a Purchase Agreement has been executed and delivered to the Sponsor for that Unit and the Purchaser is not in default. No material change will be made in the size or quality of Common Elements unless Purchasers not in default receive a right to rescind contained in an amendment and a reasonable period of time that is not less than fifteen days after the date of presentation of such amendment to exercise the right. Sponsor will return any deposit or down payment promptly to Purchasers who rescind.

Sponsor reserves the right to change: (a) the layout of, or number of rooms in, Unsold Units and (b) the size and/or number of Unsold Units by subdividing one or more Unsold Units into two or more separate Units, by combining two or more separate Unsold Units into one or more Unsold Units, by altering the boundary walls of any Unsold Unit(s), or otherwise, including, without limitation, the use of any portion(s) of the Common Elements adjacent to such Unsold Units to the extent that such portion(s) are not required to be maintained as Common Elements pursuant to the terms of the By-Laws. Subject to the terms of the last two paragraphs of this section, such right may be exercised by Sponsor from time to time, both before and after the First Closing, by amendment to this Plan without the Consent or approval of the Selling Agent, the Managing Agent, the Condominium Board, any Unit Owner or any Mortgagee other than North Fork Bank.

In the event that Sponsor shall change the size and/or number of Unsold Units, Sponsor shall increase or decrease the Common Interests appurtenant thereto accordingly; however, the aggregate amount of the Common Interests of all of the Units shall always remain at 100%. As a result of such reapportionment, the amount of the Common Charges and the real estate taxes and assessments payable by the owners of the Unsold Units affected thereby will be increased or decreased proportionately, but the amount of the Common Charges and the real estate taxes and assessments payable by the owners of Units unaffected thereby will not be varied.

Once the Declaration is recorded, no change may be made in the number of Units, nor may the size of any Unit be changed by subdivision or combination or alteration of boundary walls as aforesaid, or otherwise, nor may the Common Interest of any Unit be changed, unless the Declaration is amended and such amendment is duly recorded. As more particularly provided in the Declaration, Sponsor or its designee, as the owner of an Unsold Unit, will have the right itself to so amend the Declaration to effectuate such change, without the Condominium Board, the other Unit Owners, or any mortgagee consenting to, or executing, such amendment. However, no change of a Unit's Common Interest will be made without obtaining the prior consent of the owner of such Unit. In addition, no change will be made in the Common Interest of any Unit for which a Purchase Agreement is in effect without obtaining the prior written consent of the Purchaser thereof. Notwithstanding the foregoing, in the event North Fork Bank has a security interest in one or more unsold Units no amendment to the Declaration shall be made without the written consent of North fork Bank, its designee and or its successor in interest.

To the extent permitted by law, if the size or configuration of a Unit is changed in compliance with this Plan and the Condominium Documents and, in connection therewith, a wall, space, or other area forming a part of the Common Elements servicing and benefiting only such Unit is razed or incorporated in the Unit, then such Common Element shall be deemed for the exclusive use and benefit of the owner of such Unit and the Common Interest of all of the Units may be changed to reflect the change.

To the extent not prohibited by law, if the size or configuration of a Unit is changed in compliance with this Plan and the Condominium Documents included in connection therewith, and a wall, space, or other area forming a part of the Common Properties servicing and benefiting only such Unit and not affecting access to any other Unit is thereupon demolished or incorporated in the Unit, then such Common Properties shall be deemed for the exclusive use and benefit of the owner of such Unit.



## ACCOUNTANT'S CERTIFIED STATEMENTS OF OPERATION

GENTILE PISMENY &amp; BRENGEL, LLP CERTIFIED PUBLIC ACCOUNTANTS

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 159 NORTHERN BOULEVARD GREAT NECK, N.Y. 11021 (718) 224-0900 (516) 487-4110 FAX (516) 487-0166
 

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To the Members of  
 Beekman-Water Associates L.L.C.  
 c/o Philips International Holding Corp.  
 417 Fifth Avenue  
 New York, NY 10016

We have audited the accompanying statement of property operations (exclusive of non-operating income, interest, depreciation, amortization and other expenses not applicable to the operation of the building as a condominium) of Beekman-Water Associates L.L.C., New York, New York for the nine months ended September 30, 2000. This statement is the responsibility of the Company's management. Our responsibility is to express an opinion on this statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement of property operations is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the statement of property operations referred to above presents fairly, in all material respects, the property operations (exclusive of non-operating income, interest, depreciation, amortization and other expenses not applicable to the operation of the building as a condominium) of Beekman-Water Associates L.L.C. for the nine months ended September 30, 2000, in conformity with generally accepted accounting principles applied on a consistent basis.

*Gentile Pismeny & Brengel L.L.P.*

Great Neck, New York  
 October 25, 2000

**BEEKMAN-WATER ASSOCIATES L.L.C.**  
**(A NEW YORK LIMITED LIABILITY COMPANY)**  
**STATEMENT OF PROPERTY OPERATIONS**  
**(EXCLUSIVE OF NON-OPERATING INCOME, INTEREST, DEPRECIATION,**  
**AMORTIZATION AND OTHER EXPENSES NOT APPLICABLE TO THE**  
**OPERATION OF THE BUILDING AS A CONDOMINIUM)**  
**FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2000**

|                                   |                         |
|-----------------------------------|-------------------------|
| Revenues                          |                         |
| Rents                             | \$510,802               |
| Miscellaneous tenant charges      | <u>486</u>              |
| Total                             | <u>511,288</u>          |
| Expenses                          |                         |
| Payroll and related expenses      | 19,922                  |
| Gas                               | 10,788                  |
| Electric                          | 6,748                   |
| Water and sewer                   | 1,325                   |
| Repairs, maintenance and supplies | 19,779                  |
| Insurance                         | 7,148                   |
| Management fees (Note 2)          | 9,000                   |
| Professional fees                 | 5,375                   |
| Miscellaneous                     | <u>2,616</u>            |
| Total                             | <u>82,701</u>           |
| Net operating income              | <u><u>\$428,587</u></u> |

The accompanying notes and independent auditor's report should  
 be read in conjunction with the financial statements

**BEEKMAN-WATER ASSOCIATES L.L.C.**  
**(A NEW YORK LIMITED LIABILITY COMPANY)**  
**NOTES TO STATEMENT OF PROPERTY OPERATIONS**  
**(EXCLUSIVE OF NON-OPERATING INCOME, INTEREST, DEPRECIATION,**  
**AMORTIZATION AND OTHER EXPENSES NOT APPLICABLE TO THE**  
**OPERATION OF THE BUILDING AS A CONDOMINIUM)**  
**FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2000**

**Note 1 - Basis of Presentation**

This statement reflects only those income and expenses which management considers to be normal operating expenses of Beekman-Water Associates L.L.C., exclusive of non-operating income, interest, depreciation, amortization and other expenses not applicable to the operation of the building as a condominium.

**Note 2 - Management Fees**

The building is managed by Philips International Holding Corp., the stockholders of which have an interest in the property. The management fee is \$12,000 per annum, payable monthly.





GENTILE PISMENY & BRENGEL, LLP CERTIFIED PUBLIC ACCOUNTANTS

159 NORTHERN BOULEVARD GREAT NECK, N.Y. 11021 (718) 224-0900 (516) 487-4110 FAX (516) 487-0166

To the Members of  
Beekman-Water Associates L.L.C.  
c/o Philips International Holding Corp.  
417 Fifth Avenue  
New York, NY 10016

We have audited the accompanying statement of property operations (exclusive of non-operating income, interest, depreciation, amortization and other expenses not applicable to the operation of the building as a condominium) of Beekman-Water Associates L.L.C., New York, New York for the year ended December 31, 1999. This statement is the responsibility of the Company's management. Our responsibility is to express an opinion on this statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement of property operations is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the statement of property operations referred to above presents fairly, in all material respects, the property operations (exclusive of non-operating income, interest, depreciation, amortization and other expenses not applicable to the operation of the building as a condominium) of Beekman-Water Associates L.L.C. for the year ended December 31, 1999, in conformity with generally accepted accounting principles applied on a consistent basis.

*Gentile Pismeny & Brengel LLP*

Great Neck, New York  
March 3, 2000

**BEEKMAN-WATER ASSOCIATES L.L.C.**  
**(A NEW YORK LIMITED LIABILITY COMPANY)**  
**STATEMENT OF PROPERTY OPERATIONS**  
**(EXCLUSIVE OF NON-OPERATING INCOME, INTEREST, DEPRECIATION,**  
**AMORTIZATION AND OTHER EXPENSES NOT APPLICABLE TO THE**  
**OPERATION OF THE BUILDING AS A CONDOMINIUM)**  
**FOR THE YEAR ENDED DECEMBER 31, 1999**

|                                   |                  |
|-----------------------------------|------------------|
| Revenues                          |                  |
| Rents                             | \$536,300        |
| Miscellaneous tenant charges      | <u>1,470</u>     |
| Total                             | <u>\$537,770</u> |
| Expenses                          |                  |
| Real estate taxes                 | 31,702           |
| Payroll and related expenses      | 27,417           |
| Gas                               | 10,118           |
| Electric                          | 10,206           |
| Repairs, maintenance and supplies | 24,541           |
| Dues and permits                  | 2,241            |
| Insurance                         | 6,786            |
| Management fees (Note 2)          | 12,000           |
| Professional fees                 | 6,000            |
| Miscellaneous                     | <u>3,005</u>     |
| Total                             | <u>134,016</u>   |
| Net operating income              | <u>\$403,754</u> |

The accompanying notes and independent auditor's report should  
 be read in conjunction with the financial statements

**BEEKMAN-WATER ASSOCIATES L.L.C.  
(A NEW YORK LIMITED LIABILITY COMPANY)  
NOTES TO STATEMENT OF PROPERTY OPERATIONS  
(EXCLUSIVE OF NON-OPERATING INCOME, INTEREST, DEPRECIATION,  
AMORTIZATION AND OTHER EXPENSES NOT APPLICABLE TO THE  
OPERATION OF THE BUILDING AS A CONDOMINIUM)  
FOR THE YEAR ENDED DECEMBER 31, 1999**

**Note 1 - Basis of Presentation**

This statement reflects only those income and expenses which management considers to be normal operating expenses of Beekman-Water Associates L.L.C., exclusive of non-operating income, interest, depreciation, amortization and other expenses not applicable to the operation of the building as a condominium.

**Note 2 - Management Fees**

The building is managed by Philips International Holding Corp., the stockholders of which have an interest in the property. The management fee is \$12,000 per annum, payable monthly.

### RIGHTS OF EXISTING TENANTS

In accordance with General Business Law §352-eeee, a copy of which is set forth in Part II of the Plan,

(a) All bona fide tenants in occupancy on the filing date of the Plan shall have the exclusive right to purchase their Residential Unit for ninety (90) days after the Plan is presented, during which time a tenant's dwelling unit shall not be shown to a third party unless he has, in writing, waived his right to purchase.

(b) Any bona fide tenant with the right to a renewal lease on the filing date of the Plan has the right to purchase as a tenant during the exclusive period. Any bona fide tenant who has the right to continued occupancy on the filing date of the Plan has the right to purchase as a tenant during the exclusive period. For the purpose of determining who has the right to purchase during the exclusive period, a bona fide tenant of record with an unexpired lease on the filing date of the Plan shall be presumed to be a tenant in occupancy, even though that tenant has sublet his dwelling unit or the dwelling unit is not occupied as the tenant's primary residence. A bona fide sublessee in occupancy on the filing date of the Plan has the right to purchase during the exclusive period if he (i) sublets from a non-bona fide tenant, or (ii) has obtained written permission to purchase the Unit from the bona fide tenant of record. Nothing herein shall be construed to deprive an owner of any legal remedy for an illegal occupancy. Notwithstanding the foregoing, consistent with the New York Court of Appeals decision in DeKovessey v. Coronet Properties Co., et al (69 N.Y. 2d 488, 508 N.E. 2d 652, 515 N.Y. 2d 740, 1987), the right of a tenant in occupancy to purchase his Unit is personal to such tenant in occupancy and will not pass to such tenant's estate if the tenant dies prior to exercising his right to purchase. Although the DeKovessey case and its three companion cases each dealt with a tenant in occupancy of a rent controlled apartment, the court's decision was based on the language and intent of General Business Law Section 352-eeee, which provision makes no distinction between rent controlled and rent stabilized tenants. On April 5, 1988, the Surrogate's Court for New York County in Estate of Judith Kaye, (N.Y.L.J. April 7, 1988) distinguished the DeKovessey case from the one before it on the basis that the DeKovessey case and its companion cases dealt with rent controlled apartments whereas the case before the Surrogate's Court involved the representative of a decedent who had been a rent stabilized tenant. The Appellate Division, First Department (N.Y.L.J. January 3, 1989), however, found the DeKovessey case to be

determinative and held that the estate of a deceased tenant does not have the right to purchase the shares allocated to a rent stabilized apartment. Accordingly, it is the Sponsor's position that the estate of a deceased tenant will not have the right to purchase the Unit without regard to whether the Unit is rent stabilized or rent controlled if a Purchase Agreement is not submitted prior to the death of the tenant.

There was a case, Paikoff v. Harris, NYLJ October 19, 1999, p. 28, c.4 where the Appellate Term confirmed the lower court's decision that under the Martin Act a tenant who rented a Unit from the sponsor after the conversion would have the same rights as the tenants who were in occupancy on the Acceptance Date would have after the conversion. The case held that tenants put in place by the Sponsor may not be evicted merely because their lease term expires, the fair market rent increases may not be unconscionable and a new Unit Owner may not evict them for the new Owner's own use and occupancy even though the Sponsor's tenant took occupancy after the conversion. A non-Sponsor can evict their own tenant because the limitation only protects tenants of the Sponsor.

There was a recent case entitled Park West Village Associates v. Nishoika, which occurred in the same jurisdiction where the Condominium is located, concerning tenants who take occupancy of Unit(s) owned by a sponsor after a conversion. A three judge appellate court in Manhattan unanimously affirmed a trial court judge's determination that a tenant who rents a vacant co-op or condominium apartment from the building's original sponsor has no right to a renewal lease on the expiration of the existing lease.

(c) The Plan may not be declared effective until written Purchase Agreements have been executed and delivered for at least fifteen percent of all dwelling units in the building contracted for by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family intend to occupy the dwelling unit when it becomes vacant. As to tenants who were in occupancy on the date a letter was issued by the Attorney General accepting the Plan for filing, the Purchase Agreement shall be executed and delivered pursuant to an offering made without discriminatory repurchase agreements or other discriminatory inducements.

(d) Before the Offering Plan is declared effective the Sponsor reserves its rights not to renew residential leases. After the Offering Plan has been declared effective no eviction proceedings will be commenced at any time against non-purchasing tenants for failure to purchase or any other reason applicable to expiration of tenancy; provided that

such proceedings may be commenced for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the non-purchasing tenant of his obligations to the owner of the dwelling unit, and provided further that an owner of a Unit occupied by a non-purchasing tenant may not commence an action to recover possession of such dwelling unit from a non-purchasing tenant on the grounds that he seeks the dwelling unit for use and occupancy of himself or his family. Non-purchasing tenants who reside in dwelling units subject to government regulation as to rentals and continued occupancy prior to the conversion of the building to condominium ownership shall continue to be subject thereto. The rentals of non-purchasing tenants who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and non-purchasing tenants who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the Plan has been accepted for filing by the Attorney General shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy. In determining comparability, consideration shall be given to such factors as building services, level of maintenance and operating expenses. Complaints of unconscionable rent increases proscribed by law may be referred the New York State Department of Law, Bureau of Real Estate Financing, 120 Broadway, 23rd Floor, New York, New York 10271.

(e) The rights granted under the Plan to purchasers under the Plan and to non-purchasing tenants may not be abrogated or reduced notwithstanding any expiration of, or amendment to, General Business Law §352-eeee.

(f) All dwelling units occupied by non-purchasing tenants shall be managed by the same managing agent who manages all other dwelling units in the Building. Such managing agent shall provide to non-purchasing tenants all services and facilities required by law on a non-discriminatory basis. The Sponsor shall guarantee the obligation of the managing agent to provide all such services and facilities until such time as the Sponsor surrenders control of the Condominium Board (see "Obligations of Owners of Dwelling Units Occupied by Non-Purchasing Tenants").

(g) It shall be unlawful for any person to engage in any course of conduct, including, but not limited to, interruption or discontinuance of essential services, which substantially interferes with or disturbs the comfort, repose, peace or quiet of any tenant in his use or occupancy of his dwelling unit or the facilities related thereto. The Attorney General may apply to a court of competent jurisdiction for an order restraining such conduct and, if he deems it appropriate, an order restraining the Sponsor from



selling the Unit or from proceeding with the plan of conversion; provided that nothing contained herein shall be deemed to preclude the tenant from applying on his own behalf for similar relief.

(h) The Purchase Agreement to be signed by the Purchasers under this Plan is not assignable.

(i) If, prior to the expiration of any exclusive period which commences prior to the First Closing, the terms of this Plan are amended so as to be more favorable to tenant purchasers, a tenant who was in occupancy on the filing date of the Plan and who executed and submitted a Purchase Agreement before the amendment was presented shall benefit from the more favorable terms and conditions, even though such Purchase Agreement was entered into before the Sponsor amended the terms.

(j) Bona fide tenants in occupancy shall not have any rights to purchase any vacant Unit or other Unit not occupied by such bona fide tenant, but may submit purchase agreements therefore in the same manner, and subject to the same provisions, as a non-occupant of the Building, and in all events subject to the prior sale of such a Unit to the tenant thereof or a non-occupant.

(k) The Sponsor shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth days after the date of presentation of the Plan and at least once every thirty days until the Plan is declared effective or abandoned, as the case may be, and on the tenth and second day before the expiration of any exclusive purchase period provided in a substantial amendment to the Plan, (1) file with the Department of Law a written statement, under oath, setting forth the percentage of bona fide tenants in occupancy of all dwelling units in the Building on the date the Plan was accepted for filing who have executed and delivered written agreements to purchase under the Plan as of a specified time on the date of such statement and (2) before noon on the day such statement is filed, post a copy of such statement in a prominent place accessible to all tenants in the Building. The statement shall include the following:

- (i) The date and time of the statement.
- (ii) The date the Plan was filed with the Department of Law
- (iii) The date of presentation of the Plan (and the current amendment)
- (iv) The last day of the exclusive period.

(v) The number of bona fide tenants as of the date the Plan was filed with the Department of Law who have signed Purchase Agreements as of a specified time on the date of the statement.

(vi) The number of bona fide non-tenant purchasers who have represented that they or member(s) of their immediate family intend to occupy the Unit when it becomes vacant.

(vii) The number of Units counted in the base.

(viii) The percentage obtained by dividing the number of purchasers to be counted towards effectiveness given in subparagraphs (v) and (vi) by the number of Units counted in the base given in subparagraph (vii).

(ix) The number of purchasers not included because of relationship to the Sponsor or selling agent, but who may be sought to be included in the future.

(l) Tenants or their representatives may physically inspect the premises at any time subsequent to the submission of the Plan to the Department of Law, during normal business hours, upon written request made by them to the offeror, provided such representatives are registered architects or professional engineers licensed to practice in the State of New York.

(m) Non-purchasing tenants will be subject to rent increases as a result of capital improvements made by the Sponsor, the Condominium Board or Unit Owners.

(n) The by-laws provide that non-purchasing tenants will be notified of changes in ownership of dwelling units they occupy (see Section 7.5 of the By-Laws).

(o) Tenants in occupancy shall have access and/or the right to use the common elements.

(p) Any offering to a non-tenant Purchaser of a Unit which has a tenant-in-occupancy is made subject to the right of such tenant to purchase during any exclusive period or any other period prescribed by law or by amendment to the Plan. If during the exclusive period, a Purchase Agreement is submitted for the Unit by such tenant, the Purchase Agreement from the non-tenant shall be deemed cancelled and the Down Payment shall be refunded and all parties shall be released from any further obligation under the cancelled Purchase Agreement.

The rights granted hereunder summarize the provisions of GBL Section 352-eeee, and the Regulations promulgated by the Attorney General. No right is created, granted or conveyed hereunder

greater than those created, granted or conveyed by such law or regulations. In the event of any conflict between this summary and the laws and regulations, such laws and regulations shall control.

**OBLIGATIONS OF OWNERS OF DWELLING UNITS  
OCCUPIED BY NON-PURCHASING TENANTS**

**Obtaining Possession of Occupied Residential Units**

None of the Residential Units offered hereby are covered by either the Rent Control Law, the Rent Stabilization Law and Code, the Emergency Tenant Protection Act of 1974, as amended or The Omnibus Housing Act of 1983 (the "rent laws"); the tenants in occupancy of Residential Units are therefore not "rent-controlled" or "rent-stabilized" tenants and their rights are not protected by the rent laws.

After the conversion to condominium ownership, a purchaser of a Residential Unit occupied by a tenant will acquire title to said Residential Unit subject to (a) the lease for the Residential Unit in effect on the date on which Purchaser's executed Purchase Agreement is delivered to Sponsor and any renewal of the terms thereof effected thereafter pursuant to the tenant's rights, if any, (b) any existing occupancy of the Residential Unit and (c) the right of any existing tenant (who has not purchased his Residential Unit) to remain in possession of the Residential Unit, including his right to a renewal lease, if any.

If a tenant or other person occupying a Residential Unit does not voluntarily vacate such Residential Unit by the date on which his lease (as the same may be renewed) expires or the date when his right to continued occupancy terminates, whichever is later, a purchaser, in order to gain occupancy of the Residential Unit, may be required, at his own expense, to institute a summary dispossess proceeding or other action in court. No representation or warranty is made as to the length of time which may elapse before actual possession of any Residential Unit may be obtained, if at all.

There was a case, Paikoff v. Harris, NYLJ October 19, 1999, p. 28, c.4 where the Appellate Term confirmed the lower Court's decision that under the Martin Act a tenant who rented a Unit from the Sponsor after the conversion would have the same rights as the tenants who were in occupancy on the Acceptance Date would have after the conversion. The case held that tenants put in place by the Sponsor may not be evicted merely because their lease term expires, the fair market rent increases may not be unconscionable and a new Unit Owner may not evict them for the new Owner's own use and occupancy even though the Sponsor's tenant took occupancy after the conversion. A non-Sponsor can evict their own tenant because the limitation only protects tenants of the Sponsor.

There was a recent case entitled Park West Village Associates v. Nishoika, which occurred in the same jurisdiction where the Condominium is located, concerning tenants who take occupancy of

Unit(s) owned by a sponsor after a conversion. A three judge appellate court in Manhattan unanimously affirmed a trial court judge's determination that a tenant who rents a vacant co-op or condominium apartment from the building's original sponsor has no right to a renewal lease on the expiration of the existing lease.

No representation or warranty is made as to the length of time that may elapse before a final court order of eviction is granted and made effective, that such a court order will be granted, or that possession of a Residential Unit occupied by another will be obtained.

### **Rights and Duties of Non-Occupant Purchasers**

Upon acquiring title to a Residential Unit occupied by the tenant who was in occupancy when the Purchaser submitted their Purchase Agreement for the subject Residential Unit, the Purchaser will become the landlord of the tenant or occupant thereof and the latter will become such purchaser's tenant. The relationship between the two parties will be governed primarily by GBL § 352-eeee if the tenant is a non-purchasing tenant and the terms, covenants and conditions contained in the lease or other occupancy agreement then in effect with respect to the Unit. Consequently, such Purchaser will succeed to, among other things, Sponsor's right to receive the rents reserved in the lease or occupancy agreement and Sponsor's obligation to perform all of the duties of the landlord under such lease or occupancy agreement, which duties may include, but may not be limited to, painting, repairs of interior plumbing and wiring, replacement of fixtures and appliances, doors and hardware, equipment and appliances in such Unit and (with respect to a Residential Unit) to paint the same periodically. The Purchaser will be obligated to perform these duties as the landlord of such tenant or occupant even though the rents reserved under the lease may be insufficient to pay for the cost of such performance. In addition, such Purchaser will be required to pay all Common Charges and special assessments assessed against him by the Condominium Board as well as real estate taxes, regardless of whether such costs are more or less than the rent payable by the tenant or occupant and regardless of whether such rent is received.

The purchaser of an occupied Residential Unit agrees irrevocably to appoint the Managing Agent of the Condominium (or the Condominium Board if no managing agent is employed by the Condominium) as his agent to perform for the account and at the expense of the Purchaser all services required under applicable local law, if any, or under the General Business Law §352-eeee(3) to be furnished or performed by a landlord that are not provided by the Condominium Board under the By-Laws, including interior repairs and painting of the Unit. The fee payable to the Managing



Agent for performing such service shall not exceed \$100.00 per year per Unit.

The Purchaser of a Residential Unit agrees (other than the Sponsor or its designee) to deposit with the managing agent (or the Condominium Board of the Condominium if no managing agent is to be employed) at the closing, an amount equal to not less than two months common charges or rent, whichever is greater, to be used as working capital to furnish services required under the non-purchasing tenant's lease. Upon notice by the Managing Agent (or the Condominium Board) that the deposit has been diminished, the fund shall be replenished by the Unit Owner within a specified period of time. The failure of the Unit Owner to replenish the fund in a timely fashion shall result in the Condominium Board, on behalf of the Unit Owners having a lien against the dwelling Unit. Interest, if any, earned on the fund shall be the property of the Unit Owner.

All costs and expenses incurred in connection with the ownership of a Unit occupied by a non-purchasing tenant (including, without limitation, legal fees and litigation expenses for enforcing the lease and obtaining possession of such Unit) will be borne entirely by the owner of such Unit.

A person interested in purchasing an occupied Residential Unit in which he does not reside is advised to examine any lease, if any, for such Unit to ascertain the rent, the expiration date and the obligations imposed upon the landlord. These leases, if any, are on file at the office of the Managing Agent. It is further recommended that such person consult with his attorney in order to become fully apprised of the effect of such lease, if any, as well as of the rent laws (with respect to Residential Units), on his rights as a purchaser and his obligations to any existing tenant or occupant.

Upon the closing of title to a Residential Unit subject to a lease or other occupancy agreement, Sponsor will deliver to the non-occupant Purchaser the unapplied balance of any security deposit held by Sponsor pursuant to the terms of such lease or occupancy agreement. With respect to an occupied Residential Unit, any such balance must be held by such purchaser in trust in an interest bearing account in accordance with the terms of Section 7-103 of the New York General Obligations Law. Upon delivery of the unapplied security deposit, the Purchaser will be required to execute, acknowledge and deliver an agreement to Sponsor, both acknowledging the amount so received and indemnifying Sponsor against all claims and liabilities in connection therewith. The Purchaser of an occupied Unit is required, upon closing title, to register the Unit with the New York State Division of Housing and Community Renewal.

An amendment to Real Property Law Section 339-kk was recently enacted by the New York State Legislature. The legislation

(Chapter 422 of the Laws of 1998) among other things repealed Section 352-e(2-d) of the General Business Law. The new provision provides in pertinent part as follows:

- (a) Non-occupying owner shall mean the owner of Condominium Unit(s) who does not occupy the Unit(s).
- (b) If a non-occupying Unit Owner rents any dwelling unit to a rental tenant and then fails to make payments due for common charges, assessments or late fees for such unit within sixty (60) days of the expiration of any grace period after they are due, upon notice from the board of managers as described below, all rental payments due from the tenant shall be payable directly to the condominium.
- (c) If the common charges, assessments or late fees due for any unit have not been paid in full within 60 days after the expiration of any grace period of the earliest due date, the board of managers shall provide written notice to the tenant and the non-occupying unit owner providing that commencing immediately, and continuing until such time as all payments for common charges, assessments or late fees are made current, all rental payments due subsequent to the issuance of such notice are to be made payable to the condominium. Where a majority of the board of managers has been elected by and from among the unit owners who are in occupancy the board may elect not to require that rental payments be made payable to the condominium.
- (d) At such time as payments for common charges, assessments and late fees from the non-occupying unit owner are once again current, notice of such fact shall be given within three (3) business days to the rental tenant and non-occupying unit owner. Thereafter, all rental payments for the unit shall be made payable to the non-occupying unit owner or to the unit owners' designated agent.
- (e) A non-occupying unit owner who disputes the condominium's claim to a rental payment shall be entitled to present facts supporting such unit owner's position at the next scheduled board meeting, which must be held within thirty (30) days the date that the board of managers receives notice that the Unit Owner seeks to dispute such claim.
- (f) Nothing contained herein shall limit any rights of unit owners or the board of managers existing under any other law or agreement.
- (g) Payment by a rental tenant to the condominium made in connection herewith shall relieve the rental tenant from the obligation to pay such rent to the non-occupying



owner and shall be an absolute defense in any non-payment proceeding commenced by such non-occupying unit owner against such tenant for such rent.

The foregoing summary is adapted from the language of the statute. The Sponsor makes no representation about the application, enforceability or legality of the new statute or any provision of same, or as to its impact on (i) any existing or future leases for Units at the building; (ii) any application for a mortgage loan a purchaser of Unit Owner may make to a lender, or (iii) any mortgage a Unit Owner may make to a lender. Purchasers are urged to consult their own attorney about the statute's enforceability and/or its possible impact on their own intentions and expectations respecting their purchase.

### INTERIM LEASES

Sponsor reserves the right to rent or lease vacant Units (including any Units that become vacant after the date of filing of this Plan) to Purchasers and non-purchasers at any time, both before and after the First Closing. However, once a Purchase Agreement is signed for a vacant Unit, and for so long as such Purchase Agreement is in effect, such Unit may only be leased to the Purchaser thereof. The lease will be for such rent and upon such other terms as may be mutually agreed upon. The term of such lease shall be for a period which will expire on the date of closing or two years after the date of execution of such lease if this Plan is not declared effective in accordance with its terms. The Interim Lease may not be renewed or assigned, and the apartment may not be sublet. If this Plan is abandoned, the purchaser, as tenant, may, at any time, at his sole option, cancel such lease and vacate the premises upon 90 days' prior written notice to the Sponsor sent to the address set forth on the cover page of this Plan. Such lease will also provide that an uncured default by the Purchaser under his Purchase Agreement will constitute a default under the lease entitling the landlord, at its sole option, to immediately terminate such lease. It shall be an event of default entitling the Sponsor to cancel the Purchase Agreement in the event that the Purchaser fails to cure a default under his lease within the applicable grace period (if any.)

The Purchaser shall be required to vacate the apartment within thirty (30) days after notice of cancellation of the Purchase Agreement is sent to him. If the Purchaser defaults under the interim lease, an order of eviction or other judgment or order from a court or agency of competent jurisdiction against the Purchaser must be obtained or the Purchaser must have vacated the apartment before the Sponsor may declare the Down Payment under the Purchase Agreement forfeited.

No portion of the rent paid under such lease will be credited towards the Unit's purchase price.

Sponsor's right to rent or lease any Unit will not be subject to any right of first refusal in favor of the Condominium Board to lease such Unit from Sponsor on the same terms offered to the prospective tenant or occupant.

Sponsor does not presently offer the right to rescind the Purchase Agreement or the interim lease. However, should such right be offered in the future, and exercised by Purchaser, then the Purchaser's right to rescind will be conditioned upon his surrendering the interim lease and possession of the Unit and leaving the same vacant, in good condition and broom clean within thirty (30) days after he elects to rescind. He must also pay any rent due under his interim lease. Nothing contained herein shall relieve any Purchaser of liability for damage caused to the Unit.

### PROCEDURE TO PURCHASE

A person desiring to purchase a Unit will be required to execute in duplicate a Purchase Agreement in the form contained in Part II of this Plan and return it to the Sponsor or Selling Agent at the address set forth on the cover of the Plan together with an unendorsed bank or certified check for (10%) percent of the purchase price (the "Down Payment") drawn to the order of: FRANKLIN J. BARR IOLA ACCOUNT.

The Sponsor will hold, or cause to be held, all monies received by it directly or through its agents, employees or attorneys in a segregated special escrow account pending delivery of the deed. The deposits will not be placed in an interest bearing account and will not earn interest.

The Sponsor will comply with the escrow and trust fund requirements of General Business Law Sections 352-e(2-b) and 352-h and the Attorney General's regulations promulgated pursuant thereto.

Any provision of any contract or agreement, whether oral or in writing, by which a purchaser purports to waive or indemnify any obligation of the escrow agent holding trust funds is absolutely void. The provisions of the Attorney General's regulations concerning escrow/trust funds shall prevail over any conflicting or inconsistent provision in the Offering Plan or in a purchase agreement. Purchasers shall not be obligated to pay any legal or other expense of the Sponsor in connection with the establishment, maintenance or defense of obligations arising from the handling or disposition of trust funds.

All deposits, downpayments, or advances made by purchasers prior to closing of each individual transaction will be placed, within five business days after the agreement is signed by all necessary parties and purchaser has delivered a completed W-9 form, in an interest earning Escrow Management Account ("EMA") of Franklin J. Barr, Esq., the "Escrow Agent", whose address is 866 United Nations Plaza, Suite 415, New York, N.Y., 10017 and whose telephone number is (212) 355-2323. The current signatory on this account authorized to withdraw funds is Franklin J. Barr and the account number is [REDACTED] located at North Fork Bank, 1001 Avenue of the Americas, New York, N.Y., 10018. The EMA is a master account with the individual sub-account for each purchaser. The interest rate to be earned will be the prevailing rate of interest paid by the North Ford Bank for such accounts. Interest earned will be credited to the purchaser unless the purchaser defaults and the plan is consummated. The amounts paid by purchasers and the interest earned thereon will be handled in accordance with the provisions of Sections 352-e (2-b) and 352-h of the General Business Law and the Attorney General's regulations promulgated pursuant thereto. This bank is covered by federal bank deposit insurance to a maximum of \$100,000 per individual deposit. IF AN INDIVIDUAL MAKES A DOWNPAYMENT IN EXCESS OF \$100,000 FOR THE

PURCHASE OF A UNIT, IT IS A SPECIAL RISK OF THIS OFFER THAT SUCH DEPOSIT WILL NOT BE FEDERALLY INSURED IN EXCESS OF \$100,000.

Within ten business days after tender of the deposit submitted with the purchase agreement the Escrow Agent will notify the purchaser that such funds have been deposited in the EMA Account and the prevailing interest rate. If the purchaser does not receive notice of such deposit within fifteen business days after tender of the deposit and the completed W-9 form required in order to open up the interest bearing sub-account, the purchaser may cancel the purchase and rescind so long as the right to rescind is exercised within ninety days after tender of the deposit. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited and the requisite notice was timely mailed to the purchaser in conformity with the Attorney General's regulations. The deposit of the downpayment check does not constitute an acceptance of the purchase by the Sponsor or Escrow Agent and the check will so state.

The escrow agent will hold funds in escrow until otherwise directed in

- a. a writing signed by both Sponsor and purchaser; or
- b. a determination of the Attorney General pursuant to the dispute resolution procedures contained in the Attorney General's regulations; or
- c. a judgment or order of a court of competent jurisdiction; or
- d. If there is no written agreement between the parties to release the escrowed funds, the Escrow Agent will not pay the funds to the Sponsor until the escrow agent has given the purchaser written notice of not fewer than ten business days. Thereafter, the funds may be paid to the Sponsor unless the purchaser has already made application to the Department of Law pursuant to the dispute resolution provisions of the Attorney General regulations and has so notified the escrow agent in accordance with such provisions.

The Sponsor will not object to the release of the escrowed funds to

- (i) a purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an amendment to the Plan;
- (ii) all purchasers after an amendment abandoning the plan is accepted for filing by the Department of Law.

Purchasers and the escrow agent may apply to the Attorney General in the event of a dispute for a determination on the disposition of the downpayment and any interest thereon. The Sponsor must avail itself of this procedure if there is a dispute which needs to be resolved. A form for this purpose is found in Part II of the Plan. The party applying for a determination must send all other parties a copy of the submitted application.

Pending the determination of the Attorney General to grant or deny the application, the Sponsor, the purchaser and the Escrow Agent shall abide by any interim directive issued by the Attorney General.

There is a copy of the Escrow Agreement which includes the terms of the Attorney General's regulations in Part II of the Plan.

The Escrow Agent will maintain all records concerning the escrow account for seven years after the release of funds.

The Sponsor reserves the right to amend the Plan to provide pursuant to Section 71-a of the Lien Law that in lieu of placing the deposits in a segregated, interest-bearing escrow account, the Sponsor may post a bond or contract of indemnity, issued by a surety company licensed by the state of New York, guaranteeing the return of the deposits.

After this Plan is declared effective, Sponsor will give each Purchaser not less than thirty (30) days prior written notice of the date, time and place in the Borough of Manhattan for the transfer of title to his Unit and for the payment of the balance of the purchase price stated in the Purchase Agreement by Purchaser's unendorsed, certified personal check or by official cashier's check. At the closing, Purchaser shall sign a power of attorney in favor of the Sponsor and the Condominium Board in the form set forth in Part II of the Plan.

The following shall constitute "Events of Default" under the Plan and Purchase Agreement:

(i) Purchaser's failure to pay the balance of the purchase price on the Closing Date designated by Sponsor pursuant to written notice.

(ii) Purchaser's failure to execute and deliver within five (5) days of written demand any tax return, affidavit or other document required to be executed by transferees in connection with the New York State Real Property Gains Tax; Purchaser's failure to duly sign, notarize and deliver at closing the power of attorney in favor of the Sponsor and the Condominium Board or the New York City transfer tax return pursuant to the Purchase Agreement;



(iii) If Purchaser is or becomes a tenant of the Building after the Plan is accepted for filing, Purchaser's failure to cure a default under his lease within the applicable grace period (if any), or

(iv) An uncured default by the Purchaser under his Purchase Agreement will constitute a default under the terms of the Interim Lease entitling the landlord, at its sole option, to immediately terminate such lease. It shall be an event of default entitling the Sponsor to cancel the Purchase Agreement in the event that the Purchaser fails to cure a default under his Interim Lease within the applicable grace period (if any), or

(v) The failure to pay, perform or observe any of Purchaser's other obligations under the Purchase Agreement.

Upon the occurrence of an Event of Default, Sponsor's sole right shall be to cancel the Purchase Agreement by sending Purchaser thirty (30) days prior written notice of its intention so to do. If Sponsor sends such notice, Purchaser shall have thirty (30) days from the giving of such notice within which Purchaser must cure the specified default. Time is of the essence to remedy such default within said thirty (30) day period. If the default is not timely cured, then Sponsor shall have the right to retain as and for liquidated damages, the Down Payment plus the cost of any special work in the Unit ordered by Purchaser, together with any interest earned thereon (hereinafter called the "Liquidated Sum"); any sums held by Sponsor in excess thereof (together with any interest earned thereon) shall be returned to Purchaser promptly thereafter. Upon cancellation of the Purchase Agreement and making such refund (if any) to Purchaser, Purchaser, Sponsor and Selling Agent will be released and discharged of all further liability and obligations under the Purchase Agreement and under the Plan. Thereafter, the Unit may be sold to another as though the Purchase Agreement had never been made, and without accounting to Purchaser for the proceeds of such sale.

Each Purchaser shall (i) have the Plan and amendments thereto available for review at least three (3) business days prior to executing a Purchase Agreement or (ii) have the right to rescind his Purchase Agreement and receive a full refund of his Down Payment by (a) personally delivering a written notice of rescission to the Sponsor or Selling Agent within seven (7) days after delivering an executed Purchase Agreement together with the required deposit or (b) mailing such written notice and having the mailing postmarked within the seven (7) day period.

The Purchase Agreement for the purchase of the Units offered hereby is contingent upon the Purchaser obtaining financing; if a Purchaser is unable to obtain bank financing for at least 75% of the purchase price or is unable to close pursuant to a bank commitment to provide financing through no fault of his own

because the commitment lapses or is not honored, he will not lose his Down Payment.

Conflicts between the Purchase Agreement and the Plan shall be resolved in favor of the Plan.

Properly executed Purchase Agreements and Down Payments tendered by Purchasers will be accepted or rejected within twenty (20) days of their submission to the Sponsor or Selling Agent. If the Purchase Agreement is accepted, a fully executed copy will be returned to the Purchaser. If a Purchase Agreement is rejected, the Down Payment will be refunded in full. If no action is taken by the Sponsor or Selling Agent within the aforementioned twenty (20) day period, the Purchase Agreement shall be deemed rejected.

The Purchase Agreement may not contain or be modified to contain a provision waiving Purchaser's rights or abrogating Sponsor's obligations under Article 23-A of the General Business Law, or in any case be changed or any of its provisions be waived orally. When the Purchase Agreement set forth in Part II of the Plan is used by tenant Purchasers who purchase during the exclusive period, it may not be modified except by a duly filed amendment to the Plan.

Any offering to a non-tenant Purchaser of a Unit which has a tenant-in-occupancy is made subject to the right of such tenant to purchase during any exclusive period or any other period prescribed by law or by amendment to the Plan. (See "Rights of Existing Tenants"). If during the exclusive period, a Purchase Agreement is submitted for the Unit by such tenant, the Purchase Agreement with the non-tenant purchaser shall be deemed cancelled, and, within twenty (20) days after the occurrence of such event, the non-tenant Purchaser's Down Payment shall be refunded to him with interest earned thereon, if any, and all parties shall be released from any further obligation under the Purchase Agreement.

#### **ASSIGNMENT OF PURCHASE AGREEMENTS**

The Purchase Agreement to be signed by Purchasers under this Plan is not assignable.

#### **EFFECTIVE DATE**

The offer to sell the Units in the Building is contingent upon the Plan being declared effective and in compliance with the conditions and time periods set forth in the Plan.

The Plan may be declared effective when Purchase Agreements are executed and accepted for 15% or more of all Residential Units in the Building by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more specified members of their immediate family occupy the Unit when

it becomes vacant. As to tenants who were in occupancy on the date the letter was issued by the attorney general accepting the Plan for filing, the Purchase Agreement shall be executed and delivered pursuant to an offering made in good faith without fraud or discriminatory repurchase agreements or other discriminatory inducements.

The Plan will not be declared effective based on Purchase Agreements (a) signed by Purchasers who have been granted a right of rescission that has not yet expired or been waived; (b) assigned or transferred otherwise than in compliance with this Plan and applicable law and regulations; (c) if the Purchaser was not given (i) seven (7) days after delivering an executed Purchase Agreement together with the required deposit to rescind the Purchase Agreement and have the full deposit refunded promptly, or (ii) three (3) business days to review this Plan as amended prior to executing the Purchase Agreement (see "Procedure to Purchase"); or (d) with any Purchaser who is the Sponsor, the Selling Agent or the Managing Agent or is a principal of the Sponsor, the Selling Agent or the Managing Agent, or is related to the Sponsor, the Selling Agent, or the Managing Agent, or to any principal of the Sponsor, the Selling Agent or the Managing Agent, by blood, marriage or adoption or as a business associate, employee, shareholder or limited partner, except that such a Purchaser other than the Sponsor or a principal of the Sponsor may be included to the extent permissible under applicable law and regulations.

When calculating the minimum percentage of sales to tenants or other purchasers that are needed before the Plan may be declared effective, no more than one (1) Purchase Agreement by tenant(s) of a particular Unit shall be counted and only one (1) Purchase Agreement from any tenant who leases or occupies more than one (1) Unit shall be counted toward effectiveness.

An affiliate of the Sponsor who is not a principal of the Sponsor may be counted for the purposes of effectiveness only if the Sponsor has submitted proof of satisfactory to the Department of Law establishing that the purchaser is a bona fide tenant in occupancy or is a bona fide purchaser who intends that he or she or one or more members of his or her immediate family intend to occupy the dwelling unit when it becomes vacant.

When Purchase Agreements have been executed and accepted for the sale to Purchasers of 80% of the Units offered hereby, the Plan must be declared effective. At any time before the declaration of effectiveness, the Sponsor may abandon the Plan.

If the Plan has not become effective within fifteen (15) months after the date a letter is issued by the Department of Law that the Plan is accepted for filing, the Plan will be deemed abandoned. In the event of such abandonment, no new plan for conversion of this Building shall be submitted to the Department of Law for at least twelve (12) months after such abandonment. If

the Plan is abandoned all monies paid by Purchasers will be refunded to them in full, with interest earned thereon, if any, within twenty (20) days thereafter but Sponsor shall not be obligated to deposit any monies in any interest bearing account.

The Plan will be declared effective by written notice to all Purchasers or by amendment filed with the Department of Law. If the Plan is declared effective by notice then, within five (5) days thereafter, an amendment to the Plan will be submitted for filing confirming that it has been declared effective. No closing will take place prior to the amendment being accepted for filing by the Department of Law.

After this Plan has been declared effective, but before the First Closing, Sponsor may, in its sole discretion, withdraw or abandon this Plan in the event of: (a) the existence of one or more defects in title (including, without limitation, violations of record), affecting one or more Units and/or the Common Elements, that cannot be removed, cured, or complied with for less than one-half of one percent of the total offering amount; (b) any substantial damage to, or destruction of, any material portion of the Building by fire or other casualty which cannot be cured for less than one-half of one percent of the total offering amount or (c) the taking of all or part of the Property in condemnation proceedings or by eminent domain. In no event, however, will Sponsor be obligated to engage in litigation or to expend monies with respect to defects in title or casualty losses to the Building, except as aforesaid. Furthermore, Sponsor will not be obligated to remove, cure, or comply with violations of record that are to be removed, cured, or complied with by, or that result from the acts or omissions of, any tenants of the Building. Any stated dollar amount relied upon as the basis for abandonment after the Plan has been declared effective shall be exclusive of the cost of curing violations or determinations of any authority or regulatory association which exist on the date of presentation of the Plan and either are known to the Sponsor or are a matter of public record.

If this Plan is withdrawn or abandoned, all Purchasers of Units will be so notified in writing. Within twenty (20) days thereafter, all Down Payments paid to Sponsor pursuant to Purchase Agreements then in effect (together with interest earned thereon if any) will be returned to Purchasers and Sponsor shall promptly submit for filing to the Department of Law a proposed amendment to the Plan reflecting such abandonment or file a Notice of Abandonment on form RS-3 or such other form as the Department of Law may require and explain the reason for the abandonment and disposition of all funds received.

Sponsor agrees that copies of all Purchase Agreements (and any amendments or modifications) will be delivered to the Department of Law within five (5) business days of a request for inspection by the Department of Law.

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### CLOSING AND TERMS OF SALE

The term "Closing of Title" (alternatively referred to simply as "Closing" or "Closing Date") as used herein is intended to signify the passage of title to a particular Unit or Units from the Sponsor to the Purchaser thereof.

At the Closing, Purchasers will receive a bargain and sale deed with covenants against grantor's acts in the form set forth in Part II of the Plan conveying title to the Unit subject only to the title conditions set forth in Exhibit A to the Purchase Agreement. See Exhibit A to the Purchase Agreement in Part II of the Plan for a description of leases, mortgages, liens, encumbrances and title exceptions that will affect the Property after Closing.

If the Purchaser becomes the tenant or occupant of the Unit before the Closing of title thereto and, before such Closing, the Unit is damaged by casualty or otherwise, such Purchaser shall assume the risk of loss and the obligation to repair the damage, unless the cause thereof originated outside of the Unit and did not result from the acts of such Purchaser or other occupants of the Unit or such Purchaser's guests, invitees, or workmen. Except as set forth in the preceding sentence, all other risk of loss or damage prior to closing is assumed by Sponsor, but Sponsor shall have no obligation or liability to repair or restore the same. If Sponsor or (in the event the Declaration is filed) the Unit Owners do not elect to repair the damage, the Purchase Agreement will be cancelled and be of no further force or effect. Within thirty (30) days thereafter, the Purchaser will be refunded all purchase monies paid to Sponsor with interest earned thereon, if any, unless Purchaser is then in default thereunder (beyond the applicable grace period, if any), in which event the said purchase monies (but in no event to exceed the Liquidated Sum) will be retained by Sponsor as and for liquidated damages. If Sponsor elects to repair or replace the loss or damage, the Purchase Agreement shall continue in full force and effect, Purchaser shall not have the right to reject title to the Unit or to receive a credit against, or abatement of, the purchase price and Sponsor shall be entitled to a reasonable period of time to complete such repairs or replacement.

All personal property located within the Unit on the date the Purchase Agreement is executed that is owned by the Sponsor is included in the sale.

The Declaration, By-Laws and Floor Plans of the Condominium and such other documents required by law will be recorded or filed in the office of the Register of the City of New York, County of New York, prior to the First Closing in accordance within the New York Condominium Act or other applicable state and/or local law.

If there is a mortgage encumbering the Property, then prior to the First Closing, (i) the mortgage will be satisfied or (ii) the lien of the mortgage will be subordinated to the Declaration of Condominium and, with respect to each Unit and its appurtenant Common Interest, (x) the lien of such mortgage shall be released prior to or simultaneously with the Closing of title to such Unit or (y) in the event that the Purchaser obtains mortgage financing and such mortgagee shall so elect, any mortgages that are then a lien against such Unit and its appurtenant Common Interest shall be assigned so such mortgagee and the Purchaser shall assume such mortgage (provided that, to the extent that the aggregate outstanding balance of such existing mortgages exceeds the amount of financing desired, or that the terms of such mortgages differ from the terms of such financing, the amount of such mortgages shall be reduced and/or the terms of such mortgages shall be modified accordingly, as the case may be).

#### UNIT CLOSING COSTS AND ADJUSTMENTS

At the time of title closing, each Purchaser of a Unit will pay certain closing costs in addition to the legal fees of such Purchaser's counsel and the amount of any net credit in favor of Sponsor resulting from the closing apportionments described below. Such closing costs will include the following, the amounts of which are based on rates in effect on the date of this Plan and are subject to change without prior notice or amendment:

1. a. Fee title insurance, if ordered through Continental Abstract, Inc. will cost \$371.00 for the first \$35,000, plus \$6.16 per \$1,000 of the Purchase price or fraction thereof in excess of \$35,000.00 up to \$50,000.00, \$5.02 per \$1,000 in excess of \$50,000 up to \$100,000 and \$4.03 per \$1,000 in excess of \$100,000 up to \$500,000 and \$3.68 per \$1,000 in excess of \$500,000 up to \$1,000,000.
- b. Mortgage title insurance, if ordered through Continental Abstract, Inc. will cost \$318.00 for the first \$35,000 plus \$5.13 per \$1,000 of the Purchase Price or fraction thereof in excess of \$35,000 up to \$50,000, \$4.19 per \$1,000 in excess of \$50,000 up to \$100,000, \$3.3.6 per \$1,000 in excess of \$100,000 up to \$500,000 and \$3.06 per \$1,000 in excess of \$500,000 to \$1,000,000.

Note: when an owner's policy and a mortgage policy are issued simultaneously covering identical property, the rate applicable to the owner's policy shall be the regular owner's policy rate. The rate on the mortgage policy that does not exceed the owner's policy shall be calculated at thirty percent (30%) of the regular scheduled rate for mortgage policies. The rate on the amount of the mortgage policy in excess of the owner's policy shall be calculated at the regular rate for mortgage policies.

2. Recording fees for recording the deed and power of attorney will be \$17 per document plus \$5.00 per page (including cover page). Recording deeds in New York County also require a \$25.00 filing fee for filing the TP584 and RPT forms.
  - a. Real Property Transfer Taxes (RPT) for individual condominium units are 1% if the consideration is \$500,000 or less or 1.425% if the consideration is greater than \$500,000. The consideration taxed will include the amount of tax paid by the Purchaser imposed in connection with the sale of the Unit.
  - b. New York State Transfer Tax (deed stamps) (TP584), which are currently at the rate of \$2.00 per \$500.00 of the purchase price or fraction thereof. The State of New York imposes an additional one (1%) percent tax payable by Purchasers on conveyances of Residential Real Property for \$1,000,000.00 or more. The consideration taxed will include the amount of tax paid by the Purchaser imposed in connection with the sale of the Unit.
3. Closing of title to the Unit will take place at the office in New York City designated by Seller's attorney. The following closing fees will be charged to Purchaser by the attorneys for Sponsor in connection with the closing of the Units:
  - (a) \$550 for each closing, plus disbursements.
  - (b) \$100 for coordinating a closing with the purchaser's bank or other lender (other than the Seller),
  - (c) \$450 for preparation of loan documents if Seller offers purchase money financing and the purchaser avails himself of it,
  - (d) \$400 attendance fee if the purchaser desires to have the closing other than at the office designated by Seller's attorney. The closing fees and attendance fees are based on a one and one half (1 1/2) hour closing. If the closing is longer then there is an additional charge of \$150.00 for each additional hour or any part thereof.
4. In the event Purchaser obtains a mortgage, Purchaser shall pay all costs in connection therewith. Such mortgage costs may include, but are not limited to:
  - (a) Mortgage title policy with estimated costs described in subparagraph (a)(1) and (2) above;
  - (b) Mortgage tax of 2% of mortgage amount if under \$500,000; 2.125% if mortgage over \$500,000, less \$25.00 (any mortgage tax credit received pursuant to Section 339-ee

of the Real Property Law will inure to the benefit of the Sponsor);

- (c) Loan origination fee or "points";
- (d) Application fee;
- (e) Appraisal fee;
- (f) Legal fee of lender's attorney;
- (g) Private mortgage premium, if required; and
- (h) Recording charges to record the mortgage.

Note: If the purchaser obtains a commitment for a mortgage loan to finance the purchase of this unit, the mortgage on the unit may provide that the mortgagor shall deposit monthly with the mortgagee one-twelfth (1/12th) of the estimated annual real estate taxes assessed or to be assessed against his unit and at the closing of title Purchaser may be required to deposit with the mortgagee a portion of the annual real estate taxes assessed against his unit for the forthcoming period.

5. Purchaser is also obligated to reimburse the Sponsor at Closing for its contribution to the Working Capital Fund equal to the Common Charges for the Unit for one month.

The above closing costs are cumulative to the extent applicable to any individual closing.

The following is an example of closing costs other than closing adjustments which would be incurred by a Purchaser of a Unit, the purchase price of which is \$544,752.00 assuming that the Purchaser does not finance the purchase, obtains title insurance for his Unit and does not incur any late charges.

|                                    |                    |
|------------------------------------|--------------------|
| Title Insurance .....              | \$2,492.00         |
| Recording Charges .....            | 100.00             |
| Sponsor's Counsel Fee .....        | 550.00             |
| Real Property Transfer Tax .....   | 7,904.40           |
| Deed Stamps .....                  | 2,220.00           |
| Working Capital Contribution ..... | 507.96             |
| Total .....                        | <u>\$13,774.36</u> |

The above costs are exclusive of a) costs which may be incurred by the Purchaser for legal representation in connection with the purchase of the Unit.

At the closing of title to each Unit, Sponsor and the Purchaser shall apportion, as of midnight of the day preceding the closing: (i) real estate taxes (including all prepaid real estate taxes) and assessments, if any, on the basis of the fiscal or calendar year for which assessed, including water charges and sewer rents (if separately assessed); (ii) Common Charges for the month in which title closes; and (iii) rent and other charges, if any, pursuant to a lease for, or tenancy of, such Unit. In the event that the Unit has not been separately assessed for the then current fiscal tax-year at the time of closing title, the apportionment of real estate taxes shall be based on the Unit's pro-rata share (in proportion to its Common Interest) of the then current real estate taxes assessed against the Property. Installments for tax assessments due after delivery of the deed (if any) shall be paid by the Purchaser and shall not be considered a defect in title.



### RIGHTS AND OBLIGATIONS OF THE SPONSOR

The Sponsor will defend any suits or proceedings arising out of Sponsor's acts of omissions and will indemnify the Board of Managers and the Unit Owners.

All representations under the Plan, all obligations pursuant to the GBL, and such additional obligations under the Plan which are to be performed subsequent to the closing date will survive delivery of the deed.

Sponsor agrees to pay all common charges, special assessments and real estate taxes with respect to Unsold Units. Sponsor has the financial resources to meet its obligations with respect to Unsold Units. No bond or other security has been furnished to secure Sponsor's obligations.

The Sponsor will maintain the property until the Sponsor no longer controls the Condominium Board in substantially the same condition and manner as on the date of presentation of the Plan.

Other than obligations, if any, imposed on the Sponsor by applicable law, the Sponsor has no obligation to repair damage from casualty or other cause which occurs prior to the closing of a Purchaser's Unit. See "Closing and Terms of Sale" for the rights of Purchasers of Units damaged by casualty prior to closing.

Sponsor shall procure the fire and casualty insurance pursuant to an agreed amount replacement value policy or in an amount sufficient to avoid co-insurance as set forth in the footnotes to Schedule B of the Plan.

In the event of the dissolution or liquidation of the Sponsor or the transfer of ten or more Units or twenty (20%) percent or more of the total number of Units in the Condominium, whichever is less, the principals of the Sponsor will provide financially responsible entities or individuals who will assume the status and all of the obligations of the Sponsor for those Units transferred under the Plan, applicable laws or regulations. In the event of dissolution or liquidation, the principals of the Sponsor shall guarantee the performance of such obligations.

Sponsor will bear all costs and expenses to be incurred in connection with the creation of the Condominium and the preparation, filing and distribution of this Plan. In addition, Sponsor will pay all selling expenses and brokerage commissions of the Selling Agent or other broker engaged by Sponsor. In the event that there are violations of record or title encumbrances (other than mortgages and permitted encumbrances) affecting the Property at the time of the First Closing, Sponsor shall cause such violations or encumbrances to be cured, remedied and removed, at its sole cost and expense, except that Sponsor shall have no obligation to cure, remedy, or remove any such violations or encumbrances if the same cannot be accomplished at an aggregate

cost and expense of less than one-half of one percent of the total offering amount. The existence of any such violations or encumbrances will not constitute an objection to title or excuse any Purchaser from completing payment of the balance due under his Purchase Agreement (without provision for escrow), provided that Sponsor either furnishes adequate proof that such violation or encumbrance has been cured or remedied or deposits in escrow a reasonable sum to secure Sponsor's obligation to cure and remedy such violation or encumbrance subsequent to the First Closing. At Sponsor's request, the escrow agent shall apply the sums so deposited towards payment of the cost of curing or remedying the title defect, except the escrow agent shall retain a sufficient portion of such security deposit to pay for the reasonable costs of curing or remedying the remaining title defects. This provision shall not be construed to limit the Sponsor's obligation to remedy the defect. If the aggregate cost and expense of curing, remedying and removing all such violations and encumbrances exceeds one-half of one percent of the total offering amount and Sponsor elects not to accomplish the same, Sponsor shall withdraw this Plan in accordance with the terms of the section entitled "Effective Date".

Immediately following the First Closing, Sponsor will assign all assignable service and maintenance contracts and agreements relating to the Property to the Condominium Board, and the Condominium Board will, on behalf of all Unit Owners, assume the same and indemnify Sponsor against all claims and liability thereunder that relate to matters and events occurring on or after the day upon which the First Closing occurs.

#### **CONTROL BY SPONSOR**

Sponsor shall have the right to vote all of the Common Interests attributable to Units owned by Sponsor, except that during the Initial Control Period the Sponsor shall be entitled to nominate and vote for all of the Board Members and after the Initial Control Period the Sponsor may not nominate a majority of the members of the Condominium Board but the Sponsor may vote to fill all of the positions on the Condominium Board.

After the Initial Control Period, Sponsor or its designee, as a Unit Owner, shall have the right to designate the following minimum number of members of the five (5) member Condominium Board: (a) two members, for so long as the Common Interests attributable to the Unsold Units equals, in the aggregate, twenty five (25%) percent or more of the Common Interests of all Units; (b) one member, for so long as the Common Interests attributable to the Unsold Units equals, in the aggregate, less than twenty five (25%) percent but at least one (1) unit.

The number of members of the Condominium Board may not be increased without the consent of the owner of the Unsold Units for so long as there remain two (2) Unsold Units.

Until Sponsor no longer elects a majority of the members of the Condominium Board, Sponsor will, through its control of the Condominium Board, have control of the maintenance and operation of, and the services to be provided by, the Condominium and will determine the Common Charges to be paid by all Unit Owners. Sponsor may not exercise veto power over expenses described in Schedule B, or over expenses required (i) to comply with applicable laws or regulations, (ii) to remedy any notice of violation or (iii) to remedy any work order by an insurer. However, Sponsor may exercise veto power over expenses other than those described in Schedule B for a period of three (3) years from the date of the First Closing so long as the Common Interests of the Unsold Units constitute more than 25% in the aggregate.

All members of the Condominium Board shall be either: (a) Unit Owners or spouses of Unit Owners or mortgagees of Units or officers, employees or agents of mortgagee of Units or a spouse of an individual mortgagee; (b) partners, members or employees or officers, employees or agents of mortgagee of Units (or their spouses) of a partnership or limited liability company ("LLC") owning a Unit or a mortgage covering a Unit; (c) officers, directors, stockholders or employees (or their spouses) of corporate owners or corporate mortgagees of Units; or (d) fiduciaries or their beneficiaries (or their spouses but (not including estates of deceased Unit Owners) who are owners or mortgagees of Units (or directors, officers, stockholders or employees, or their spouses, of corporate fiduciaries, or partners, members, or employees, or their spouses, of partnership fiduciaries). However, members elected or designated by Sponsor or its designee need not be Unit Owners nor have any relationship to the Sponsor in order to serve. Other than members elected or designated by Sponsor or its designee, no member shall continue to serve on the Condominium Board after he ceases to be a Unit Owner or an interested party in a Unit Owner, as specified in the first sentence of this paragraph.

Members of the Condominium Board are subject to removal, without cause, by vote of Unit Owners owning a majority of the Common Interests attending a meeting at which a quorum is present. However, members elected by Sponsor or its designee may only be removed by Sponsor or said designee, who alone will have the right to designate a replacement. Any officer may be removed, without cause, by vote of a majority of the Condominium Board at a meeting called for such purpose.

All officers and members of the Condominium Board shall serve without compensation.

The first officers and members of the Condominium Board will be;

Sheila Levine, President  
Sondra B. Myer, Vice President  
Jennifer S. Bocian, Secretary Treasurer

The members are employees of the Managing Agent.

Members of the Board must act in accordance with their fiduciary obligation to the Condominium. The members of the Condominium Board will have no liability to Unit Owners for errors of judgment, negligence, or otherwise, except that individual members will be liable for their own bad faith or willful misconduct. The Condominium Board may contract or effect other transactions with any member thereof, with any Unit Owner, with Sponsor, or with any affiliate of any of them at competitive rates without incurring any liability for self-dealing.

#### CONDOMINIUM BOARD

The affairs of the Condominium shall be governed by the Condominium Board, which shall consist initially of three members designated by Sponsor. At the first meeting of the Unit Owners, which will be called to be held not later than seven months after the First Closing, the three-member Condominium Board shall resign in favor of a new five-member Condominium Board, to be elected by Unit Owners at such meeting. Thereafter, elections to the Condominium Board shall be held at the regular annual meeting of Unit Owners held in October of each succeeding year. Special meetings of Unit Owners may be called by resolution of the Condominium Board or on petition of Unit Owners having in the aggregate not less than 25% of the Common interest of all Unit Owners.

The term of office of each of the five members of the Condominium Board shall normally be one year.

All Unit Owners shall jointly (with rights of contribution) indemnify each member of the Condominium Board against any liability or claim, contractual or otherwise, except those arising out of the bad faith or willful misconduct of such member or that are contrary to law or the terms of the Declaration or the By-Laws. However, the liability of any Unit Owner on account of such indemnification will be limited to such proportionate share thereof as the Common Interest of such Unit Owner bears to the aggregate Common Interests of all Unit Owners.

Each Unit Owner shall be entitled to cast one vote at all meetings of the Unit Owners for each 0.01 of Common Interest attributable to the Unit(s) owned by him. When voting for the election of members of the Condominium Board, each Unit Owner: (i) shall be entitled to one vote for each 0.01 of Common Interest attributable to his Units per member to be elected and (ii) shall not have the right to cumulate his votes in favor of any one or more members to be elected. The presence, in person or by proxy, of Unit Owners having a majority of the votes of all Unit Owners shall constitute a quorum at all meetings of the Unit Owners, and, unless otherwise provided, the decision of the Unit Owners casting a majority of the votes of the Unit Owners at a meeting at which a



quorum shall be present shall be binding upon all of the Unit Owners. However, elections of members of the Condominium Board shall be determined by plurality vote.

Generally, subject to certain exceptions and provided that any required consent of the Mortgage Representatives is obtained, any provision of the Declaration, the By-Laws, or the Rules and Regulations may be amended, modified, added to, or deleted by the affirmative vote of 66 2/3 of all Unit Owners, both in number and in Common Interests. However, for so long as Sponsor or its designee is the owner of one or more Units, the Declaration, the By-Laws and the Rules and Regulations may not be amended or modified so as to adversely affect the rights, privileges, easements, indemnities, exemptions or benefits reserved to the Sponsor or said designee in the Condominium Documents without the prior written consent of Sponsor or said designee. In addition, the provisions of the By-Laws relating to the use of Units or each Unit's Common Interest may not be amended without the prior consent of every Unit Owner affected by such amendment. Notwithstanding the foregoing in the event North Fork Bank has a security interest in one or more Unsold Units no amendment to the Declaration shall be made without the prior written consent in recordable form of North Fork Bank, its designee and its successor in interest.

#### **RIGHTS AND OBLIGATIONS OF THE UNIT OWNERS AND THE CONDOMINIUM BOARD**

##### **Sales and Leases of Units**

Each owner of a Residential Unit (other than Sponsor or its designee with respect to Unsold Units) may sell or lease his Unit, provided, however, that such owner first gives the Condominium Board written notice of his intention to do so, which notice shall be accompanied by a fully executed copy of the contract of sale or lease, as the case may be, containing all of the terms offered in good faith by the prospective purchaser or lessee. The Condominium Board, on behalf of all Unit Owners, shall have the exclusive right to purchase the Unit within thirty (30) business days after receipt of such notice of sale, or to lease the Unit within twenty (20) business days after receipt of such notice of lease, on the same terms set forth in said contract or lease, all as more specifically set forth in Article 7 of the By-Laws. If the Condominium Board does not notify the Unit Owner of its election to purchase or lease the Unit, such Unit Owner will have one hundred twenty (120) days thereafter to consummate the sale or lease in accordance with the terms stated in the contract of sale or lease appended to such notice, failing which, the Unit Owner will again be required to offer the same first to the Condominium Board as provided above.



The Condominium Board may not exercise its option to purchase or lease any Unit unless those Unit Owners owning a majority of the aggregate Common Interests of all Units affirmatively vote in favor thereof, in person or by proxy, at a meeting of Unit Owners at which a quorum is present. If approval is given, the Condominium Board may assess each Unit Owner (other than the selling Unit Owner), in proportion to his Common Interest, an amount necessary to effectuate the purchase.

A Unit which is acquired by purchase or lease by the Condominium Board may be used only in accordance with the Condominium Documents. The Condominium Documents provide that a Residential Unit may be used for residential purposes and any home occupations allowed by law.

The rent from the leasing or subleasing of a Unit or proceeds from the sale of a Unit after deduction of all expenses incurred in connection with generating the same shall constitute income of the Unit Owners, and shall be collected on behalf of the Unit Owners by the Condominium Board and applied against the Common Expenses for the year in which collected. The excess of such amounts over Common Expenses shall be applied by the Condominium Board against the Common Expenses for the next succeeding year(s) of operation, and no Unit Owner shall be entitled to a distribution of any portion of such excess unless the Condominium Board shall determine to distribute all or part of such excess to all Unit Owners pro rata in proportion to their respective Common Interests.

The Condominium Board may not discriminate against any person for a reason proscribed by civil rights laws.

Notwithstanding the foregoing, any Unit Owner may sell or lease his Unit to his spouse, adult child, parent, grandparent, parent-in-law, or adult sibling, or may convey his Unit by gift, devise it by will, or have it pass by intestacy, without complying with the restrictions described above provided, however, that each succeeding Unit Owner shall be bound by, and his Unit shall be subject to, such restrictions. In addition, any Residential Unit Owner that is not a natural person may sell, lease, or convey its Unit to a related or controlled entity as more particularly set forth in Article 7 of the By-Laws.

The foregoing restrictions upon the sale and lease of Units shall not apply to Sponsor or its designee with respect to any Unsold Units or to Units acquired by a mortgagee or its designee in foreclosure or by deed in lieu of foreclosure; they shall be free to sell or lease without first offering to sell or lease to the Condominium Board.

Each conveyance of a Unit by a Unit Owner shall include, as part of the property to be conveyed, such Unit Owner's: (i) Common Interest, (ii) undivided interest in any Unit or Units acquired by

the Condominium Board from Unit Owners (or the proceeds received at a foreclosure or other judicial sale of a Unit) and (iii) undivided interest in any other assets of the Condominium. In addition, title to a Unit may not be conveyed unless all unpaid Common Charges and liens against such Unit (other than Permitted Mortgages) are paid and satisfied at or prior to closing. At the time of acquisition of a Unit and as a condition thereof, the new Unit Owner shall be required to execute, acknowledge and deliver a Unit Owner's Power of Attorney in favor of the Condominium Board and Sponsor, in the form set forth in Part II of this Plan, in accordance with Article 14 of the Declaration.

The lease for any Unit (other than the Unsold Units) shall be in the form of apartment lease (with respect to Residential Units) then approved by the Real Estate Board of New York, Inc., except for such changes thereto as are provided for in the By-Laws.

The leasing of Residential Units after the First Closing is not subject to government controls as to rents and continued occupancy.

#### **Mortgages of Units**

Each owner of a Residential Unit may mortgage his Unit, provided that, with respect to Units other than the Unsold Units, the conditions with respect thereto set forth in Article 8 of the By-Laws are first complied with. As more fully set forth in said Article 8, these conditions include the requirements that: (a) the mortgage be substantially in the form of the New York statutory form of mortgage, except for such changes or additions as may be required to permit a lender to make the loan; (b) the Condominium Board is notified in writing of the making of such mortgage and is given a copy thereof and (c) the Unit Owner making such mortgage is not in arrears for Common Charges and first satisfies all other unpaid liens against his Unit, other than mortgages placed on his Unit in compliance with Article 8 of the By-Laws ("Permitted Mortgages"). Sponsor or its designee, as the owner of Unsold Units, shall have the right to mortgage the Unsold Units without any restriction or limitation, except that the Condominium Board is required to be notified in writing of the making of such mortgage and is to be given a copy thereof.

#### **Common Charges: Assessment, Collection and Lien for Non-Payment**

The Condominium Board will prepare and distribute to all Unit Owners, at least annually, a budget setting forth its projection of the Common Expenses for the coming fiscal year of the Condominium. Such Common Expenses will include, among other things: (a) all costs and expenses in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition, or improvement to, the Common Elements; (b) water charges and sewer rents in connection with the Building (unless the same are separately assessed to individual Units); (c) real estate taxes and assessments levied with respect to the Property (until the same are separately assessed to individual

Units) and (d) amounts for such other items as the Condominium Board may deem proper (such as amounts for reserves, to make up deficits for prior years, to prepay indebtedness of the Condominium, or to purchase or lease Units). Based upon such budget, the Condominium Board will promptly determine, and advise each Unit Owner of, the Common Charges payable by such Unit Owner during the ensuing fiscal year, which Common Charges shall represent a portion of the projected Common Expenses of the Condominium assessed to such Unit Owner pro-rated according to the Common Interest of his Unit. The Common Interest of each Unit, as set forth above in Schedule A, has been calculated in accordance with Section 339-i 1(ii) of the Condominium Act on the basis of the approximate proportion which the floor area (i.e. square foot area) of each unit bears to the total floor area (i.e. total square foot area) of all the units as of the date of the Declaration and taking into account the substantially exclusive advantages enjoyed by some of the units in parts of the common elements described herein as Limited Common Elements. The Limited Common Elements which are enjoyed exclusively by the respective Unit Owners who are solely responsible for the repair and maintenance of such Limited Common Elements are as follows: a) patio/yard appurtenant to Units 1C and 1D; b) terraces appurtenant to Units 4A, 5A, and 5B; and c) fireplaces within Units 1A, 1B, 1C, 2A, 2B, 2C, 2MC, 3A, 3B, 3C, 4A, 4B and 4C. See Article 7(c) of the Declaration of Condominium.

Pursuant to the terms of Article 6 of the By-Laws, the Condominium Board has the right to revise its projection of the Common Expenses at any time and from time to time during any fiscal year of the Condominium. Any such revision may result in an increase or decrease in the amount of Common Charges payable by Unit Owners during such fiscal year. However, no such revision shall have a retroactive effect on the amount of Common Charges payable by Unit Owners prior to the date of such new determination.

Unless otherwise determined by the Condominium Board, Common Charges will be payable in monthly installments, in advance, on the first day of each month. No Unit Owner will be relieved from liability for the payment of his Common Charges by waiving the use of any of the Common Elements or by mere abandonment of his Unit. No Unit Owner, however, will be liable for the payment of any part of the Common Charges assessed against his Unit subsequent to a permissible sale, transfer, or other conveyance by him of such Unit.

Any Unit Owner may, by conveying his Unit to the Condominium Board without consideration and by complying with certain conditions set forth in the By-Laws in connection therewith, exempt himself from Common Charges thereafter accruing. Such conditions include the payment of all Common Charges and assessments then due and payable with respect to his Unit and such Unit being free and clear of all liens and encumbrances other than

Permitted Mortgages and any statutory lien for unpaid Common Charges.

On a resale of any Unit, the purchaser of such Unit shall be required to pay unpaid Common Charges assessed against such Unit prior to his acquisition, except that a mortgagee acquiring title to a mortgaged Unit or a purchaser at a mortgage foreclosure sale shall not be liable, and such mortgaged Unit shall not be subject to a lien for the payment of any Common Charges assessed subsequent to the recording of such mortgage and prior to the acquisition of title to such Unit by the mortgagee or a purchaser at a mortgage foreclosure sale. In the event that the Condominium Board forecloses its statutory lien on any Unit for unpaid Common Charges and the net proceeds of the foreclosure sale shall not be sufficient to pay such unpaid Common Charges, or if such Unit is acquired by a mortgagee or purchaser at a mortgage foreclosure sale, then, in either event, the defaulting Unit Owner shall remain personally liable for the balance of such unpaid Common Charges. The Condominium Board shall have the right to assess such unpaid balance amongst all those who are Unit Owners at the time that the same is levied.

Under the provision of Section 339-z of the Condominium Act and Article 6 of the By-Laws, the Condominium Board will have a lien, on behalf of all Unit Owners, on each Unit for unpaid Common Charges assessed against such Unit together with interest thereon. All such liens, however, will be subordinate to prior recorded first mortgages and, to the extent required by applicable law, to any liens for real estate taxes, assessments on such Unit. Any lien for unpaid Common Charges against a Unit will be effective from an after filing of a verified notice thereof in the Register's Office (or Office of the Clerk of the County of New York) and until all sums secured thereby, with interest accrued thereon, shall have been fully paid, or until six years from the date of filing (unless foreclosure of such lien is started within such six-year period), whichever shall be sooner. Such liens may be foreclosed by a suit brought in the name of the Condominium Board (acting on behalf of all Unit Owners) in like manner as the foreclosure of a mortgage on real property, or an action may be brought by the Condominium Board to recover unpaid Common Charges without foreclosing the lien.

### **Repairs**

Generally, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary:

a) in or to any Unit (other than the Common Elements contained therein) shall be performed by the owner of such Unit at such Unit Owner's sole cost and expense;



b) in or to the Common Elements (other than the Limited Common Elements) shall be performed by the Condominium Board as a Common Expense; and

c) in or to the Limited Common Elements (i.e., the patio/yard used exclusively by the respective Unit Owner(s) of Unit 1C and 1D and the terraces attached to units 4A, 5A and 5B shall be performed either by the Condominium Board as a Common Expense, if involving structural or extraordinary maintenance, repair, or replacement, or by the Unit Owner having direct and exclusive access thereto at his sole cost and expense, if involving painting, decorating and non-structural ordinary maintenance, repairs and replacements; and

d) in addition to the foregoing, each individual Unit Owner is responsible for the repair, maintenance and/or replacement of the video panel within the Unit that is hooked up to the common intercom video system. Those Unit Owners with a fireplace in their Unit are responsible for the care, maintenance and/or replacement of their fireplace and the exhaust system servicing the fireplaces in the building.

Notwithstanding the foregoing, however, all maintenance, repairs and replacements to the Common Elements, whether structural or non-structural, ordinary or extraordinary, that are necessitated by the negligence, misuse, or abuse of a Unit Owner, will be made by such Unit Owner at his sole cost and expense. In connection with the foregoing, it should be noted that the exterior glass surfaces of all windows located in any Unit are to be washed and cleaned by the owner of such Unit, at such Unit Owner's sole cost and expense.

The By-Laws require that each Unit, all Limited Common Elements appurtenant thereto and all portions of the Common Elements be kept in first-class condition (and, with respect to any terrace, roof, or other part of the Property exposed to the elements, free of snow, ice and accumulation of water) by the Unit Owner or the Condominium Board, whichever is responsible for the maintenance thereof. The By-Laws further require that those public or other areas of the Building that are exposed to public view (whether the same are required to be maintained by a Unit Owner or by the Condominium Board) be kept in good appearance in conformity with the dignity and character of the Building by such Unit Owner or the Condominium Board, as the case may be.

As more fully set forth in the By-Laws, the Condominium Board, and the Managing Agent, superintendent and other persons authorized by the Condominium Board, will have a right of access to any Unit for the purposes, among others, of making inspection of, or removing violations of governmental laws or regulations against, any part of the Property, curing defaults committed by the owner of such Unit under the Condominium Documents, or correcting any conditions originating in any Units and threatening another Unit or any Common Element. In addition, Sponsor and its



contractors, subcontractors, agents and employees will have a right of access to each Unit and to all of the Common Elements for purposes of performing certain alterations and repairs in or about Unsold Units and in fulfilling Sponsor's obligations under the Plan.

### **Additions Alterations and Improvements**

No Residential Unit Owner (except Sponsor or its designees, as described in the following paragraph) may make any structural alteration, addition or improvement in or to his Unit or its appurtenant Limited Common Elements without the prior written approval of the Condominium Board. Such approval may be conditioned, in the discretion of the Condominium Board, upon the execution of an agreement by such Unit Owner, in form and substance satisfactory to the Condominium Board, setting forth the terms and conditions upon which such alteration, addition and improvement may be made (including, but not limited to an indemnity agreement). Except as otherwise provided in the By-Laws, no Unit Owner may make any alteration, addition, improvement, or repair in or to the Common Elements. Non-structural alterations, additions or improvements to a Unit or its appurtenant Limited Common Elements do not require the consent of the Condominium Board.

Sponsor or its designee shall have the right, without the approval of the Condominium Board, the Selling Agent, the Managing Agent, other Unit Owners, or representatives of holders of mortgages on Units, other than North Fork Savings Bank, to (a) make alterations, additions or improvements in or to any Unsold Unit, whether structural or non-structural, interior or exterior, ordinary or extraordinary and (b) subdivide, combine and change the boundary walls of Unsold Units (see the section above entitled "Changes in Prices and Units" for further discussion).

At the request of Sponsor or its designee, the Condominium Board will execute any application or other document required to be filed with any governmental authority having or asserting jurisdiction in connection with any addition, alteration and improvement proposed to be made by Sponsor, at which time Sponsor shall execute an agreement to indemnify and hold harmless the Condominium Board and the Unit Owners from any expense or liability by virtue of the execution of the application or such other documents.

Generally, all alterations, additions, or improvements in or to the Common Elements will be made by the Condominium Board, and the cost and expense thereof will be charged to the Unit Owners as a Common Expense. In addition, as set forth in paragraph (B) of Section 5.8 of the By-Laws, the owner or owners of any two or more Residential Units, which Units are the only Units serviced or benefited by any Common Elements adjacent to such Units, shall,

under certain circumstances, have the exclusive right to use that portion of the Common Elements as if it were a part of such Units.

Whenever, in the judgment of the Condominium Board, the Common Elements (other than the Limited Common Elements) shall require additions, alterations, or improvements costing more than \$25,000, in the aggregate, in any calendar year, such additions, alterations, or improvements shall not be made unless the same have been approved by the Unit Owners (including Sponsor, if it then owns any Unit) owning a majority of the Common Interests at a duly constituted Unit Owners meeting and by the representatives of institutional mortgagees of Units, if any, appointed pursuant to the By-Laws (the "Mortgage Representatives"). If approved, the Condominium Board may, in its discretion, assess each Unit Owner his pro-rata share of the cost of such additions, alterations, or improvements, according to his Common Interest, as part of the Common Charges. Any additions, alterations, or improvements costing \$25,000 or less, in the aggregate, in any calendar year may be made by the Condominium Board without the approval of the Unit Owners or the Mortgage Representatives, if any, and the cost thereof shall constitute a Common Expense.

### Insurance

The Condominium Board shall maintain fire insurance policies, insuring the Building (including all Units and the bathroom and kitchen fixtures installed therein on the date of recording the Declaration and all service machinery contained therein, but not including appliances or any furniture, furnishings, or other personal property supplied or installed by the Unit Owners or tenants of Unit Owners) and covering the interests of the Condominium, the Condominium Board, all of the Unit Owners and the holders of all Permitted Mortgages (the "Permitted Mortgagees"), as their respective interests may appear, in an amount equal to at least 80% of the full replacement value of the Building (exclusive of excavation and foundations), without deduction for depreciation. Each of such policies shall contain a New York Standard Mortgagee clause in favor of each permitted Mortgagee, which shall provide that the loss proceeds, if any, thereunder shall be payable to such Permitted Mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Condominium Board and the Insurance Trustee (hereinafter defined) as set forth below. The cost of all such insurance shall be paid by the Condominium Board and shall be borne by the Unit Owners as part of the Common Charges. Each Unit Owner is an additional insured.

The proceeds of all such policies of physical damage insurance shall be payable to the Condominium Board, in the event of a loss amounting to \$100,000.00 or less, and to the Insurance Trustee, if the loss shall amount to more than \$100,000.00. Such proceeds shall be applied for the purpose of repairing, restoring, or rebuilding the Building, unless otherwise determined by Unit Owners. In no event shall such proceeds be paid to the holder of

any mortgage placed by a Unit Owner on his Unit unless, in accordance with the provisions of Section 5.5 of the By-Laws, there shall be a determination not to rebuild the Building. The Insurance Trustee shall be a bank or trust company, having an office in the City of New York and State of New York, designated by the Condominium Board in accordance with the By-Laws.

All policies of physical damage insurance shall contain to the extent obtainable, waivers of subrogation and of any defense based on co-insurance or on invalidity arising from any acts of the insured and of pro-rata reduction of liability, and shall provide that such policies may not be cancelled or substantially modified without at least ten days' written notice to all of the insureds, including permitted Mortgagees. Duplicate originals or certificates of insurance of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all Unit Owners and Permitted Mortgagees at least ten (10) days prior to expiration to the then current policies, if requested.

The Condominium Board shall also maintain, to the extent obtainable: (a) fidelity insurance covering all officers and employees of the Condominium and of the Managing Agent (if any) who handle Condominium funds; (b) public liability insurance as to personal injury and property damage in such limits and amounts as the Condominium Board may from time to time determine, covering each member of the Condominium Board, the Managing Agent or manager (if any) and each of the Unit Owners, (c) rent insurance in an amount equal to the Common Charges for one year; (d) workers' compensation and New York State disability benefits insurance; (e) boiler and machinery insurance; (f) water damage legal liability insurance; (g) elevator liability and collision insurance and (h) such other insurance as the Condominium Board may from time to time determine. Such public liability insurance will also cover cross-liability claims of one insurer against another. See footnote in Schedule B for policy limits for this coverage. However, such insurance will not cover the individual liability of a Unit Owner arising from any occurrence within his own Unit.

Any insurance maintained by the Condominium Board may provide for such deductible amounts as the Condominium Board may determine. The cost of all such insurance shall be paid by the Condominium Board and shall be borne by all Unit Owners as part of the Common Charges.

Until the first meeting of the Condominium Board elected by the Unit Owners, the property insurance will be in the amount of \$1,200,000.00. The liability coverage will be in the amount of \$1,000,000.00 with an umbrella coverage in the amount of \$25,000,000.00. In addition, the insurance policies will include boiler, machinery and pollution insurance. For details regarding insurance coverage see footnote 7 to Schedule B. The Condominium Board may review such limits annually.

Unit Owners shall not be prohibited from carrying other insurance for their own benefit, provided that such policies contain waivers of subrogation and provided, further, that the liability of the carriers issuing insurance procured by the Condominium Board shall not be affected or diminished by reason of any Unit Owner's other insurance. A Unit Owner should consider maintaining, at his own expense: (a) separate insurance on the contents (i.e.. furniture and other personal property and belongings) of his Unit, in such amount as will be adequate to insure against loss by reason of fire or other casualty, and (b) liability insurance against claims for personal injury or property damage resulting from occurrences in his Unit or its appurtenant Limited Common Elements.

### **Repair or Restoration After Fire or Other Casualty**

Except as set forth in the next paragraph, in the event that the Building or any part thereof is damaged or destroyed by fire or other casualty, the Condominium Board will arrange for the prompt repair and restoration thereof (including any damaged Units but excluding appliances, fixtures, furniture, furnishings, or other personal property not constituting a part of such Unit). If the insurance proceeds are insufficient to cover the cost of repairs or restorations, the Condominium Board may assess all Unit Owners for such deficit as a Common Expense. Any surplus insurance proceeds shall be paid to all Unit Owners in proportion to their respective Common Interests, except that no payment shall be made to a Unit Owner until there has first been paid, out of his share of such funds, such amounts as may be necessary to reduce unpaid liens on his Unit (other than mortgages that are not Permitted Mortgages) in the order of priority of such liens.

If 50% or more of the Building is destroyed or substantially damaged and if 75% or more of all Unit Owners, both in number and in Common Interests, do not promptly resolve to proceed with the repair or restoration thereof, the Building will not be repaired and shall be subject to an action for partition instituted by any Unit Owner or lienor, as if owned in common, in which case the net proceeds of the resulting sale, together with the net proceeds of insurance policies, shall be divided among all Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first been paid, out of his share of such funds, such amounts as may be necessary to discharge all unpaid liens in his Unit (other than mortgages that are not Permitted Mortgages) in the order of the priority of such liens. If Sponsor or its designee is then a Unit Owner, it will have the right to vote at any meeting of Unit Owners called for the purpose of deciding whether or not to proceed with the restoration or repair of the Building.



### Restrictions on the Use of Units

As more fully set forth in the Declaration and in the By-Laws, each Residential Unit shall be used only as a residence and any home occupation allowed by law (except as otherwise described herein), and not more than one natural person, his Family Members (as defined in the Declaration) plus one additional occupant and his dependent children may occupy a Residential Unit at any one time. However, upon the prior written consent of Sponsor (or, when there are no longer any Unsold Units, the Condominium Board), any Residential Unit may be used as a professional or business office, provided that such use is permitted by law and does not violate the then existing Certificate of Occupancy covering such Residential Unit. In addition, Sponsor may, without obtaining the consent of the Condominium Board or the other Unit Owners: (a) allow any Residential Unit owned by Sponsor or its designee to be used as a professional or business office or for any other purpose, provided that such use is permitted by law and does not violate the then existing Certificate of Occupancy covering such Residential Unit and (b) use any one or more of such Units as model units and sales and/or promotion offices in connection with the sale or rental of the Unsold Units or for any other purpose, subject only to compliance with law.

A Residential Unit owned or leased by an individual, corporation, partnership, fiduciary, or other entity may be occupied only by said individual, or by an officer, director, stockholder, or employee of such corporation, or by a partner or employee of such partnership, or by said fiduciary (including officers, directors, stockholders, or employees or corporate fiduciaries), or by the beneficiary of said fiduciary, or by a principal or employee of such entity, respectively, or by members of the immediate family or guests of any of the foregoing. However, the foregoing restriction shall not apply to Unsold Units.

No nuisance, or immoral, improper, offensive, or unlawful use, shall be made of the Property or any portion thereof. No portion of a Residential Unit, other than the entire Residential Unit, may be rented, and no transient tenants may be accommodated therein. All valid laws, zoning ordinances and regulations of governmental bodies having jurisdiction thereof, relating to any portion of the Property, shall be complied with at the sole expense of the respective Unit Owners or the Condominium Board, whoever shall have the obligation to maintain or repair such portion of the Property. The Rules and Regulations of the Condominium, which govern the use of all of the Units, may be amended from time to time by the Condominium Board, provided that copies of such amendments are furnished to each Unit Owner prior to the time that they become effective.



**Self-Help**

In the event that any Unit Owner fails to maintain or repair parts of the Building required to be maintained or repaired by such Unit Owner, or in the event of any breach of the Condominium Documents, then, as set forth in Article 9 of the By-Laws, the Condominium Board shall have certain rights to perform such maintenance or repairs, or to cure such breach, at such Unit Owner's expense.

**Compliance with the Terms of the Declaration, the By-Laws and the Rules and Regulations**

Each Unit Owner must strictly comply with the provisions of the Condominium Documents, as the same may be amended, modified, deleted, or added to from time to time pursuant to the terms thereof. Failure to strictly comply is grounds for an action for damages, injunctive relief, or both.

**Units Acquired by the Condominium Board**

All Units acquired or leased by the Condominium Board or its designee shall be held by the Condominium Board or its designee on behalf of all Unit Owners. Any rent, purchase price, closing costs and closing adjustments payable in connection therewith shall be assessed against all Unit Owners as a Common Expense. No Units held by the Condominium Board or its designee shall carry voting rights.

**Liability of the Unit Owners**

Every contract made by the Condominium Board, by any officer of the Condominium, or by any superintendent or Managing Agent of the Building shall state (if obtainable) that (a) it is made only as agent for all Unit Owners, and the members of the Condominium Board or such officer, superintendent, or Managing Agent shall have no personal liability thereon (except in their capacities as Unit Owners) and (b) the liability of any Unit Owner with respect to such contract shall be limited to (i) such proportionate share of the total liability thereunder as the Common Interest of such Unit Owner bears to the aggregate Common Interests of all Unit Owners and (ii) such Unit Owner's interest in his Unit and its appurtenant Common Interest, unless otherwise provided by law.

**Easements**

Each Unit shall have, in common with all other Units: (a) an easement to use, maintain, repair, alter and replace all pipes, wires, ducts, vents, cables, conduits, public utility lines and other Common Elements existing, or that may come into existence, as a result of (i) the settling or shifting of the Building; (ii)

any alteration or repair to the Common Elements made by, or with the consent of, the Condominium Board or (iii) any repair or restoration of the Building (or any portion thereof or of any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, so that any such encroachment may remain so long as the Building shall stand. Each Unit shall be subject to the aforesaid easements in favor of all other Units. In addition, each Unit shall have, and shall be subject to, easements of subjacent support and necessity in favor of such Unit or in favor of other Units and the Common Elements.

Sponsor has reserved the right, for itself and its designee (so long as Sponsor or said designee owns a Unit) and for the Condominium Board, to grant such additional electric, gas, telephone, water, sewer, drainage or other utility easements or to relocate any existing utility easements as Sponsor, its designee, or the Condominium Board shall deem necessary or desirable for the proper operation and maintenance of the Building, or any portion thereof, or for the general health or welfare of the Unit Owners, provided that such additional utilities or the relocation of existing utilities will not prevent or unreasonably interfere with the use of the Units for dwelling, any home occupation allowed by law or permitted professional or business purposes. Access to any Unit or to the Common Elements in furtherance of such additional or relocated easement shall be exercised in such a manner as shall not unreasonably interfere with the use of the affected Units for dwelling or permitted professional or business purposes.

Sponsor and prospective purchasers and tenants of Unsold Units shall have an easement on and through the Common Elements for all purposes relating to the sale and rental of such Units, without being subject to any charge or fee therefor. Sponsor may use its Units and the Common Elements (at any one or more places designated by Sponsor) for sales, renting or display purposes, including placing "for sale" or "for rent" signs and other promotional and/or building materials of such size and content as Sponsor shall determine.

#### **REAL ESTATE TAXES**

Each Unit will be taxed as a separate tax lot for real estate tax purposes and the Unit Owner will not be responsible for the payment, nor will his Unit be subjected to any lien arising from the non-payment, of taxes on other Units.

Until the Units are separately assessed, the Condominium Board will pay all real estate taxes with respect to the Property and will allocate the cost thereof among all Unit Owners in proportion to each Unit's Common Interest.

Real estate taxes are assessed and collected by the City of New York.

1. After the units are separately assessed, each unit will be taxed as a separate tax lot for real estate tax purposes and the unit owner will not be responsible for the payment of, nor will the unit be subjected to, any lien arising from the non-payment of taxes on other units.
  - i. It is possible that the Real Property Assessment Bureau of the City of New York will not have separately assessed taxes for individual units at the time of the first closing of a unit.
  - ii. In the event taxes have not been separately assessed for a unit at the time of closing, the purchaser would normally be required to adjust taxes and pay to the Sponsor an amount equal to the percentage of common interest of the unit multiplied by the taxes assessed for the Property. However, since it is anticipated that there will be no taxes due on the property (see #4 below) this would not be required.
2. Real estate taxes will be assessed by the Real Property Assessment Bureau of the City of New York. The tax rate is presently \$10.851 per \$100.00 of assessed value. The tax assessment for each unit may be allocated on a basis that differs from the allocation of common interest.
3. The current amount of the assessed valuation for the tax year 2000/2001 for the entire building is \$765,000.
4. This property has received a 421-G certificate of eligibility tax exemption and abatement which has reduced the buildings taxes to zero during the period of July 1, 2000 through July 30, 2001. Assuming there is no increase in the tax rate or the assessed value, there will be no real estate taxes due until July 1, 2008, and thereafter the full real estate taxes will be phased in. It is likely that the assessed value and the tax rate will increase prior to July 1, 2008 and some real estate taxes will be imposed. Such exemption and abatement can be passed through to the individual unit owners after the units are separated into individual tax lots. The budget for the initial year of operation and the tax estimate presented in Schedule A are based on the assumption of zero taxes as of July 1, 2000.

In the event of an increase in the taxable assessed valuation, the amount of the increase in the new taxable assessed value over the 1999/2000 taxable assessed value will be multiplied by the tax rate in effect for the then current tax year, which will result in a real estate tax due from the condominium unit owners. In the event of an increase in only the tax rate, a tax will be determined by multiplying the new tax rate by the amount of assessed valuation previously

subject to the abatement. To the extent that the resulting amount is greater than the amount of tax originally subject to abatement, a real estate tax will be imposed. Any tax that will be imposed as a result of increases in either assessed valuation or the tax rate will be apportioned to the individual condominium tax lots in the proportion assigned by the New York City Department of Finance.

On September 1, 2001 when the budget is projected to commence, approximately two and a third years of the 13-15 year tax exemption and/or abatement will have expired. Purchasers will not have the benefit of the tax deduction and/or abatement for any period prior to the first transfer of ownership of Unit which may occur even later than the projected commencement date.

The estimated real estate taxes for each Unit assumes that the amount of real estate taxes payable with respect to each Unit will be levied in the proportion that its Common Interest bears to the Common Interest if all Units. There is no assurance that the New York City taxing authority will allocate taxes between Units in proportion to their respective Common Interest. If it does not, owners of Units having the same Common Interest will pay different amounts of real estate taxes.

#### INCOME TAX DEDUCTIONS TO UNIT OWNERS AND TAX STATUS OF THE CONDOMINIUM

The following discussion of certain income tax consequences of the ownership of Residential Units was prepared by the Sponsor based, in part, upon the income tax opinion of Barr & Associates, a copy of which is set forth in the following section of this Plan.

BARR & ASSOCIATES IS COUNSEL TO SPONSOR AND NOT TO THE RESIDENTIAL UNIT OWNERS. EACH PURCHASER SHOULD CONSULT HIS OWN TAX COUNSEL AS TO THE TAX CONSEQUENCES OF RESIDENTIAL UNIT OWNERSHIP.

Each Residential Unit Owner will own his Residential Unit, together with its appurtenant Common Interest, in fee simple, and each Residential Unit will be a separate tax lot for purposes of real estate taxes and assessments imposed by the City of New York. Because each Residential Unit Owner will own his Residential Unit in fee simple, the owner may mortgage such Residential Unit and become individually liable for the payment of the principal and any finance charges or interest on such mortgage indebtedness.

It is the opinion of Barr & Associates that the Condominium will qualify under Section 528 of the Internal Revenue Code and under present law, Residential Unit Owners will, for federal income tax purposes, be entitled to a deduction for mortgage



interest and real estate taxes in the taxable year in which the same are paid or accrued. However, these deductions are subject to certain exceptions and limitations, which are more particularly discussed in the income tax opinion set forth in the following section of this Plan.

It is also the opinion of Barr & Associates that, under present law, each Residential Unit Owner will, for New York State and New York City income tax purposes, be entitled to the same deduction that is allowed for federal income tax purposes for the mortgage interest and real estate taxes paid or accrued during the taxable year. However, for New York State income tax purposes, the deduction may be reduced if the Residential Unit Owner has more than a specified amount of tax preference items.

Common Charges will be borne by the Unit Owners and assessed and collected by the Condominium Board. See the income tax opinion set forth in the following section of this Plan for a further discussion of the tax status of the Condominium.

No warranties are made that the Internal Revenue Service, the New York State Department of Taxation and Finance, or the Finance Administration of The City of New York will allow any of the aforementioned deductions or that the tax laws, or the regulations or rulings issued thereunder, or any judicial interpretation thereof upon which Barr & Associates has based its income tax opinion will not change. In no event will Sponsor, Barr & Associates, the Selling Agent, the Managing Agent, or any other person connected with this offering be liable if, on account of any future changes of law or interpretations thereof, it is held that the Residential Unit Owners, or any of them, are not entitled to such income tax deductions. In addition, none of the aforesaid make any warranties with respect to the tax consequences of this Plan or the tax consequences or ownership of any Residential Units offered under the Plan, and no one has been authorized to make such warranties.



## INCOME TAX OPINION

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October 30, 2000

Beekman Landing Condominium  
c/o Philips International Holding Corp.  
417 Fifth Avenue  
New York, N.Y. 10016

Re: Offering Plan for the Conversion to Condominium Ownership  
of Premises located at 130 Beekman Street, New York, NY ("Plan").

Dear Ladies and Gentlemen:

You have requested our opinion concerning (i) the availability of certain deductions for federal, New York State and New York City income tax purposes (but not for purposes of the New York City earnings tax on non-residents) to individuals who purchase Residential Units for residential use ("Residential Unit Owners") under the Plan and (ii) the treatment for such income tax purposes of the common Charges paid or borne by individual Residential Unit Owners.

In this connection, we have reviewed the Plan, relevant sections of the Internal Revenue Code of 1986, as amended ("Code"), the New York State Tax Law ("State Tax Law"), the New York City Administrative Code ("City Code"), the Regulations promulgated thereunder and such other material as we deem relevant. Except where otherwise indicated, the terms used in this opinion have the same meanings as in the Plan.

The percentage of common interest for each Unit is based on the opinion of Goodstein Realty Commercial, LLC that the approximate proportion that the floor area of the Unit bears to the then aggregate floor area of all of the Units but such proportion reflects the exclusive advantages of one or more but not all of the Units in part or parts of the common elements. It is the opinion of Counsel that such allocation would be in compliance with Real Property Law Section 339 i.

I. Deductibility of Mortgage Interest and Real Estate Taxes

A Residential Unit Owner will own his Residential Unit and its appurtenant interest in the common Elements in fee simple. Therefore, each Residential Unit Owner may mortgage his Residential Unit and become individually liable for the payment of any finance charges or interest on such mortgage indebtedness. Also, each Residential Unit will be taxed as a separate tax lot for real estate tax purposes.

In our opinion, an individual Residential Unit Owner will, for federal income tax purposes, be entitled to a deduction for mortgage interest and real estate taxes in the year paid or accrued under Section 163 and 164 of the Code, respectively. Rev. Rul. 64-31, 1964-1 Cum. Bull. 300. This is subject to the proviso that, under 461(g) of the Code, no deduction will be allowed to a cash basis taxpayer in the year of payment for prepaid interest (other than points paid in certain cases).

The amount of interest paid or accrued with respect to a Residential Unit Owner's mortgage will be allowed only to the extent that is "qualified residence interest" as defined in Section 163 (h) (3). Qualified residence interest only includes interest on a debt secured by a security interests perfected under local law on the taxpayer's principal residence or second residence but only up to the interest paid on the total debt, not in excess of \$1,000,000.00. The amount of the interest allowed is limited to the amount allocable to the original purchase price plus home improvements and debt incurred to pay qualified medical expenses or qualified educational expenses.

In addition, the deductions for interest will only be available to those taxpayers who elect to itemize their deductions and whose aggregate itemized deductions exceed the standard deduction.

It is also our opinion that each individual Residential Unit Owner will, for New York State and New York City income tax purposes, be entitled to the same deduction which is allowed for federal income tax purposes for the mortgage interest and real estate taxes paid during the taxable year. Section 615 of the State Tax Law; Section T46-115.0 of the City Code. However certain individual taxpayers may not be able to utilize the deductions herein discussed, in whole or in part, if they are subject to the Alternative Minimum Tax.

Until the Units are separately billed for real property taxes, the by-laws provide for collection thereof in accordance with each Unit Owner's percentage of Common Interest. Such payments are to be made into a special escrow account for the purpose of paying such taxes, and accordingly, inasmuch as such payment is necessary because the property interest of each Unit Owner would be lost if the taxes were unpaid and the property foreclosed upon, such payment will be deductible. See L.L. Powell, 26 TCM 161 (1967). See also D.G. Peters, 29 TCM 1440 (1970).

## II Common Charges

Pursuant to the Plan, the Condominium Board will govern the affairs of the condominium. Presently, the exact tax status of the Condominium is not clear. The federal income tax consequences to the Condominium and the Residential Unit Owners upon receipt by the Condominium of the Common Charges from the Unit Owners and receipts from other sources will depend upon whether the Condominium is treated as a conduit, or is treated as an association taxable as a corporation or qualifies and elects to be treated under Section 528 of the Code.

Section 528 of the Internal Revenue Code provides that condominium associations, when qualified, may be treated as partially tax-exempt for federal income tax purposes.

The exemption provided by Section 528 of the Code is available only if the following requirements are met:

1. The organization must be organized and operated to provide for the acquisition, construction, management, maintenance and care of the association property.
2. Sixty (60%) percent or more of the organization's gross income for the taxable year must be membership dues, fees, or assessments received from residential condominium unit owners.
3. Ninety (90%) percent or more of the organization's expenditures for the taxable year must be for the acquisition, construction, management, maintenance and care of the condominium.
4. No part of the net earnings may inure to the benefit of any private individual except through the rebate of excess assessments or indirectly through the acquisition, management and maintenance of association property.
5. The organization must elect exempt status for the taxable year. Such election must be made for each year that the organization desires to be treated as a Section 528 organization, Treas. Reg. Section 1.528-8.
6. Substantially all of the units are used by individuals for residences. (Substantially all of the units will be considered used by individuals for residences if at least eight-five (85%) percent of the total square footage of all units is used, or is intended to be used by individuals for residential purposes or purposes auxiliary to residential use, such as storage rooms, laundry and maintenance areas. Treas. Reg. Section 1.528-4(b).)

If the above requirements are met and a timely election is made, the condominium's exempt function income is not subject to tax. Income from other sources such as that derived from the lease of laundry facilities or from investment income, is subject to tax after allowable deductions at the rate of thirty (30%) percent. Deductions are allowed for expenses related to the production of non-exempt income, but only if such expenses are directly connected with the production of such income. Section 528(d) (1) (B) of the Code. A specific deduction of One Hundred (\$100) Dollars is allowed against non-exempt income. Section 528 (d) (2) (A) of the Code. Neither the net operating loss deduction nor the special deductions for corporations are allowed. Sections 528 (d) (2) (B) and 528 (d) (2) (C) of the Code.

Accordingly, if the Condominium qualifies and makes a timely election under Section 528 of the Code, it would be taxable only upon income from sources other than Common Charges including investment and income derived from the lease of laundry facilities. If the

Condominium is operated for the first year of operation in such a manner that the income projected in Schedule B of the Plan is received and the expenses on said Schedule B are incurred and paid, the Condominium will qualify to make the Section 528 election for the first year. However, since the election must be made on an annual basis, we render no opinion as to whether the Condominium would qualify to make the election in subsequent years. Moreover, since deductions ordinarily allowable to corporations are not allowed with respect to an organization electing under Section 528 of the Code, we also render no opinion whether it would be advisable for the Condominium to make the election even if it would be qualified to do so.

The By-Laws of the Condominium provide that the Condominium Board will act as the agent of the Unit Owners. Accordingly, for federal income tax purposes, the Condominium may take the position that since it simply acts as agent for the Unit Owners, it is not a separate taxable entity.

The Condominium would be a mere conduit for receipts and payments of Unit Owners for whom it acts as agent. In such a case, the Unit Owners would include in their gross income and be taxed on all income earned by the Condominium, less the expenses incurred in earning such income. However, Common Charges would not be considered income to the Condominium. See Rev. Rul. 70-604, 1970-2 C.B. 9; Lake Petersberg Assoc., 33 TCM 259 (1974).

However, the Internal Revenue Service may contend that for purposes of those matters administered through the Condominium Board, such as the assessment and expenditure of Common Charges, the Unit Owners through the Condominium Board constitute an association taxable as a corporation. In such event, such association may be deemed subject to the federal corporate income tax (and therefore to New York State and New York City corporate income taxes) on the portion of the Common Charges which is deemed to constitute gross income of such association, to the extent that such portion (together with any income earned from other sources, such as the interim investments of funds by such association) exceeds the current expenses paid or incurred through the Condominium Board which are deductible for federal income tax purposes.

In this connection, published rulings indicate that Common Charges which are assessed by the Condominium Board and designated for use solely to make specified capital improvements and which are maintained in a separate bank account should not constitute gross income to such Board, either because it is deemed to receive and hold such Common Charges as agent for the Unit Owners from whom the assessments were collected, Rev. Rul. 75-370, 1975-2 Cum. Bull. 25, or because the assessed Common Charges are deemed to be nontaxable contributions to the capital of the association. Rev. Rul. 75-371, 1975-2 Cum. Bul. 25 (cf. Concord Village, Inc., 65 T.C. 14 (1975)).

However, if treated as contributions to the capital of the association, it should be noted that when such amounts (together with any other funds accumulated by the association) are expended for capital improvements, the Internal Revenue Service may contend that the capital

expenditures benefit the Unit Owners, and that each Unit Owner should therefore be subject to tax on his pro-rata share of the amounts expended.

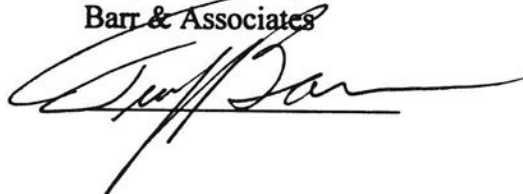
In the event that the Condominium Board is required to pay any federal, New York State or New York City income tax, and the Condominium Board makes an additional assessment in order to meet this tax liability, it should be noted that the additional amount collected through such assessment may itself be subject to tax. See Old Colony Trust Co. v. Commissioner, 279 U.S. 716 (1929); Rev. Rul. 74-75, 1974-1 Cum. Bull. 19.

We express no views as to any federal, New York State and/or New York City tax consequences or as to any aspects of the Plan other than those consequences and aspects explicitly discussed in this opinion or as to the tax status and tax consequences of the Plan under the laws of any other U.S. or foreign jurisdiction. This opinion does not deal with tax consequences which may result from ownership of a Residential Unit in connection with investment or the production of income, or which may result to a foreign Residential Unit Owner by reason of his foreign status. This opinion also does not deal with the tax consequences which may arise if Residential Units are acquired and/or leased by the Condominium Board or with respect to whether a Residential Unit Owner may be deemed a resident of New York City due to ownership of a Residential Unit. We therefore strongly advise each person contemplating the purchase of a Residential Unit to consult his own tax advisor as to all such tax matters (as well as with respect to the tax matters discussed in this opinion).

We make no warranty or representation that the Internal Revenue Service, the New York State Department of Taxation and Finance, or the Finance Administration of the City of New York will accept any or all of the view stated above. Moreover, the federal, state and city tax laws and regulations (and the rulings and decisions thereunder may change and thereby affect the views stated above in whole or in part.

We consent to the filing of this opinion as an exhibit to the Plan and to the reference to our name under the caption "Income Tax Deductions to Unit Owners and Tax Status of the Condominium" in the Plan.

Very truly yours,  
Barr & Associates





**FINANCING FOR QUALIFIED  
PURCHASERS**

**Purchase Agreement Contingent on Financing**

A. The obligations of Purchaser hereunder are subject:

(1) to the issuance of a commitment letter by a commercial bank, saving bank, savings and loan association, other than a VA, FHA or other governmentally insured loan, to Purchaser, on or before expiration of the forty-five (45) day period following the Loan Notice Date (as hereinafter defined) pursuant to which the institution agrees to lend 75% of the Purchase Price or such lower amount as may be acceptable to Purchaser at a rate of interest not to exceed the prevailing fixed or variable rate per annum, solely upon the security of a mortgage on the Unit in order to enable Purchaser to consummate the transaction provided herein (the "Loan Notice Date" shall be the date of presentation of a notice and/or amendment fixing the Closing Date or a notice instructing Purchasers to seek their financing, whichever is sooner); and

(2) to the closing of the loan on or about the date fixed pursuant hereto as the closing.

B. Purchaser shall apply for the loan and shall furnish to the institution, within five (5) days after the Loan Notice Date accurate and complete information on Purchaser and members of Purchaser's family, as required, shall advise Sponsor of the name and address of the institution to which such application has been made and the date upon which it was made.

C. Purchaser shall accept any commitment letter complying with the terms of subparagraph A (1) hereof, if issued, shall pay any application, appraisal, commitment or other fees in respect of the loan, and shall comply with the requirements of the commitment letter other than those which are not under Purchaser's control.

D. Provided that Purchaser shall have met all of Purchaser's obligations under the subparagraph B hereof, if the aforementioned commitment letter is not issued by the date provided for in subparagraph A (1) hereof, Purchaser shall have the right to terminate this agreement on notice given not more than five (5) days thereafter, or if the other conditions provided for in subparagraph A hereof are not met, Purchasers shall have the right to terminate this agreement on notice to the Seller, and in either such event all sums theretofore paid on account of the purchase price shall be returned without delay to Purchaser, and all parties hereto shall be relieved of and from any further liability hereunder.

Commercial and saving banks, as well as some savings and loan associations may make loans to help Purchasers to finance the purchase of a Unit.

Each institution has its own lending policies and credit requirements. Credit standards, the availability of funds and the loan-to-value ratio vary from institution to institution, and from time to time at any one institution. No representation or warranty is made that institutional financing will be available to anyone who agrees to purchase a Unit under the Plan or as to the terms and conditions upon which it might be available.

Persons who may be interested in availing themselves of financing arrangements for the purchase of Units should communicate directly with the lenders of their preference. If a Purchaser desires, he may partially finance the purchase of a Unit by obtaining a mortgage loan. No unit will be subject to the lien of a mortgage on any other Unit.

Pursuant to existing law and regulation the Sponsor may declare the Plan effective based on a 15% minimum number of Unit sales. It is possible that the Sponsor may be able to convert the building with fewer than the minimum number of sales if purchasers counted towards effectiveness do not ultimately purchase a Unit.

Purchasers should note that banks and other lenders impose various restrictions on loans, including requiring that a certain percentage of Units be sold before the lender will consider making a loan. Thus it may be possible for a Purchaser to experience difficulty obtaining a loan in a building where the percentage of units purchased is lower than a lender's particular sales minimum. Pursuant to the terms of the Offering Plan the Purchase Agreements submitted to the Sponsor are contingent on a Purchaser being able to obtain financing for seventy-five (75%) percent of the purchase price. If the Purchaser, acting in good faith, cannot obtain a loan for up to seventy-five (75%) of the purchase price, the Purchaser is entitled to receive the return of their Contract Deposit. It may be difficult for a Purchaser to resell their Unit if the prospective buyer(s) are unable to obtain a loan due to the percentage of Units sold in the Condominium at the time such buyer seeks financing.

#### **WORKING CAPITAL FUND**

Concurrently with the First Closing, Sponsor will contribute a sum equal to one month of Common Charges for all units (the "Working Capital Fund") to the Condominium Board for its working capital. The Working Capital Fund will be increased or decreased (as the case may be), depending upon whether the closing adjustments referred to below result in a net credit in favor of the Condominium or Sponsor, respectively. If the closing adjustments result in a net credit in favor of Sponsor in excess of \$5,000.00, the excess of the net adjustments in favor of the Sponsor over \$5,000.00 will be paid to Sponsor by the Condominium Board in twelve equal consecutive monthly installments, without interest.

AT THE CLOSING OF TITLE TO EACH UNIT, THE PURCHASER OF THE UNIT WILL BE REQUIRED TO REIMBURSE THE SPONSOR FOR THE SUM CONTRIBUTED BY THE SPONSOR TO THE WORKING CAPITAL FUND WITH RESPECT TO THE UNIT BEING PURCHASED.

The Working Capital Fund may be held or used for working capital, to make repairs and/or for such other appropriate purposes permitted under the Declaration and the By-Laws as determined by the Condominium Board in its sole discretion.

No representation is made that the Working Capital Fund will be, or is intended to be, adequate to cover expenses for the first or any subsequent year of condominium operation, including, without limitation, the cost of any necessary repairs or replacements. If additional funds are required over and above the Working Capital Fund, it may be necessary to increase the Common Charges.

THE PROPERTY IS OFFERED IN ITS CURRENT CONDITION AS SET FORTH IN THIS PLAN, WITHOUT ANY OBLIGATION ON THE PART OF SPONSOR OR THE SELLING AGENT TO MAKE ANY REPAIRS OR IMPROVEMENTS EXCEPT AS SET FORTH IN THE PLAN. NEITHER THE DEPARTMENT OF LAW NOR ANY OTHER GOVERNMENTAL AGENCY HAS PASSED UPON THE ADEQUACY OF THE WORKING CAPITAL FUND OR UPON THE PHYSICAL CONDITION OF THE BUILDING.

So long as the Sponsor controls the Condominium Board, the Working Capital Fund shall not be used to reduce projected Common Charges.

#### CAPITAL RESERVE FUND

Within thirty (30) days after the First Closing, the Sponsor will establish and transfer to the Condominium Board a reserve fund to be used exclusively for making capital repairs, replacements and improvements necessary for the health and safety of the residents of the Building which shall not be subject to reduction for closing apportionments. Such funds shall be in an amount equal to (i) three (3%) percent of the total price (the sum of the cost of all units offered at the last price offered to tenants in occupancy prior to the effective date of this Plan) or (ii) (a) three (3%) percent of the actual sales price of all Units sold at the time this Plan is declared effective, but not less than one (1%) percent of the total price, plus (b) supplemental contributions at the rate of three (3%) percent of the actual sales price of Units sold to bona fide purchasers after the effective date and within five (5) years after the First Closing, provided, however, that if the total contributions made to the fund within five (5) years and thirty (30) days after the First Closing are less than three (3%) percent of the total price, the Sponsor will pay the deficiency. Supplemental contributions shall be paid within thirty (30) days of each sale.

Notwithstanding the foregoing, the Sponsor is entitled to a credit against the mandatory initial contribution to the fund

equal to the lesser of the actual cost of the capital replacements begun after this Plan was submitted for filing to the Department of Law and before this Plan is declared effective or one (1%) of the total price.

The foregoing commitment of the Sponsor is being made pursuant to Title YYYY of Chapter fifty-one of the Administrative Code of the City of New York (the "Code").

Section YYYY 51-5.0 of the Code requires the Sponsor, not later than the 30th day following the acceptance of this Plan for filing and until the First Closing, to post and maintain in a prominent place, accessible to all tenants in the building, a listing of all violations of record against the building as determined by the Department of Buildings and the Department of Housing Preservation and Development. All newly issued violations must be posted within 48 hours after their issuance and maintained as described above. This section permits the Sponsor to satisfy its requirements by designating an agent on the premises with whom such listing shall be made available for inspection by the tenants. For this purpose the Sponsor hereby designates the superintendent.

Title YYYY also provides for civil and criminal penalties for its violation and further provides that any waiver of its provisions is void as against public policy.

No representation is made with respect to the adequacy of this fund to meet the cost of capital repairs, replacements or improvements, if any, which may be required as a result of conditions described in the section of the Plan entitled "Description of Property and Building Condition" in Part II of the Plan. Additional sums required to finance capital expenditures such as renewal or replacement of building components or systems or to remedy major building defects may be raised by the Condominium Board by (a) including a reserve fund contribution in each annual budget to build a fund (b) making a special assessment against all Unit Owners or (c) borrowing increased funds.

THE PROPERTY IS OFFERED IN ITS CURRENT CONDITION AS SET FORTH IN THIS PLAN, WITHOUT ANY OBLIGATION ON THE PART OF SPONSOR OR THE SELLING AGENT TO MAKE ANY REPAIRS OR IMPROVEMENTS EXCEPT AS SET FORTH IN THE PLAN. NEITHER THE DEPARTMENT OF LAW NOR ANY OTHER GOVERNMENTAL AGENCY HAS PASSED UPON THE ADEQUACY OF THE CAPITAL RESERVE FUND OR UPON THE PHYSICAL CONDITION OF THE BUILDING.

### **Closing Adjustments**

Immediately prior to the First Closing, Sponsor shall apportion the following items with the Condominium Board as of the day immediately preceding such closing:



(a) employee's wages, vacation and severance pay, pension and welfare benefits and all other payments or obligations relative to the employees of the Building;

(b) fees for assignable permits and licenses, if any;

(c) cost of fuel;

(d) charges for electricity and gas for the Common Elements and Units;

(e) payments under service and maintenance contracts and concession agreements;

(f) water charges and sewer rents on the basis of the fiscal or calendar year for which assessed (unless separately assessed to individual Units);

(g) cost of supplies on hand at Sponsor's cost; and

(h) premiums for transferable insurance policies.

If the result of the closing adjustments is a net credit in favor of the Condominium, the amount of Sponsor's contribution to the Working Capital Fund will be increased by the amount of such net credit. If, however, the result of the closing adjustments is a net credit in favor of Sponsor, the amount of Sponsor's contribution to the Working Capital Fund will be decreased by the amount of such net credit. If such net credit exceeds \$5,000.00 in amount, Sponsor's contribution to the Working Capital Fund will be reduced to \$5,000.00, and the amount of such net credit in excess of \$5,000.00, will be paid to Sponsor by the Condominium Board, without interest, in twelve equal consecutive monthly installments pursuant to the terms of a promissory note to be executed by the Condominium Board at the First Closing. The first payment will be due and payable one month after the date upon which the First Closing takes place, and the balance will be due and payable successively monthly thereafter. The note will contain a provision allowing Sponsor to accelerate the note's maturity date in the event of a default under any other serial promissory note. The Condominium Board will be entitled to prepay the promissory note in full only, at any time and without penalty.

The inspection certificates and/or permits such as air resource, elevator inspection, sprinkler system and boiler safety inspection, to the extent necessary for the proper operation of the building will be current at the time of the first Closing.



MANAGEMENT AGREEMENT, CONTRACTS AND LEASEManagement Agreement

The condominium will enter into a three year management agreement with Philips International Holding Corp., effective as of the closing date of the first unit. The fee will be \$12,000 per year for each year of the three year term payable in equal consecutive monthly installments in advance. In addition, the managing agent shall charge out-of-pocket disbursements (postage, tax, messenger, overnight mail) which are anticipated to be approximately \$1,500.00 per year. The management agreement will continue annually after the initial three year term at a fee to be mutually determined, unless terminated by either party on sixty (60) days' written notice. Notwithstanding the foregoing, the Board of Managers of the condominium shall have the right to terminate the management agreement upon sixty (60) days' written notice after one year provided that all of the units have been sold by the Sponsor. The managing agent will also receive from each unit owner a processing fee of \$400.00 for leasing of units by unit owners and \$500.00 for sales (other than the initial sale) of units. Collection of said fee will be guaranteed by the Board of Managers. The management agreement will not be assignable without the consent of the Board of Managers.

The duties and services to be rendered by the Managing Agent include, among others:

- (a) billing and collecting Common Charges;
- (b) causing the Common Elements to be maintained, repaired and altered in the manner deemed advisable by the Condominium Board, except that the approval of the Condominium Board is necessary for any expenditure of over \$1,500.00 for any one item of ordinary repairs or alterations (other than emergency repairs);
- (c) contracting for necessary services for the Common Elements (such as utility, exterminator, elevator and fuel oil services), but no contract shall be for a term longer than two (2) years or shall require annual payments in excess of \$1,500.00 unless authorized by the Condominium Board;
- (d) purchasing all supplies necessary properly to maintain and operate the Common Elements;
- (e) checking all bills received in connection with the operation of the Common Elements and causing all such bills and other expenses to be paid;
- (f) supervising, hiring and discharging employees, which duty may be delegated by the Managing Agent to one or more persons in its general employ;

(g) rendering monthly statements of receipts and disbursements to the Condominium Board;

(h) maintaining payroll records and filing withholding tax statements for employees;

(i) maintaining accurate sets of books for the Condominium (other than books of account to be maintained by the Condominium's accountants) and orderly files of rent records, insurance policies, leases, receipted bills, and the like;

(j) preparing and submitting to the Condominium Board, on an annual basis, operating budgets setting forth the anticipated income and expenses for the ensuing year; and

(k) sending notices, preparing agendas and attending meetings of the Condominium Board and Unit Owners.

All disbursements incurred by the Managing Agent in performance of its duties will be reimbursed by the Condominium Board and charged to the Unit Owners as a Common Expense. In addition, the Condominium Board will indemnify the Managing Agent against any claims or liabilities in connection with acts properly performed by it pursuant to the instructions of the Condominium Board or for personal injury or property damage not resulting from the Managing Agent's gross negligence or willful failure to comply with its obligations under the management agreement.

All members of the Condominium Board, officers and employees of the Condominium and officers and employees of the Managing Agent (during the term of the management agreement) will be bonded at all times from and after the First Closing under fidelity bonds in favor of the Condominium in the amount of \$100,000.00 for each loss. The cost of the bonds will be borne by the Condominium Board and charged to the Unit Owners as a Common Expense, and has been provided for in the estimate of Common Charges contained in the First Year's Budget.

#### **Other Agreements**

The condominium will assume a contract with Rotavele Elevator Inc. to service the elevator. The cost of the service contract is \$250.00 per month plus tax (\$3,391.00 a year, including tax) to April 30, 2002. The cost of the service contract from May 1, 2002 to April 30, 2003 is \$275.00 per month plus tax or \$3,730.00 for the year, including tax and during the last year of the contract to April 30, 2004 the monthly fee is \$295.00 plus tax or \$3,999.00 for the year, including tax. The contract is also subject to reconsideration and adjustment at the end of each one (1) year period based on the increase or decrease in the prevailing cost of labor and material at that time.

Sponsor has reserved the right, prior to the First Closing, to modify, renew or replace the existing agreements or to enter into new agreements that will be binding on the Condominium Board.

#### IDENTITY OF PARTIES

The Sponsor, Beekman-Water Associates, LLC, c/o Philips International Holding Corp. 417 Fifth Avenue, 3rd Floor, New York, New York 10016 is a New York Limited Liability Company formed March 15, 1996. The members of the Sponsor are Philip Pilevsky, Constantine Fotos, Sheila Levine and Leon Pachter, M.D. Mr. Pilevsky is a New York based real estate developer active in the purchase and redevelopment of residential, commercial and hotel properties. Mr. Fotos is the Director of Project Development at Philips International Holding Corp. Ms. Levine is the Executive Vice President. Mr. Pachter is a New York City physician. The members are the original members of the Sponsor.

Franklin J. Barr, Esq., of the firm BARR & ASSOCIATES of 866 United Nations Plaza, Suite 415, New York, New York, 10017, prepared the Offering Plan and will represent the Condominium Board until the first annual meeting of the Unit Owners and the Sponsor in connection with this transaction and has prepared the Plan. The interests of Sponsor and the Condominium Board are not identical and they may, at times, conflict. In view of the foregoing, and because of the conflicting and diverse interests of the Condominium Board and Sponsor, it is recommended that each Purchaser consult with his own attorney prior to executing a Purchase Agreement.

Philips International Holding Corp., the managing agent, is a New York corporation. The corporation is involved in the purchase, development and management of both commercial and residential properties. The firm presently manages 143-53 Bennett Avenue, New York, NY, a 104 unit cooperative building. Philip Pilevsky is majority shareholder and President of Philips International Holding Corp.

Sponsor has retained S. Schwartz Associates, Consulting Engineers, who maintain offices at 307 West 38th Street, 17th Floor, New York, New York 10018 to prepare the description of the property and building conditions.

The Halstead Property Company with a business address at 408 Columbus Avenue, New York, N.Y. 10024, is acting as the selling agent for the Sponsor. The Halstead Property Company has been active in selling cooperative and condominium apartments in New York City since 1984.

### REPORTS TO UNIT OWNERS

Each Unit Owner will be entitled to receive, annually, from the Condominium Board copies of the following:

(a) An annual audited financial statement of the Condominium prepared by an independent certified public accountant within three (3) months of the end of each fiscal year of the Condominium.

(b) Prior notice of each annual meeting of Unit Owners.

(c) A copy of the proposed annual budget of the Condominium ten (10) days prior to the date set for implementation of the budget by the Condominium Board. While the Sponsor is in control of the Board of Managers the budget will be certified by an expert.

### DOCUMENTS ON FILE

In accordance with Section 352-e(9) of the GBL, copies of this Offering Plan and all documents referred to herein and all exhibits submitted to the Department of Law in connection with the filing of this Plan shall be available for inspection and copying by prospective purchasers and by any person who shall have purchased securities offered by this Plan or shall have participated in the offering of such securities at the office of Franklin J. Barr, 866 United Nations Plaza, Suite 415, New York, New York, 10017, and shall remain available for such inspection without charge and copying at a reasonable charge for a period of six years after the First Closing.

The Sponsor shall deliver to the Condominium Board a copy of all documents filed with the appropriate recording office at the time of the closing of the First Unit.

### GENERAL

The Plan does not knowingly omit any material fact or contain any untrue statement of any material fact.

There are no outstanding judgments nor are there any lawsuits, administrative proceedings or other proceedings now pending, the outcome of which may materially affect this Offering, the property, Sponsor's capacity to perform all of its obligations under the Plan, the Condominium or the operation of the Condominium.

In accordance with the law of the City of New York State of New York, the Sponsor represents that the Sponsor, and the Selling Agent will not discriminate against any person because of his sex,

race, creed, color, national origin or ancestry in the sale or lease of any Unit.

As of the date of presentation of this Plan, neither Sponsor nor the Selling Agent nor any of their representatives or agents has raised funds or made any preliminary offering to or binding agreement with tenants, subtenants, or non-resident prospective purchasers with respect to the purchase of Units. Further, the Property has not been the subject of any prior cooperative or condominium offerings.

Sponsor reserves the right, from time to time prior to the First Closing, without obtaining the consent of Purchasers or others, to revise the terms and conditions on which the Units offered hereby are to be sold, including changes affecting the rights, obligations and liabilities of Purchasers and Sponsor. All substantive or material revisions will be contained in a duly filled amendment to this Plan. If a material revision adversely affects the rights, obligations or liabilities of then existing Purchasers, Purchasers will be given the right to rescind their Purchase Agreements within fifteen (15) days of the presentation date of the amendment and to receive a refund of their downpayment (with interest, if any, earned thereon) within thirty (30) days after the presentation of the amendment. However, such rescission, as to Purchasers who first became tenants of the Building after the Plan was presented, shall be conditioned on the cancellation of any Interim Lease and surrender of possession of their Units.

No person has been authorized to make any representation which is not expressly contained herein. This Plan may not be changed or modified orally, and no notice need be given prior to the filing of an amendment to this Plan.



## **PART II**

PART II  
PURCHASE AGREEMENT

THE BEEKMAN LANDING CONDOMINIUM

Date: \_\_\_\_\_

Seller: Beekman-Water Associates, LLC

Purchaser: \_\_\_\_\_

Unit No. \_\_\_\_\_ (the "Unit") Common Interest \_\_\_\_\_.  
Purchase Price \$\_\_\_\_\_ Down Payment (10% herewith) \$\_\_\_\_\_  
Balance Due \$\_\_\_\_\_ ("Balance").  
Present Mailing Address: \_\_\_\_\_

Telephone (home) \_\_\_\_\_ SS# \_\_\_\_\_  
(business) \_\_\_\_\_

1. **Plan**

Purchaser acknowledges (check one):

\_\_\_ a) having received and read the Condominium Offering Plan for The Beekman Landing Condominium (the "Plan") at least three full business days prior to Purchaser signing this Purchase Agreement or

\_\_\_ b) having the right to rescind this Purchase Agreement and receive a full refund of my Down Payment by (i) personally delivering a written notice of rescission to the Sponsor or Selling Agent within seven (7) days after delivering this executed Purchase Agreement together with the required deposit or (ii) mailing such written notice and having the mailing post marked within the seven (7) day period.

The Plan, as amended from time to time, is hereby incorporated in this Purchase Agreement with the same force and effect as if set forth at length (subject only to Purchaser's right to rescind, if any, pursuant to law). In the event of any inconsistency or conflict between the provisions of this Purchase Agreement and those contained in the Plan, the provisions of the Plan shall govern and be binding. All terms used herein shall have the same meaning as in the Plan.

2. **Agreement to Purchase and Sell**

Purchaser agrees to purchase from Sponsor, and Sponsor agrees to sell to Purchaser, the Unit together with its \_\_\_\_\_% undivided interest in the Common Elements ("Common Interest"), on, and subject to, the terms and conditions set forth herein.

**3. Purchase Price**

A. The purchase price for the Unit (exclusive of closing adjustments and costs) shall be paid to Sponsor, as follows:

(i) The Down Payment is due when Purchaser signs and submits this Purchase Agreement, and is to be paid by Purchaser's personal check, receipt of which (subject to collection) is hereby acknowledged by Sponsor; and

(ii) The Balance is due at the closing and must be paid by Purchaser's unendorsed personal certified check or unendorsed official cashier's check, in either event drawn on a bank that is a member of the New York Clearing House Association.

All checks must be unendorsed and made payable to the direct order of "Franklin J. Barr EMA Account".

B. Purchaser's payment of the Balance and acceptance of a deed to the Unit shall constitute Purchaser's recognition that Sponsor has satisfactorily performed those obligations stated in the Plan and this Purchase Agreement to be performed by Sponsor prior to closing. However, nothing herein contained shall excuse Sponsor from performing those obligations (if any) expressly stated herein or in the Plan to be performed subsequent to the closing.

**4. Purchase Monies to be Held in Trust**

All deposits, downpayments, or advances made by purchases prior to closing of each individual transaction are to be drawn to "Franklin J. Barr EMA Account". The funds will be placed, within five business days after the agreement is signed by all necessary parties and purchaser has delivered a completed W-9 form, in an interest earning Escrow Management Account (EMA) of Franklin J. Barr, Esq., the Escrow Agent, whose address is 866 United Nations Plaza, Suite 415, New York, N.Y. 10017 and whose telephone number is (212) 355-2323. The current signatory on this account authorized to withdraw funds is Franklin J. Barr and the account number is [REDACTED] located at North Fork Bank, 1001 Avenue of the Americas, New York, N.Y. 10018. The EMA is a master account with individual sub-account for each purchaser. The interest rate to be earned will be the prevailing rate of interest paid by the North Fork Bank for such accounts. Interest earned will be credited to the purchaser unless the purchaser defaults and the plan is consummated. The amounts paid by purchasers and the interest earned thereon will be handled in accordance with the provisions of Sections 352-e (2-b) and 352-h of the General Business Law and the Attorney General's regulations promulgated pursuant thereto.

If Purchaser defaults under the terms of this Purchase Agreement and fails to cure such default after notice (but only if the notice is required to be given by Sponsor under this Purchase

Agreement) and within the applicable grace period, in which event Sponsor shall retain the Down Payment which shall not exceed ten (10%) percent of the Total Purchase Price, plus any additional sums for special work in the Unit ordered by Purchaser, as liquidated damages, and return to Purchaser any sums in excess thereof.

Any return of funds to which Purchaser is entitled shall be made within thirty (30) days after the event which gives rise to the right to such return of funds.

All funds received under this Purchase Agreement will be handled in accordance with the escrow and trust fund provisions of Sections 352-e(2)(b) and 352-h of the General Business Law of New York ("GBL").

The Escrow Agent is authorized to release the funds held in escrow when ownership of the subject apartment is transferred to Purchaser pursuant to the terms of this Purchase Agreement.

**5. Closing Contingent on Plan Being Declared Effective**

The respective obligations of Purchaser and Sponsor hereunder are contingent upon the Plan being declared effective.

**6. Closing Date and Place**

The closing of title shall occur on the date and at the time and place in the City and State of New York as Sponsor shall designate to Purchaser on not less than ten (10) days prior written notice. Sponsor shall have the right, from time to time, to adjourn such date and time for closing on written notice to Purchaser. If adjourned, Sponsor shall fix a new date and time for title closing and shall give Purchaser not less than five (5) business days' prior written notice of the new scheduled date and time for closing.

**7. The Deed**

At closing, Sponsor shall deliver to Purchaser a Bargain and Sale Deed with covenants against grantor's acts transferring to Purchaser full ownership (fee simple title) to the Unit. The deed shall be substantially in the form reproduced in Part II of the Plan and shall be executed and acknowledged by Sponsor in form for recording. Such executed deed shall be delivered immediately to the representative of the title company insuring Purchaser's title (or, if no such representative is present, then to Purchaser's attorney) for recording. After being recorded, the deed shall be returned to Purchaser.

**8. State of Title**

Except as otherwise set forth in Paragraph 10, legal ownership to the Unit shall be transferred to Purchaser at closing

subject only to the liens, encumbrances and title conditions ("Permitted Encumbrances") enumerated in Exhibit A to this Agreement. However, any other lien, encumbrance, or condition shall not be an objection to title if: (i) the instrument required to remove it from the record is delivered to said representative of Purchaser's title insurance company (or, if none, to Sponsor's attorney) for recording in the proper office, together with the requisite recording or filing fees; or (ii) Purchaser's title insurance company will insure Purchaser against its collection or enforcement out of the Unit.

#### **9. Title Company Approval**

Subject to the terms of Paragraphs 8 and 10, Sponsor shall give, and Purchaser shall accept, such title as any title insurance company that is a member of the New York Board of Title Underwriters will approve and insure, provided that the only liens, encumbrances and conditions affecting title shall be the Permitted Encumbrances enumerated in Exhibit A to this Purchase Agreement.

#### **10. Sponsor's Inability To Convey Title**

In the event that Sponsor is unable to deliver to Purchaser title to the Unit in accordance with the provisions of this Agreement, Sponsor will not be obligated to bring any action or proceeding or otherwise incur any cost or expense of any nature whatsoever in excess of the limits set forth in the Plan to render title insurable, and in such case, if Sponsor notifies Purchaser of its refusal to remedy the defect in title and if Purchaser is not in default hereunder, Purchaser shall have the option to (i) take title subject to such title defect (without any abatement in, or credit against the Purchase Price, or claim or right of action against Sponsor for damages or otherwise) or (ii) terminate this Purchase Agreement. If Purchaser elects to terminate, Sponsor shall cause to be returned to Purchaser, within thirty (30) days after receipt of Purchaser's termination notice, all monies deposited hereunder, with the interest (if any) earned thereon. Upon making such refund, this Purchase Agreement shall be null and void and neither party shall have any further rights, obligations, or liabilities with respect to the other hereunder or under the Plan. The foregoing option must be exercised by Purchaser in writing sent to Sponsor within ten (10) days after the giving of Sponsor's notice of refusal to remedy the title defect, failing which it shall be conclusively deemed that Purchaser elected the first option above to acquire title subject to the title defect.

#### **11. Closing Adjustments**

A. At closing, Sponsor and Purchaser shall apportion, as of midnight of the day preceding the closing:

(i) real estate taxes (including a prepaid real estate taxes) and assessments, if any, on the basis of the fiscal or



calendar year for which assessed, including water charges and sewer rents (if separately assessed) and any escrows for real estate taxes;

(ii) Common Charges for the month in which title closes; and

(iii) rent and other charges, if any, pursuant to a lease for, or tenancy of, the Unit.

The "Customs in Respect of Title Closings" recommended by The Real Estate Board of New York, Inc., as amended to date, shall apply to the adjustments and other matters therein mentioned, except as otherwise provided herein.

B. Purchaser shall reimburse Sponsor and the Capital Reserve Fund for the sum contributed by Sponsor to the Working Capital Fund with respect to the Unit being purchased as described in the section of the Plan entitled "Working Capital Fund" and "Capital Reserve Fund."

C. In the event the Unit has not been separately assessed for the then current fiscal tax year at the time of title closing, the apportionment of real estate taxes shall be based on the Unit's pro rata share (in proportion to its Common Interest) of the then current real estate taxes assessed against the Property. If the Unit has been separately assessed but the closing occurs before the tax rate is fixed, then the apportionment of real estate taxes shall be based upon the latest tax rate applied to the most recent assessed valuation.

D. Any errors or omissions in computing apportionments at closing shall be corrected and payment made to the proper party promptly after discovery. This provision shall survive the closing.

E. Installments for tax assessments due after the delivery of the deed, if any, shall be paid by the Purchaser and shall not be considered a defect in title.

## **12. Purchaser's Closing Costs**

At closing, Purchaser will pay certain costs in connection with the purchase of the Unit, in addition to the legal fees of Purchaser's counsel (if any) and the amount of any net credit in favor of Sponsor that may result from the closing apportionments described in the preceding Paragraph. Such closing costs will include the following (the amounts in items (i), (ii), (iii) and (vi) are based on rates in effect on the date of the Plan and are subject to change without prior notice):

(i) a. Fee title insurance, if ordered through Continental Abstract, Inc. will cost \$371.00 for the first \$35,000, plus \$6.16 per \$1000 of the Purchase price or fraction thereof in excess of \$35,000.00 up to \$50,000.00, \$5.02 per \$1,000 in excess of \$50,000

up to \$100,000 and \$4.03 per \$1,000 in excess of \$100,000 up to \$500,000 and \$3.68 per \$1,000 in excess of \$500,000 up to \$1,000,000.

b. Mortgage title insurance, if ordered through Counsel Abstract, Inc. will cost \$318.00 for the first \$25,000 plus \$5.13 per \$1,000 of the Purchase Price or fraction thereof in excess of \$35,000 up to \$50,000, \$4.19 per \$1,000 in excess of \$50,000 up to \$100,000, \$3.36 per \$1,000 in excess of \$100,000 up to \$500,000 and \$3.06 per \$1,000 in excess of \$500,000 to \$1,000,000.

Note: when an owner's policy and a mortgage policy are issued simultaneously covering identical property, the rate applicable to the owner's policy shall be the regular owner's policy rate. The rate on the mortgage policy that does not exceed the owner's policy shall be calculated at thirty percent (30%) of the regular scheduled rate for mortgage policies. The rate on the amount of the mortgage policy in excess of the owner's policy shall be calculated at the regular rate for mortgage policies.

(ii) Recording fees for recording the deed and power of attorney will be \$17 per document plus \$5.00 per page (including cover page). Recording deeds in New York County also require a \$26.00 filing fee for filing the TP584 and RPT forms.

(iii) If Purchaser obtains a mortgage loan from any lender, Purchaser will pay:

(a) a fee and service charge for recording the mortgage at the same rates given above for recording the deed,

(b) a mortgage recording tax in the amount provided for by law (at the date of this Plan, the tax is 2% of the face amount of the mortgage if the mortgage is for less than \$500,000 and 2.125% if the mortgage is \$500,000 or more of which .25% will be paid by the lender in the case of institutional lenders); and

(c) (to Sponsor) a sum equal to the partial mortgage tax credit to which Purchaser is entitled under Section 339-ee(2) of the New York Condominium Act.

(d) all other costs and expenses in connection with such loan in amounts determined by the lender.

(iv) \$550 for each closing plus \$100 for coordinating a closing with the Purchaser's bank or other lender (other than the Sponsor);

(v) \$450 for preparation of loan documents if Sponsor offers purchase money financing and the Purchaser avails himself of it; and

(vi) \$400 attendance fee if the Purchaser desires to have the closing in Manhattan other than at the office designated by Seller's attorney. The attendance fee will be higher if attendance is required outside of Manhattan. The closing fees and attendance fees are based on a one and a half (1 1/2) hour closing. If the closing is longer than one hour then there is an additional charge of \$150.00 for each additional hour or any part thereof.

(vii) Purchaser shall pay the New York City Real Property Transfer Tax (currently 1.425% of the consideration including the amount of tax paid by the Purchaser) imposed in connection with the sale of the Unit. Purchaser shall also pay to the New York State Real Estate Transfer Tax (currently .004 of the consideration rounded up to the nearest full \$500.00 including the amount of tax paid by the Purchaser), imposed in connection with the sale of the Unit. The State of New York imposes an additional one (1%) percent tax payable by Purchasers on conveyances of Residential Real Property for \$ 1,000,000.00 or more.

(viii) Purchaser is also obligated to reimburse the Sponsor at Closing for its contributions to the Working Capital Fund equal to the Common Charges for the Unit for one month and for the Sponsor's contributions to the Capital Reserve Fund equal to the Common Charges for the Unit for two months.

The above closing costs are cumulative to the extent applicable to any individual closing.

### 13. Rent Security Deposit

If Purchaser hereafter becomes a tenant of the Unit, Purchaser's unapplied rent security deposit, if any, will be refunded to Purchaser, together with any interest earned thereon, within thirty (30) days following the closing, provided Purchaser is not in default under Purchaser's lease or tenancy obligations. If the Unit is occupied by other than Purchaser, then the unapplied security deposit (if any) of the tenant or occupant will be transferred at closing to Purchaser, who will upon receipt sign and deliver to Sponsor an agreement acknowledging the amount received, indemnifying Sponsor from all liability in connection therewith and agreeing (with respect to Purchasers of Residential Units only) to hold such security deposit in trust and to deposit same in an interest bearing bank account pursuant to the provisions of Section 7-103 of the New York General Obligations Law (such agreement to be in form and substance satisfactory to Sponsor). In either event, Sponsor will have the right to deduct from any tenant's security deposit the amount of any rent arrears owing to Sponsor and to commence an action against the tenant to recover additional sums to the extent such rent security is insufficient.

#### 14. Power of Attorney to Condominium Board and Sponsor

At closing, Purchaser shall execute, acknowledge and deliver to the representative of the title insurance company insuring Purchaser's title to the Unit (or, if no representative is present, then to Sponsor's attorney) for recording a power of attorney substantially in the form set forth in Part II. After being recorded, the power of attorney shall be sent to the Condominium Board.

#### 15. Transfer Tax Return

At closing, Sponsor and Purchaser shall each duly complete and sign before a notary public the transfer tax return(s) required to be filed with The City and State of New York. The transfer tax return shall be delivered at closing to the representative of Purchaser's title insurance company (or, if none, to Sponsor's attorney) for filing with the proper governmental officer.

#### 16. Default

Upon the occurrence of an Event of Default, as defined in the Plan, Sponsor's sole right shall be to cancel this Purchase Agreement by sending Purchaser thirty (30) days prior written notice of its intention so to do. If Sponsor elects to cancel, Purchaser shall have thirty (30) days from the giving of the cancellation notice within which Purchaser must cure the specific default. Time is of the essence to remedy such default within said thirty (30) day period. If the default is not timely cured, then Sponsor shall have the right to retain, as and for liquidated damages, the Down Payment plus the cost of any special work in the Unit ordered by Purchaser, together with any interest earned thereon (hereinafter called the "Liquidated Sum"), and any sums in excess thereof (together with any interest earned thereon) shall be returned to Purchaser promptly thereafter. Upon cancellation of this Purchase Agreement and making such refund (if any) to Purchaser, Sponsor and Selling Agent will be released and discharged of all further liability and obligations hereunder and under the Plan. Thereafter, the Unit may be sold to another as though this Purchase Agreement had never been made, and without accounting to Purchaser for the proceeds of such sale.

#### 17. Appliances and Equipment

A. At closing, the Unit will contain only those appliances, countertops, cabinets, sinks, vanities, hardware and other fixtures and equipment currently installed therein that are owned by Sponsor.

B. The Unit is being sold unfurnished. Furniture, wall coverings, furnishings, decorations and the like in or about any model apartment are for display purposes only and are not included in the sale. Any floor plans or sketches shown to Purchaser are



only approximations of the Unit's dimensions and arrangement, and Purchaser should not rely thereon.

C. There will be no modifications or extras unless agreed to in writing by the parties. All modifications, alterations and additions to the Unit must be approved by Sponsor in writing and, if approved, shall be performed by Sponsor at Purchaser's expense (payable in the manner to be set forth in an addendum to this Purchase Agreement or in a separate agreement).

**18. Acceptance of the Condition of the Building and the Unit**

A. The Unit is sold "as is" on the date of this Purchase Agreement subject to reasonable wear and tear and to the Sponsor's obligations under the Plan and law to maintain the Unit.

B. Purchaser shall be given a reasonable opportunity to examine the Unit prior to closing.

**19. Possession; Risk of Loss**

A. Unless Purchaser now occupies the unit, Purchaser shall not be entitled to possession of the Unit until the deed is delivered to Purchaser at closing unless Purchaser executes an interim lease.

B. If Purchaser is not a tenant on the filing date of the Plan and Purchaser is given possession of the Unit prior to closing under an interim lease or otherwise, then Purchaser shall be solely responsible for any damage to, or loss or other condition in the Unit resulting from Purchaser's use or occupancy, and Sponsor shall not be obligated to make any repairs to the Unit. However, until closing, Sponsor will remain responsible to make those repairs required of it as landlord under any interim lease and, after closing, the Condominium Board will be responsible to make those repairs required of it under the Condominium Documents.

C. If Purchaser is not a tenant on the filing date of the Plan, but becomes an interim lessee, then if the Unit is damaged by casualty or otherwise, Purchaser shall assume the risk of loss and the obligation to repair the damage, unless the cause thereof originated outside the Unit and did not result from the acts of Purchaser, of other occupants of the Unit, or of Purchaser's guests, invitees, or workmen. If Purchaser is obligated to repair the damage, then Purchaser's failure to make such repair shall not excuse Purchaser from paying the Balance and accepting delivery of the deed.

D. Except as provided in the preceding subparagraph C, all other risk of loss prior to closing has been assumed by Sponsor, but without any obligation or liability of Sponsor to repair the damage or restore the Unit. If Sponsor or (in the event the Declaration is filed) the Unit Owners elect to repair or replace



the loss or damage, this Purchase Agreement shall continue in full force and effect. Purchaser shall not have the right to reject title to the Unit or to receive a credit against, or abatement in, the Purchase Price, and Sponsor shall be entitled to a reasonable period of time to complete or to permit the Condominium Board to complete, such repairs or replacements. Purchaser shall not be required to pay the Balance unless and until (i) the Unit has been substantially repaired as near as is reasonably possible to its condition immediately prior to the casualty and (ii) its essential services (such as gas, electricity, and heat) and a reasonable means of ingress and egress to the street have been restored. Any proceeds received from insurance, or in satisfaction of any claim or action in connection with such loss, shall belong entirely to Sponsor (subject to the rights, if any, of the Condominium Board or of other Unit Owners). If such proceeds are paid to Purchaser, Purchaser shall promptly upon receipt turn them over to Sponsor. The provisions of the two preceding sentences shall survive the closing.

E. In the event that Sponsor notifies Purchaser that it does not elect to repair or restore the Unit if the Unit Owners do not resolve to make such repairs or restoration pursuant to the Condominium's By-Laws, this Purchase Agreement shall be deemed cancelled and of no further force or effect, and Sponsor shall cause to be returned to Purchaser all sums deposited hereunder, together with interest, if any, earned thereon, whereupon the parties shall be released and discharged from all obligations and liability hereunder and under the Plan, except that, if Purchaser is then in default hereunder (beyond the applicable grace period, if any), Sponsor shall retain the Liquidated Sum pursuant to Paragraph 16.

## 20. Sale Subject to Existing Tenancy

The following provisions are applicable only if, at the time of signing this Purchase Agreement, the Unit is occupied by, or under lease to, one other than Purchaser:

A. Purchaser is purchasing the Unit subject to the rights of the existing tenants or occupants:

(i) if the Unit is a Residential Unit, the tenants and their rights are protected by the rent laws. Consequently, a Purchaser of a Residential Unit of which he is not in possession will obtain title to the Residential Unit subject to (a) the lease for the Unit then in effect (and any renewal of the terms thereof effected after the date of presentation of this Plan but prior to the date on which the executed Purchase Agreement is delivered to Sponsor), (b) any existing occupancy of the Residential Unit, (c) the right of any existing tenant (who has not purchased the Residential Unit) to remain in possession of the Residential Unit in accordance with the rent laws, including his right to a renewal lease, (d) all other rights of any existing tenant under the rent

laws, and (e) restrictions upon eviction of eligible senior citizens and handicapped persons. (See the section of the Plan entitled "Rights of Eligible Senior Citizens and Eligible Disabled Persons"), and

Purchaser acknowledges that no representation or statement has been made (and if made, Purchaser knows same are unauthorized and has not relied thereon) as to the length of time that may elapse before Purchaser gains possession of the Unit or that Purchaser, in fact, will obtain possession of the Unit.

B. If after signing this Purchase Agreement the existing tenant or occupant timely exercises such tenant's exclusive right to purchase the Unit during the period granted under the Plan or at such later date as may be permitted under applicable law (or an administrative or judicial interpretation thereof), then this Purchase Agreement shall be deemed cancelled and, within thirty (30) days thereafter, all monies deposited hereunder shall be returned to Purchaser, with interest earned thereon, if any. Upon such refund being made, Purchaser, Sponsor, Selling Agent and all other persons involved in the Plan shall be released and discharged of all liabilities and obligations hereunder and under the Plan.

C. Purchaser shall, at closing, deposit with the Managing Agent the sum of required of Purchasers of occupied Units as set forth in the Plan in the section entitled "Obligations of Owners of Dwelling Units Occupied By Non-Purchasing Tenants."

## 21. No Representation

Purchaser acknowledges that Purchaser has not relied upon any architect's plans, sales plans, selling brochures, advertisements, representations, warranties, statements or estimates of any nature whatsoever, whether written or oral, made by Sponsor, Selling Agent or others, including, but not limited to, any relating to the description or physical condition of the Property, the Building or the Unit, or the size or the dimensions of the Unit or the rooms therein contained or any other physical characteristics thereof, the services to be provided to Unit Owners or the estimated Common Charges and estimated real estate taxes for the Unit, the right to any income tax deduction for any real estate taxes or mortgage interest paid by Purchaser, or any other data, except as may be specifically represented herein or in the Plan; Purchaser having relied on Purchaser's own examination thereof. No person has been authorized to make any representations on behalf of Sponsor. No oral representations or statements shall be considered a part of this Purchase Agreement. Purchaser agrees (a) to purchase the Unit, without offset or any claim against, or liability of, Sponsor, whether or not any layout or dimension of the Unit or any part thereof, or of the Common Elements, as shown on the Floor Plans, is accurate or correct, provided the layouts and dimensions conform substantially to such Floor Plans and (b)

that Purchaser shall not be relieved of any of Purchaser's obligations hereunder by reason of any minor inaccuracy or error. The provisions of this Paragraph 21 shall survive the closing of title.

## **22. Notices**

All notices, elections, consents, demands and communications (collectively called "notices" or individually called "notice"), other than notices and documents (including amendments to the Plan) required to be served on Purchasers pursuant to the provisions of the Regulation of the Department of Law, shall be delivered personally or given in writing by registered or certified mail, return receipt requested, postage prepaid and, if sent to Purchaser, addressed to Purchaser at Purchaser's address given on the first page of this Agreement and, if sent to Sponsor, addressed to Sponsor in care of Franklin J. Barr, Esq., 866 United Nations Plaza, Suite 415, New York, New York 10017. Either party may, by written notice to the other, change the address to which notices are to be sent. Unless otherwise provided herein, all notices shall be deemed given when personal delivery is effected or when deposited in any branch, station or depository maintained by the U. S. Postal Service in the City and State of New York, except that a notice of a change of address shall be deemed given when actually received.

## **23. No Lien, Agreement Subject to Mortgage**

A. No lien or encumbrance shall arise against the Property or the Unit as a result of this Purchase Agreement or any monies deposited hereunder. This Purchase Agreement shall not be recorded and any purposed recordation hereof by Purchaser shall constitute an Event of Default.

B. In furtherance, and not in limitation, of the provisions of the preceding subparagraph A, Purchaser agrees that the provisions of this Purchase Agreement are, and shall continue to be, subject and subordinate to the lien of any mortgages heretofore or hereafter made and any payments or expenses already made or incurred or which hereafter may be made or incurred pursuant to the terms thereof, or incidental thereto, or to protect the security thereof, to the full extent without the execution of any further legal documents by Purchaser. Sponsor shall, at its option, either satisfy such mortgages or obtain a release of the Unit and its undivided interest in the Common Elements from the lien of such mortgages on or prior to the Closing Date. The existence of any mortgage or mortgages encumbering the Property, or portions thereof, other than the Unit and its undivided interest in the Common Elements, shall not constitute an objection to title or excuse Purchaser from completing payment of the Purchase Price or performing all of Purchaser's other obligations hereunder or be the basis of any claim against, or liability of, Sponsor, provided that any such

mortgage is subordinated to the Declaration and the Unit is released from the lien of such mortgage at closing.

**24. Entire Agreement**

This Purchase Agreement, together with the Plan, as the Plan may be amended from time to time, constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all prior understandings and agreements.

**25. Joint Purchasers**

The term "Purchaser" shall be read as "Purchasers" if there is more than one purchaser, in which case their obligations shall be joint and several.

**26. Liability of Sponsor**

A. Sponsor shall not have any liability to Purchaser or others with respect to any of Sponsor's obligations under this Purchase Agreement, under the Plan, or otherwise in excess of the net proceeds paid to Sponsor from the sale of all Unsold Units after payment of, or reserve for, any liabilities, costs, or expenses of Sponsor arising out of the promulgation of the Plan, the offering of the Units for sale and the consummation of the transactions contemplated in the Plan unless otherwise required by law.

B. Sponsor shall be excused from performing any obligation or undertaking provided for in this Purchase Agreement for so long as such performance is prevented, delayed, or hindered by an act of God, fire, flood, explosion, war, riot, sabotage, inability to procure or general shortage of energy, labor, equipment, facilities, materials, or supplies in the open market, failure of transportation, strike, lockout, action of labor unions or any other cause (whether similar or dissimilar to the foregoing) not within the reasonable control of Sponsor. Sponsor's time to perform such obligation or undertaking shall be tolled for the length of the period during which such performance was excused.

**27. Further Assurances**

Either party shall execute, acknowledge and deliver to the other party such instruments and take such other actions, in addition to the instruments and actions specifically provided for herein, as such other party may reasonably request in order to effectuate the provisions of this Purchase Agreement or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.



**28. Severability**

If any provision of this Purchase Agreement or the Plan is invalid or unenforceable as against any person or under certain circumstances, the remainder of this Purchase Agreement or the Plan and the applicability of such provision to other persons or circumstances shall not be affected thereby. Each provision of this Purchase Agreement or the Plan, except as otherwise herein or therein provided, shall be valid and enforced to the fullest extent permitted by law.

**29. Waiver of Jury Trial**

Except as prohibited by law, the parties shall, and they hereby do, expressly waive trial by jury in any litigation arising out of, connected with, or relating to this Purchase Agreement or the relationship created hereby. With respect to any matter for which a jury trial cannot be waived, the parties agree not to assert any such claim as a counterclaim in, nor move to consolidate such claim with, any action or proceeding in which a jury trial is waived.

**30. Captions**

The captions in this Purchase Agreement are for convenience and reference only and in no way define, limit or describe the scope of this Purchase Agreement or the intent of any provisions hereof.

**31. Successors and Assigns**

The provisions of this Purchase Agreement shall bind and inure to the benefit of Purchaser and Purchaser's heirs, legal representatives, successors and permitted assigns and shall bind and inure to the benefit of Sponsor and its successors and assigns.

**32. No Oral Changes**

This agreement cannot be changed or any provision waived orally. ANY CHANGES OR ADDITIONAL PROVISIONS OR WAIVERS MUST BE SET FORTH IN A RIDER ATTACHED HERETO OR IN A SEPARATE WRITTEN AGREEMENT SIGNED BY THE PARTIES.

**33. Acceptance of Purchase Agreement**

The submission of this Purchase Agreement to Sponsor does not constitute a binding obligation on either Purchaser or Sponsor. No such binding obligation shall arise until duplicates of this Purchase Agreement are executed by, and delivered to, both Purchaser and Sponsor (or Sponsor's duly authorized agent). If, within twenty (20) days after the Selling Agent receives this Purchase Agreement signed by Purchaser, a duplicate of this Agreement signed by Sponsor or its authorized agent is not sent or



delivered to Purchaser, then it shall be deemed rejected and of no force or effect, and all monies paid by Purchaser shall be promptly refunded, without interest. Upon such refund being made, neither party shall have any further rights, obligations or liabilities hereunder with respect to the other. Sponsor has the right, without incurring any liability, to reject this Purchase Agreement without cause or explanation to Purchaser. This Purchase Agreement may not be rejected due to Purchaser's sex, race, creed, color, national origin, ancestry, or other ground proscribed by law.

#### 34. Purchase Agreement Contingent on Financing

A. The obligations of Purchaser hereunder are subject:

(1) to the issuance of a commitment letter by a commercial bank, savings bank, savings and loan association or insurance company doing business in the State of New York other than a VA, FHA or other governmentally insured loan, to Purchaser, on or before expiration of the forty-five (45) day period following the Loan Notice Date (as hereinafter defined) pursuant to which the institution agrees to lend 75% of the Purchase Price or such lower amount as may be acceptable to Purchaser at a rate of interest not to exceed the prevailing fixed or variable rate per annum, solely upon the security of a mortgage on the Unit in order to enable Purchaser to consummate the transaction provided herein (the "Loan Notice Date" shall be the date of presentation of a notice and/or amendment fixing the Closing Date or a notice instructing Purchasers to seek their financing, whichever is sooner.); and

(2) to the closing of the loan on or about the date fixed pursuant hereto as the closing.

B. Purchaser shall apply for the loan and shall furnish to the institution, within five (5) days after the Loan Notice Date accurate and complete information on Purchaser and members of Purchaser's family, as required, shall advise Sponsor of the name and address of the institution to which such application has been made and the date upon which it was made.

C. Purchaser shall accept any commitment letter complying with the terms of subparagraph A (1) hereof, if issued, shall pay any application, appraisal, commitment or other fees in respect of the loan, and shall comply with the requirements of the commitment letter other than those which are not under Purchaser's control.

D. Provided that Purchaser shall have met all of Purchaser's obligations under the subparagraph B hereof, if the aforementioned commitment letter is not issued by the date provided for in subparagraph A(1) hereof, Purchaser shall have the right to terminate this agreement on notice given not more than five (5) days thereafter, or if the other conditions provided for

in subparagraph A hereof are not met, Purchasers shall have the right to terminate this agreement on notice to the Seller, and in either such event all sums theretofore paid on account of the purchase price shall be returned without delay to Purchaser, and all parties hereto shall be relieved of and from any further liability hereunder.

IN WITNESS WHEREOF, the parties have executed this Purchase Agreement as of the date first above written.

Sponsor

Purchaser

Beekman-Water Associates LLC

\_\_\_\_\_ \*

By \_\_\_\_\_  
(Title)

\_\_\_\_\_ \*

EXHIBIT A

**Permitted Encumbrances**

1. Building restrictions and zoning laws and other regulations, resolutions and ordinances and any amendments thereto now or hereafter adopted by any governmental or, quasi-governmental authority having jurisdiction.

2. Survey made by Albert A. Bianco dated 8/18/97 shows a 5 story building, a 4 to 6 story building and a 4 story building and a parking lot. Also shows:

- a) Entrances encroach unto Water Street and Beekman Street;
- b) Fire escape encroaches onto Water Street;
- c) Party Wall varies with easterly line.

No other variations.

3. Any state of facts which an accurate survey of the Unit would show, provided such state of facts would not prevent the use of the Unit for dwelling.

4. The terms, burdens, covenants, restrictions, conditions, easements and rules and regulations, all set forth in the Declaration, the By-Laws (and the Rules and Regulations made thereunder), the Power of Attorney from Purchaser to the Condominium Board and Sponsor and the Floor Plans, all as may be amended from time to time.

5. Consents by Sponsor or any former owner of the Land for the erection of any structure of structures on, under or above any street or streets on which the Land may abut.

6. Easements or right of use in favor of any utility company for construction, use, maintenance, repair and replacement of all utility lines, wires, terminal boxes, mains, pipes, cables, conduits, poles, connections and other equipment and facilities on, under and across the Land and Building.

7. Revocability of licenses for vault space, if any, under the sidewalks and streets and the lien of any unpaid vault tax (which is to be paid by the Condominium Board).

8. Encroachments of stoops, areas, cellar steps or doors, trim, copings, retaining walls, bay windows, balconies, sidewalk elevators, fences, fire escapes, cornices, foundations, footings, chutes, fuel oil lines, drainage and stand pipes, and similar projections, if any, on, over, or under the Property or the streets or sidewalks abutting the Property and the rights of governmental authorities to require the removal of any such

projections and variations between record lines of the Property and retaining walls and the like, if any.

9. Leases and service, maintenance, employment, concessionaire and license agreements, if any, of other Units or portions of the Common Elements.

10. The lien of any unpaid Common Charge, real estate tax, water charge or sewer rent, provided the same are adjusted at the closing of title.

11. The lien of any unpaid assessment payable in installments (other than assessments levied by the Condominium Board), except that Sponsor shall pay all such assessments due prior to the Closing Date and Purchaser shall pay all assessments due from and after such date (however, the then current installment shall be adjusted at closing).

12. Any encumbrance as to which the title insurance company which insures Purchaser's title to the Unit would be willing, in a fee policy issued by it to Purchaser, to insure Purchaser that such encumbrance (a) will not be collected out of the Unit if it is a lien and (b) will not prevent the use of the Unit for dwelling purposes.

13. Any recorded covenant, restriction, reservation, agreement, assessment or encumbrance against the Property other than a mortgage or other lien for the payment of money, which does not prevent the use of the Unit for dwelling purposes.

14. Any violations against the Property (other than the Unit) which are the obligation of the Condominium Board or another Unit Owner to correct.

15. Standard exceptions contained in the form of fee title insurance policy then issued by the title insurance company insuring Purchaser's title to the Unit.

16. Premises or part thereof have been designated as a landmark (landmark site or historic district) by Landmark Designation Notice recorded in Reel 427 Page 152 (SEE POST). Premises are subject to the restricted use as provided under New York City Charter Chapter 8A.

A-19  
**Request for Taxpayer  
Identification Number and Certification**

Give form to the  
requester. Do NOT  
send to the IRS.

Please print or type

Name (If a joint account or you changed your name, see **Specific Instructions** on page 2.)

Business name, if different from above. (See **Specific Instructions** on page 2.)

Check appropriate box: ☐ Individual/Sole proprietor ☐ Corporation ☐ Partnership ☐ Other ▶

Address (number, street, and apt. or suite no.)

City, state, and ZIP code

Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, if you are a resident alien OR a sole proprietor, see the instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see **How To Get a TIN** on page 2.

**Note:** If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.

Social security number

OR

Employer identification number

List account number(s) here (optional)

**Part II For Payees Exempt From Backup Withholding** (See the instructions on page 2.)

**Part III Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.

**Certification Instructions.**—You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 2.)

Sign  
Here

Signature ▶

Date ▶

**Purpose of Form.**—A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 to give your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are an exempt payee.

**Note:** If a requester gives you a form other than a W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**What Is Backup Withholding?**—Persons making certain payments to you must withhold and pay to the IRS 31% of such payments under certain conditions. This is called "backup withholding." Payments that may be subject to backup withholding

include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

If you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return, payments you receive will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester, or
2. The IRS tells the requester that you furnished an incorrect TIN, or
3. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
4. You do not certify to the requester that you are not subject to backup withholding under 3 above (for reportable interest and dividend accounts opened after 1983 only), or

5. You do not certify your TIN when required. See the Part III instructions on page 2 for details.

Certain payees and payments are exempt from backup withholding. See the Part II instructions and the separate **Instructions for the Requester of Form W-9**.

**Penalties**

**Failure To Furnish TIN.**—If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil Penalty for False Information With Respect to Withholding.**—If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal Penalty for Falsifying Information.**—Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.**—If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.



## Specific Instructions

**Name.**—If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage, without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first and then circle the name of the person or entity whose number you enter in Part I of the form.

**Sole Proprietor.**—You must enter your individual name as shown on your social security card. You may enter your business, trade, or "doing business as" name on the business name line.

**Other Entities.**—Enter the business name as shown on required Federal tax documents. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or "doing business as" name on the business name line.

### Part I—Taxpayer Identification Number (TIN)

You must enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see **How To Get a TIN** below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, using your EIN may result in unnecessary notices to the requester.

**Note:** See the chart on this page for further clarification of name and TIN combinations.

**How To Get a TIN.**—If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5 from your local Social Security Administration office. Get Form W-7 to apply for an ITIN or Form SS-4 to apply for an EIN. You can get Forms W-7 and SS-4 from the IRS by calling 1-800-TAX-FORM (1-800-829-3676).

If you do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, you will generally have 60 days to get a TIN and give it to the requester. Other payments are subject to backup withholding.

**Note:** Writing "Applied For" means that you have already applied for a TIN OR that you intend to apply for one soon.

### Part II—For Payees Exempt From Backup Withholding

Individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. For more information on exempt payees, see the Separate Instructions for the Requester of Form W-9.

If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding. Enter your correct TIN in Part I, write "Exempt" in Part II, and sign and date the form.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester a completed Form W-8, Certificate of Foreign Status.

### Part III—Certification

For a joint account, only the person whose TIN is shown in Part I should sign (when required).

**1. Interest, Dividend, and Barter Exchange Accounts Opened Before 1984 and Broker Accounts Considered Active During 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, Dividend, Broker, and Barter Exchange Accounts Opened After 1983 and Broker Accounts Considered Inactive During 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real Estate Transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other Payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services (including attorney and accounting fees), and payments to certain fishing boat crew members.

**5. Mortgage Interest Paid by You, Acquisition or Abandonment of Secured Property, Cancellation of Debt, or IRA Contributions.** You must give your correct TIN, but you do not have to sign the certification.

### Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to give your correct TIN to persons who must file information returns with the IRS to report interest, dividends,

and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation and to cities, states, and the District of Columbia to carry out their tax laws.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 31% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

## What Name and Number To Give the Requester

| For this type of account:                                                                                                                                                                   | Give name and SSN or:                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| 1. Individual                                                                                                                                                                               | The individual                                                                                          |
| 2. Two or more individuals (joint account)                                                                                                                                                  | The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup> |
| 3. Custodian account of a minor (Uniform Gift to Minors Act)                                                                                                                                | The minor <sup>2</sup>                                                                                  |
| 4. a. The usual revocable savings trust (grantor is also trustee)                                                                                                                           | The grantor-trustee <sup>1</sup>                                                                        |
| b. So-called trust account that is not a legal or valid trust under state law                                                                                                               | The actual owner <sup>1</sup>                                                                           |
| 5. Sole proprietorship                                                                                                                                                                      | The owner <sup>3</sup>                                                                                  |
| For this type of account:                                                                                                                                                                   | Give name and EIN or:                                                                                   |
| 6. Sole proprietorship                                                                                                                                                                      | The owner <sup>3</sup>                                                                                  |
| 7. A valid trust, estate, or pension trust                                                                                                                                                  | Legal entity <sup>4</sup>                                                                               |
| 8. Corporate                                                                                                                                                                                | The corporation                                                                                         |
| 9. Association, club, religious, charitable, educational, or other tax-exempt organization                                                                                                  | The organization                                                                                        |
| 10. Partnership                                                                                                                                                                             | The partnership                                                                                         |
| 11. A broker or registered nominee                                                                                                                                                          | The broker or nominee                                                                                   |
| 12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity                                                                                       |

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name, but you may also enter your business or "doing business as" name. You may use either your SSN or EIN (if you have one).

<sup>4</sup> List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**PURCHASER'S AFFIDAVIT OF INTENTION TO RESIDE**

The undersigned, being duly sworn, deposes and says:

1. I am the purchaser of Unit \_\_\_\_\_ in the Beekman-Landing Condominium.

2. I will/will not personally occupy the Unit as my residence.

3. If I do not intend to personally occupy the Unit, I represent that I intend that the Unit will be occupied by the following member(s) of my immediate family: \_\_\_\_\_.

\_\_\_\_\_  
Purchaser

Sworn to before me this  
day of \_\_\_\_\_, 20\_\_\_\_

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**EXHIBIT E TO THE DECLARATION  
OF THE BEEKMAN LANDING CONDOMINIUM**

**UNIT OWNER'S POWER OF ATTORNEY**

All terms used in this Unit Owner's Power of Attorney that are used (a) in the Declaration establishing a plan for condominium ownership of the premises known both as The Beekman Landing Condominium and by the street number 130 Beekman Street, New York, under Article 9-B of the Real Property Law of the State of New York, dated \_\_\_\_\_, 19\_\_\_\_, and recorded in the \_\_\_\_\_ County office of the Register of \_\_\_\_\_ on \_\_\_\_\_, 19\_\_\_\_, in Reel \_\_\_\_\_, at page \_\_\_\_\_ (hereinafter referred to as the "Declaration"), or (b) in the By-Laws of \_\_\_\_\_ (hereinafter referred to as the "By-Laws") attached to, and recorded together with, the Declaration, shall have the same meanings in this Unit Owner's Power of Attorney as in the Declaration or the By-Laws.

The undersigned \_\_\_\_\_,  
(having an office) (residing)\* at \_\_\_\_\_,  
\_\_\_\_\_, the owner of the  
Condominium Unit (hereinafter referred to the "Undersigned's Unit") known as Residential Unit No. \_\_\_\_\_ at the Beekman Landing Condominium, said Unit being designated and described as Residential Unit No. \_\_\_\_\_ in the Declaration and also designated as Tax Lot \_\_\_\_\_ in Block \_\_\_\_\_ of Section \_\_\_\_\_ of the \_\_\_\_\_ on the Tax Map of the Real Property Assessment Department of \_\_\_\_\_ and on the Floor Plans, (does) (do)\* hereby irrevocably nominate, constitute and appoint the persons who may from time to time constitute the Condominium Board, true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as members of the Condominium Board or in the name of their designee (corporate or otherwise), on behalf of all Unit Owners, in accordance with the Unit Owners' respective Common Interests, subject to the provisions of the By-Laws then in effect (1) (a) to acquire or lease any Unit, together with its Appurtenant Interests, from any Unit Owner desiring to sell, convey, transfer, assign, or lease the same, (b) to acquire any Unit, together with its Appurtenant Interests, whose owner elects to surrender the same pursuant to the term of paragraph (C) of Section 6.2 of the By-Laws, (c) to acquire any Unit, together with its Appurtenant Interests, that becomes the subject of a foreclosure or other similar sale, on such terms and (with respect to any transfer pursuant to the terms of subdivision (a) or (c) of this paragraph) at such price or at such rental, as the case may be, as said attorneys-in-fact shall deem proper, and thereafter to convey, sell, lease, mortgage, or otherwise deal with (but not vote the interest appurtenant to) any such Unit so acquired by them, or to sublease any Unit so leased by them, on such terms as said attorneys-in-fact may determine, granting to said attorneys-

in-fact the power to do all things in said premises that the undersigned could do if the undersigned were personally present and (2) to execute, acknowledge and deliver (a) any declaration or other instrument affecting the Condominium that the Condominium Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution, or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Condominium or (b) any consent, covenant, restriction, easement, or declaration, or any amendment thereto, affecting the Condominium or the Common Elements, that the Condominium Board deems necessary or appropriate.

The acts of a majority of such persons constituting the Condominium Board shall constitute the acts of said attorneys-in-fact.

The undersigned (does) (do)\* hereby irrevocably nominate, constitute and appoint Beekman-Water Associates LLC (hereinafter referred to as "Declarant") as attorney-in-fact for the undersigned, coupled with an interest, with power of substitution, to amend from time to time said declaration, By-Laws and the Rules and Regulations of the said Condominium, or any of said documents, when such amendment (1) shall be required to reflect any changes in Unsold Units and/or the reapportionment of the Common Interests of the affected Unsold Units resulting therefrom made by Declarant or its designees in accordance with Article 12 of the Declaration or (2) shall be required by (a) an Institutional Lender designated by Declarant to make a mortgage loan secured by a mortgage on any Unit, (b) any governmental agency having regulatory jurisdiction over the Condominium, or (c) any title insurance company selected by Declarant to insure title to any Unit, provided, however, that any amendment made pursuant to the terms of subdivision (1) or (2) of this paragraph shall not (i) change the Common Interest of the Undersigned's Unit, (ii) require a material, physical modification to the Undersigned's Unit, or (iii) adversely affect the priority or validity of the lien of any purchase money mortgage or any mortgage held by an Institutional Lender covering the Undersigned's Unit unless the undersigned (in the event described in subdivision (i) or (ii) of this paragraph) or the holder of such mortgage (in the event described in subdivision (iii) of this paragraph) shall consent thereto by joining in the execution of such amendment. The terms, covenants and conditions contained in, and the powers granted pursuant to, this paragraph shall remain in full force and effect until such time as the Declarant or its designees shall cease to own any of the Residential in The Beekman Landing Condominium.



IN WITNESS WHEREOF, the undersigned (has) (have)\* executed  
this Unit Owner's Power of Attorney as of the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_.

(SEAL)

---

State of New York    }  
                                           } SS.:  
 County of                }

On the     day of                               in the year 200 , before me, the undersigned, a Notary Public in and for said State, personally appeared

                                          , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted executed the instrument.

State of New York    }  
                                           } SS.:  
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 Notary

FORM OF UNIT DEED

THIS INDENTURE, made the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Beekman-Water Associates, LLC, a New York limited liability company having an office c/o Philips International Holding Corp., 417 Fifth Avenue, 3rd Floor, New York, New York 10016 (hereinafter referred to as the "Grantor") and \_\_\_\_\_ (having an office) \_\_\_\_\_ (residing)\* at \_\_\_\_\_ (hereinafter referred to as the "Grantee").

## W I T N E S S E T H

That the Grantor, in consideration of Ten (\$10.00) Dollars and other valuable consideration paid by the Grantee, does hereby grant and release unto the Grantee, and the heirs or successors and assigns of the Grantee, forever:

The Condominium Unit (hereinafter referred to as the "Unit") known as (Residential Unit No. \_\_\_\_\_) in the building (hereinafter referred to as the "Building") known as The Beekman Landing Condominium and by the street number 130 Beekman Street, Borough of Manhattan, City and State of New York, said Unit being designated and described as Residential Unit No. \_\_\_\_\_ in a certain declaration dated \_\_\_\_\_, 19\_\_, made by Grantor pursuant to Article 9-B of the Real property Law of the State of New York (hereinafter referred to as the "Condominium Act"), establishing a plan for condominium ownership of the Building and the land (hereinafter referred to as the "Land") upon which the Building is situate (which Land is more particularly described in Exhibit A annexed hereto and made a part hereof), which declaration was recorded in the New York County office of the Register of The City of New York on \_\_\_\_\_, 19\_\_, in Reel \_\_\_\_\_, page \_\_\_\_ (and has been amended as set forth on Exhibit B annexed hereto and by this reference made a part hereof)\*\* (which declaration and amendments thereto are hereinafter collectively referred to as the "Declaration"). This Unit is also designated as Tax Lot \_\_\_\_\_ in Block \_\_\_\_\_ of Section \_\_\_\_\_ of the Borough of \_\_\_\_\_ on the Tax Map of the Real property Assessment Department of the City of New York and on the Floor Plans of the Building, certified by Architects Design Group, P.C., \_\_\_\_\_, on \_\_\_\_\_, 19\_\_, and filed with the Real Property Assessment Department of the City of \_\_\_\_\_ on \_\_\_\_\_, 19\_\_, as Condominium Plan No. \_\_\_\_\_ and also filed in the City Register's Office on \_\_\_\_\_, 19\_\_;

Together with an undivided \_\_\_\_\_ % interest in the Common Elements (as such term is defined in the Declaration);

Together with the appurtenances and all the estate and rights of the Grantor in and to the Unit;

Together with, and subject to, the rights, obligations, easements, restrictions and other provisions set forth in the Declaration and the By-Laws of The Beekman Landing Condominium, as the same may be amended from time to time (hereinafter referred to as the "By-Laws"), all of which shall constitute covenants running with the Land and shall bind any person having at any time any interest or estate in the Unit, as though recited and stipulated at length herein;

Subject also to such other liens, agreements, covenants, easements, restrictions, consents and other matters of record as pertain to the Unit, to the Land and/or to the Building (which Land and Building are hereinafter collectively referred to as the "Property").

TO HAVE AND TO HOLD the same unto the Grantee, and the heirs or successors and assigns of the Grantee, forever.

If any provision of the Declaration or the By-Laws is invalid under, or would cause the Declaration or the By-Laws to be insufficient to submit the Property to the provisions of the Condominium Act, or if any provision that is necessary to cause the Declaration or the By-Laws to be sufficient to submit the Property to the provisions of the Condominium Act is missing from the Declaration or the By-Laws, or if the Declaration or the By-Laws are insufficient to submit the Property to the provisions of the Condominium Act, the applicable provisions of Article 17 of the Declaration shall control.

Except as otherwise specifically permitted by the Condominium Board (as such term is defined in the Declaration) or provided in the Declaration or in the By-Laws, the Unit is intended for (residential) (professional)\* use only.

The Grantor covenants that the Grantor has not done or suffered anything whereby the Unit has been encumbered in any way whatever, except as set forth in the Declaration and the By-Laws (and any Rules and Regulations adopted under the By-Laws).

The Grantor, in compliance with Section 13 of the Lien law of the State of New York, covenants that the Grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund for the purpose of paying the cost of the improvements at the Property and will apply the same first to the payment of the cost of such improvements before using any part of the same for any other purposes.

The Grantee accepts and ratifies the provisions of the Declaration and the By-Laws (and any Rules and Regulations adopted under the By-Laws) and agrees to comply with all the terms and provisions thereof.

If the Grantor is a corporation, this conveyance is made in the regular course of business actually conducted by the Grantor.

The term "Grantee" shall be read as "Grantee" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the Grantor and the Grantee have duly executed this indenture as of the day and year first above written.

Beekman-Water Associates LLC

\_\_\_\_\_

By:

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Grantee

\_\_\_\_\_  
Grantee



State of New York    }  
                                       } SS.:  
 County of                }

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\_\_\_\_\_  
 Notary

EXHIBIT A

Description of the Land

PARCEL A

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, County, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Water Street, distant fifty feet one inch easterly from the corner formed by the intersection of the said southerly side of Water Street and the easterly side of Beekman Street;

THENCE easterly along said southerly side of Water Street sixteen feet six inches to a point opposite the centre line of a party wall;

THENCE southerly along the centre line of said party wall and a line in continuation thereof, seventy-two feet ten and one-half inches to the centre line of the block;

THENCE westerly along the said centre line of the block, 16 feet 7 inches to the easterly face of the independent wall of the building upon the premises adjoining the same on the west;

THENCE northerly along the easterly face of the said last mentioned wall, thirteen feet four and three-quarter inches to the southerly face of the rear wall of the building upon the premises herein described;

THENCE westerly along the southerly face of the said last mentioned wall, two inches to a point in the centre of the 24-inch wall standing between the building on the premises herein described and the building upon the premises adjoining on the west; and

THENCE northerly along the centre line of the said last mentioned wall, fifty-nine feet six inches to the southerly side of Water Street, the point or place of BEGINNING.

SAID PREMISES being known as 231 Water Street.

PARCEL B

BEGINNING at the corner formed by the intersection of the northeasterly side of Beekman Street with the southeasterly side of Water Street;

RUNNING THENCE northeasterly along the southeasterly side of Water Street, 24 feet 9 inches to a point in the centre or in a line in continuation of the center of 12 inch wall standing half on the

premises herein described and half on the premises adjoining on the northeast;

THENCE southeasterly along a line in continuation of the center and along the center of said 12 inch wall and along the southwesterly face of southwesterly wall of the six-story brick building on the premises described in Schedule A, 54 feet 4 inches to the northwesterly face of the northwesterly wall of the brick building on the premises known as 134 Beekman Street;

THENCE southwesterly along the northwesterly face of said northwesterly wall, 25 feet 6 inches to the northeasterly side of Beekman Street; and

THENCE northwesterly along the northeasterly side of Beekman Street 53 feet 10 inches to the corner, the point or place of BEGINNING.

SAID PREMISES being known as 227 Water Street.

PARCEL C

BEGINNING at a point on the southeasterly side of Water Street distant 24 feet 9 inches northeasterly from the corner formed by the intersection of the northeasterly side of Beekman Street with the southeasterly side of Water Street;

RUNNING THENCE northeasterly along the southeasterly side of Water Street 25 feet 4 inches to a point in the center or in a line in continuation of the center of a 24 inch wall standing half on the premises herein described and half on the premises adjoining on the northeast;

THENCE southeasterly along a line in continuation of the center and along the center of said 24 inch wall and along the northeasterly face of the northeasterly wall of the six story brick building and of the one story brick building on the premises described in Schedule A, 93 feet 4 inches to the southeasterly face of the southeasterly wall of said one story brick building on the premises described in Schedule A;

THENCE southwesterly along said southeasterly face of said southeasterly wall 25 feet 4-1/2 inches to the southwesterly face of the southwesterly wall of said one story brick building;

THENCE northwesterly along said southwesterly face of said southwesterly wall of said one story brick building and along the southwesterly face of the southwesterly wall of the six story brick building on the premises described in Schedule A and through the center of a party wall 92 feet 9 inches to the southeasterly side of Water Street the point or place of BEGINNING.

SAID PREMISES being known as 229 Water Street.

DESCRIPTION OF PROPERTY (AND SPECIFICATIONS) \*  
AND BUILDING CONDITION

BLOCK: 97 LOT: 46

ZONE: C6-4 "Special South Street Seaport District"

MAP: 12b

YEAR BUILT: in 1998/1999 the building was extensively renovated. Roof and all interior systems are new.  
The building facade is substantially rebuilt.

ALTERATION NO: 101396810

Certificate of Occupancy:

Final Certificates of occupancy issued for  
the premises:  
130/132 Beekman Street  
AKA 227/231 Water Street- dated 06-22-2000

Construction Classification:

Non-fireproof

Occupancy classification:

227/231 Class "A" Multiple Dwelling.

Status of Construction

Construction completed.

THE LIABILITY OF THE UNDERSIGNED IS STRICTLY LIMITED TO COMPLIANCE  
WITH THE PROVISION OF ARTICLE 23A OF THE GENERAL BUSINESS LAW AND  
THE REGULATIONS OF THE DEPARTMENT OF LAW PURSUANT THERETO.

NO OBLIGATION OR LIABILITY IS ASSUMED FOR DEFECTS, ERRORS,  
VARIATIONS OR CHANGES MADE IN THE CONSTRUCTION OF THE BUILDING. MY  
PARTICIPATION IN THE PROJECT IS LIMITED TO THE PREPARATION OF THE  
SOME BUILDING PLANS AND THE PREPARATION OF THIS REPORT.

I HAVE NO CONTROL WHETHER OR NOT THE FINISHES, MATERIAL OR  
EQUIPMENT MENTIONED IN THIS REPORT ARE FURNISHED OR INSTALLED AS  
DESCRIBED. IT IS SUGGESTED THAT EACH PURCHASER MAKE HIS OR HER  
INSPECTION PRIOR TO CLOSING. I AM NOT ENGAGED IN THE SUPERVISION  
OF THE CONSTRUCTION OF THIS BUILDING.



*Simon S. Schwartz*  
Date: October 20, 2000

This report was Prepared using drawings as follows:

#### ARCHITECTURAL

|      |                                    |
|------|------------------------------------|
| T-1  | Title Sheet                        |
| D-1  | Cellar, 1st, 2nd Floors Demolition |
| D-2  | 3, 4, 5, Roof Demolition           |
| T-1  | Title                              |
| A-1  | Cellar plan                        |
| A-2  | First Floor Plan                   |
| A-3  | Second Floor Plan                  |
| A-4  | Second Floor ZM                    |
| A-5  | Third Floor Plan                   |
| A-6  | Fourth Floor Plan                  |
| A-7  | Fifth Floor Plan                   |
| A-8  | Sixth Floor Plan                   |
| A-9  | Roof Plans                         |
| A-10 | Sections                           |
| A-11 | sections                           |
| A-12 | Elevations                         |
| A-13 | Elevations                         |
| A-14 | Schedules and Typical Details      |
| A-15 | Door, window, & Misc. Details      |
| A-16 | Ground Floor Elevations            |
| A-17 | Storefront Sections                |
| A-18 | storefront Details                 |
| A-19 | Toboy Elevations                   |
| A-20 | Handicapped Notes and Details      |
| A-21 | General, EMC, & MDL Notes          |
| A-22 | Kitchen Plans & Elevations         |
| A-23 | Kitchen Plans & Elevations         |
| A-24 | Bathroom Plans & Elevations        |
| A-25 | Bathroom Plans & Elevations        |
| A-26 | Sections                           |
| A-27 | Sections                           |
| A-28 | Paving Plan                        |

#### STRUCTURAL

|     |                                   |
|-----|-----------------------------------|
| S-1 | Framing Plans                     |
| S-2 | Framing Plans                     |
| S-3 | Typical Details and General Notes |
| S-4 | Sections                          |



## PLUMBING

|      |                                    |
|------|------------------------------------|
| P-1  | Cellar Plan                        |
| P-2  | First Floor Plan                   |
| P-3  | Second Floor Plan                  |
| P-4  | Second Floor 2M                    |
| P-5  | Third Floor Plan                   |
| P-6  | Fourth Floor Plan                  |
| P-7  | Fifth Floor Plan                   |
| P-8  | Sixth Floor Plan & Site Plan       |
| P-9  | Roof Plan                          |
| P-10 | Riser Diagrams, Details & Schedule |

## SPRINKLER

|      |                                    |
|------|------------------------------------|
| SP-1 | Cellar Plan Details & Legend       |
| SP-2 | First Floor Plan & Sprinklor Notes |
| SP-3 | Second Floor Plan                  |
| SP-4 | Second Floor 2M                    |
| SP-5 | Third Floor Plan                   |
| SP-6 | Fourth Floor Plan                  |
| SP-7 | Fifth Floor Plan                   |
| SP-8 | Sixth Floor Plan & Site Plan       |
| SP-9 | Roof Plan, Details & Riser Diagram |

## MECHANICAL

|      |                            |
|------|----------------------------|
| M-1  | Cellar Plan                |
| m-2  | First Floor Plan           |
| m-3  | Second Floor Plan          |
| M-4  | Second Floor Upper Level   |
| M-5  | Third Floor Plan           |
| M-6  | Fourth Floor Plan          |
| m-7  | Fifth Floor Plan           |
| M-6  | Sixth Floor Plan           |
| M-9  | Roof Plan                  |
| M-10 | Riser, Details & Schedules |
| M-11 | Schedules                  |

## ELECTRICAL

|      |                        |
|------|------------------------|
| E-1  | Cellar Plan            |
| E-2  | First Floor Plan       |
| E-3  | Second Floor Plan      |
| E-4  | Second Floor 2M        |
| E-5  | Third Floor Plan       |
| E-6  | Fourth Floor Plan      |
| E-7  | Fifth Floor Plan       |
| E-8  | Sixth Floor Plan       |
| E-9  | Roof Plan              |
| E-10 | Diagrams and Schedules |

LOCATION

The building site is located at the address currently known as 227, 229, 231 Water Street; (Also known as 130-132 Beekman street) known as Tax Lot 46 Block 97 on the Tax map of The City of New York, New York County, and more particularly described as follows:

Beginning at the corner formed by the intersection of the southerly Side of Water Street and the easterly side of Beekman Street;

Thence easterly along said southerly side of water street 66.72 feet to a point opposite the Center line of a party wall;

Thence southerly along the center line of said party wall and a line in continuation thereof, 72.93 feet to the center line of the block;

Thence westerly along the center line of the block 16.62 feet to the northeasterly face of the independent wall of the four to six story brick building upon described premises known as 229 Water Street;

Thence southerly along the northeasterly face of said last mentioned wall, 20.38 feet to the southerly face of the rear wall of the one story extension of the building upon the premises known as 229 Water street;

Thence westerly along the southeasterly face of the said last mentioned wall 25.55 feet to the southwesterly face of the independent wall of the four to six story building upon described premises known as 229 Water Street;

Thence northerly along the westerly face of the wall of the four to six story brick building upon described premises known as 229 Water Street 38.38 feet;

Thence westerly along a line which forms an angle on its northerly side of 89 degrees 20 minutes 30 seconds with the easterly side of Beekman Street and which line intersects the easterly side of Beekman Street 25-50 feet to a point on the easterly side of Beekman Street distant 53-83 feet southerly from the corner formed by the intersection of the southerly side of Water Street and the easterly side of Beekman Street;

Thence northerly along the easterly side of Beekman street, 53-83 feet to the corner formed by the intersection of the said southerly Side Of Water Street and the easterly side of Beekman Street and the point or place of beginning.

The building site is located adjacent to the East River and is subject to a higher water table. All apartments including the cellar are built above the ground water heights.

### STREETS

The north facade of the building faces Water Street, an east-bound one-way street fifty feet wide. The west facade of the building faces Beekman Street, a north-bound one-way street sixty feet wide. The street is public and is owned by the City of New York.

**Paving:** The roadway is paved primarily with granite pavers.

**Curbing:** New granite curbing has been installed for the full length of the building frontage on Water Street and Beekman Street.

**Drainage:** The roadway is crowned and pitched to catch basis located at the intersection of Water Street and Front Street.

**Street Lighting:** Street lighting installed by the City of New York is adequate.

### PARKING

There is no parking provided on the site. Parking is permitted on the street on a limited basis.

### SIDEWALK

A new concrete sidewalk has been installed for the full length of the building frontage on Water Street and Beekman Street.

The sidewalk contains valve boxes, fire hydrants and parking signs.

### THE BUILDING

There is one building occupying the building site;

The building which is a combination of 227, 229 and 231 Water Street has the main entrance at 130 Beekman Street. The building varies in height from four to six stories. The building height to the highest roof is approximately 74'-0". The building is classified as a Class "A" Multiple Dwelling.

The new apartments comply with the requirements of Local Law 58/87, except where certain waivers were obtained from the Mayor's office for People with Disabilities. The building is handicapped accessible.

Partial cellar contains new boiler room, new electric meter room, new water, sprinkler and gas meter room and new compactor room.

### RESIDENTIAL UNITS

The First Floor contains the residential lobby at 130 Beekman Street and four apartments. Two apartment are simplex studio apartments with mezzanines. The third apartment is a Simplex Studio Apartment with home occupation. The fourth apartment is a simplex One-Bedroom Apartment.

The Second Floor contains four apartments. Two apartments are simplex one-Bedroom Apartments and two apartments are simplex Studio Apartments.

The Second floor 2M contains one Simple one-Bedroom Apartment.

The Third Floor contains four apartments. Two apartments are simplex one-Bedroom Apartments. The third apartment is a Simplex Studio Apartment. The fourth apartment is a duplex Two-Bedroom Apartment with the bedrooms on the fourth floor.

The Fourth Floor contains three apartments and the upper level of a duplex apartment. The first apartment is a simplex One-Bedroom Apartment with access to a fifth floor roof terrace. The second apartment is a simplex Studio Apartment. The third apartment is a simplex One-Bedroom Apartment.

The Fifth Floor contains two apartments. The first apartment is a duplex Three-Bedroom Apartment with a terrace at the fifth floor and the third bedroom and a second terrace at the sixth floor. The second apartment is a duplex Three-Bedroom Apartment with the bedrooms at the sixth floor and a terrace at the main roof level.

The main roof also contains the elevator machine room and stair bulkheads.

TOTAL APARTMENTS 18

### UTILITIES

All utilities are new.

Electrical service is provided by the Consolidated Edison Company of New York. The service is 208 Volt/ 3- Phase/ 600 Amper. Main feeders and disconnect switches are located in the Cellar. Individual apartments are separately metered with electricity. Residential common area electricity is metered through a single meter. All meters are located in the electric meter room in the Cellar. Apartments are provided with 90 to 150 amper three wire service. Each apartment has a circuit breaker panel box within the apartment and all services are fed from the box. All wiring is in accordance with New York City code. A hardwired 120 volt smoke detector is provided in each apartment.

New Gas service is provided by the Consolidated Edison Company of New York. One meter, master meters the gas service for residential heating and hot water. One meter, master meters gas service for residential cooking and gas dryers. The cost of this gas service is be included in the common charges. All gas piping is new black steel pipe.

New Water Services for domestic and sprinkler use are provided by the City of Now York, One meter is provided for domestic water service and a second meter is provided for sprinkler service. Each service is provided with a "RPZ" valve. The cost of domestic and sprinkler water services is included in the common charges of the apartments. All piping is new.

Sanitary and storm sewers are connected to the City Sewer. Charges for sewer use are proportional to metered water consumption and are allocated by the City of New York to the Residential users accordingly. Charges for residential users are included in the common charges

The building is wired for telephone and Internet services. Service within each unit may be obtained on an individual basis,

The building is wired for cable TV service. Service within each unit may be obtained from the local cable company an individual basis.

## STRUCTURAL SYSTEM

### FOUNDATIONS

227 Water Street: The cellar floor consists of brick and building debris and natural cobbles bound together by natural cement. A new reinforced concrete slab with vapor barrier was poured above the existing cellar floor. The east party foundation wall is coursed rubble, the west and north foundation walls are brick, and the south foundation wall is brick above the cellar floor and coursed rubble below. The water table is approximately 30" below the cellar floor. The foundation walls, where visible, appear to be in fair condition. A new concrete cap beam was installed at the west foundation wall due to uneven conditions, which is stable.

229 Water Street: There is a crawl space below the first floor. A new concrete slab with vapor barrier was poured above the existing crawl space. The foundation walls are coursed rubble with no signs of differential movement. The mortar joints are hard and uncracked. The foundation walls, where visible, appear to be in fair condition. The water table is approximately 18" below the crawl space.

231 Water Street: This building was constructed without a cellar or crawl space and the foundation conditions are not visible. A new concrete slab with vapor barrier was poured at the first floor.

It should be noted that future development and dewatering in the adjoining areas could affect the above described conditions.



### FLOOR-CONSTRUCTION

The floors are new.

The typical structure is steel C-Joists with plywood attached at the top, bearing on existing or reconstructed masonry bearing walls which are supported on the existing foundation walls. The structure of the First Floor above the Compactor Room is concrete slab on metal deck supported by steel beams bearing on masonry walls.

### EXTERIOR OF BUILDING

Exposed exterior walls are brick and concrete block masonry or solid brick, that were reconstructed and have new insulation as required to give a minimum R-factor of R-11. Portions of the Sixth Floor at 229 Water Street are finished with aluminum siding.

### BALCONIES AND TERRACES

All terraces are new.

There are two terraces at First Floor, two roof terraces at the Fifth Floor, one roof terrace at the Sixth Floor, and one roof terrace at the Main Roof.

### WINDOWS

All windows are new.

All windows are double-hung wood windows, varying in width and height.

Lintels are either existing stone, new precast concrete or new steel. The steel lintels have a paint finish. All sills are existing stone or new precast concrete.

All window frames are painted. All glass is clear, double glazed.

Windows at the west walls of 229 and 231 Water Street are considered lot line windows. These window openings are protected with sprinkler heads.

There is an operable aluminum skylight ventilating bedroom #3 in apartment 4C.

### REAR YARD

There are rear yards located at the same level as the first floor and they are accessible from apartments 1C and 1D. The yards contain new yard drains and a new concrete slab on grade.

### EXTERIOR DOOR

The residential main entrance doors are wood and glass. Terrace doors are wood and glass.

### ROOF AND ROOF STRUCTURES

All roofs are new.

Certain portions of the flat roofs at the Fifth Floor are terraces. One terrace is accessible via a convenience stair from apartment 4A, and the other terrace is accessible from within apartment 5A. The remaining flat roof is used for air conditioning equipment. A roof terrace at the Sixth Floor is accessible from within the upper level of apartment 5A. A roof terrace at the main roof level is accessible via a convenience stair from apartment 5B.

The main roof is accessible through the building stair.

The roofing system is a premium smooth surface modified Bitumen roofing membrane and is mop applied. All roof membranes and flashing are in accordance with manufacturer's specifications.

In addition, the Fifth Floor, Sixth Floor and Root terraces have a concrete paver walkable surface.

All sloping roofs are finished with fiberglass class A roofing shingles.

All residential roofs are insulated to provide a minimum R factor of R-19.

### PARAPETS

Roof parapets are substantially rebuilt or new.

Root parapets are a minimum of 3'-6" above the roof and are either masonry with cast stone copings with railing above or aluminum railings.

### NEW BULKHEADS

Elevator access to the elevator machine room is through the public stair. The building stair terminates at the main roof.

### MISCELLANEOUS

At the main Roof and the Elevator Machine Room Roof there are new exhaust fans as required to mechanically ventilate interior spaces that require mechanical ventilation. Each fan sits on a base and is flashed with aluminum flashing and roof cement.

Water is collected from roofs in new gutters, leaders or roof drains, and flows by gravity to the house sewer.

#### NEW INTERIOR STAIRS

The building has two (2) new interior stairs. One stair runs from the First Floor to the Main Roof. The other Stair runs from the Cellar to the First Floor. The stair construction is concrete-filled metal pan with steel stringers and wall-bracketed handrails. The stair enclosure is fire rated.

#### NEW ELEVATOR

The building is serviced by one (1) new passenger elevator. The elevator has a one year manufacturer's warranty for parts and labor from the date of installation.

The elevator runs from the First Floor to the Fifth Floor. The elevator is manufactured by the Hollister-Whitney Elevator Corp., capacity 2,000 pounds, with a speed of 150 feet per minute with capacity load. The elevator is an overhead friction type with the elevator machine room on the roof.

#### INTERCOM SYTEM

A new video intercom system is provided for communication between each apartment and the vestibule at the residential entry. The system includes an electronic strike at the front door capable of being activated from the video panel within each apartment.

#### NEW INTERIOR DOORS AND FRAMES

Apartment entrance doors are hollow metal fire-rated doors with metal frames, saddles, peepholes and chimes or doorbells.

Interior apartment doors are raised panel doors with wood frames. Bathroom doors have saddles. Certain bedroom doors have divided lights.

Stair doors are hollow metal fire-rated doors with metal frames. Stair doors have saddles. The First Floor lobby stair doors have raised panels.

LAUNDRY

There is not a laundry room in the building. Each apartment has laundry hookups available within the apartment including a washing machine and gas dryer.

FIRE PROTECTION SYSTEM

SPRINKLERS

The entire building is fully wet sprinklered in compliance with New York City Building Code requirements. The refuse chute, the refuse chute vestibule at each floor, and the compactor room are also be sprinklered. The sprinkler system is connected to the building sprinkler service which is fed from the street.

STANDPIPE

The standpipe is not required by code and was not provided.

REFUSE DISPOSAL

A new refuse chute runs from the sixth floor to the compactor room in the Cellar with hopper doors at floors one through five. There is one new refuse compactor, which is located in the Cellar. The refuse compactor is Hivolex-J, as manufactured by Ram Compactors. The compactor has a one year manufacturer's warranty for parts and labor from the date of installation.

Residential refuse is collected at the sidewalk by the Department of Sanitation of the City of New York.

EXTERMINATION

Extermination service shall be provided as required by law.

JANITORIAL SERVICES

Janitorial services shall be provided as required by law.

### NEW HEATING SYSTEMS

Hot water for heating the building is supplied by one gas-fired boiler, as manufactured by Slant-Fin Inc., Model GGHT-750. The boiler has an input of 750,000 BTUs and an output of 608,000 BTUS.

Domestic hot water is supplied by a gas-fired hot water heater. The hot water heater is manufactured by Teledyne Laars, model number PW- 325, with a 250 gallon storage tank.

Each apartment is provided with baseboard hot water heating. The baseboard is supplied with hot water from the boiler.

### AIR CONDITIONING

Each apartment is equipped with a new split type air-conditioning system with individual controls. The outdoor compressors are located on the main roof.

Electricity to each unit is supplied from the apartment panel and consumption is metered through the individual apartment meter. The apartment owner shall be responsible for maintenance and repair.

### NEW FIREPLACES

Wood burning fireplaces are provided in apartments 1A, 1B, 1C, 2A, 2B, 2C, 2M, 3A 3B, 3C, 4A, 4B and 4C.

### NEW VENTILATION

Public corridors, apartment bathrooms and kitchenettes not provided with natural ventilation are mechanically ventilated as required by applicable codes.

### NEW PLUMBING

Water service is supplied from the city water main in Water Street. All domestic water pipes are copper and are insulated as required.

The sanitary sewage system consists of new standard weight cast iron piping. The sanitary sewage system discharges by gravity to a new house trap and then into the city sewer. Sanitary piping serving cellar spaces discharges into the sewage system through an ejector pump located in the Cellar.



New Storm drainage consists of aluminum gutters, leaders and or cast iron pipe. Storm water discharges by gravity into a new house trap and then into the city sewer. Storm water from the rear yard is collected in a yard drain and discharges into the house trap.

PUBLIC SPACES

| <u>AREA</u>                                           | <u>FLOOR</u>        | <u>BASE</u>     | <u>WALLS</u>                      | <u>CEILINGS</u>       | <u>REMARKS</u>         |
|-------------------------------------------------------|---------------------|-----------------|-----------------------------------|-----------------------|------------------------|
| Residential<br>Lobby                                  | Slate               | Wood            | Gypsum Bd<br>Brick                | Gypsum Bd<br>Painted  | Lighting<br>Sprinklers |
| Public<br>Corridor<br>(2-5)                           | Carpet              | Wood            | Gypsum Bd<br>Painted              | Gypsum Bd<br>Painted  | Lighting<br>Sprinklers |
| Boiler Room<br>Meter Rooms<br>Storage Rm.<br>Corridor | Concrete<br>Painted | None            | Concrete<br>Blk./Stone<br>Painted | Gypsum Bd.<br>Painted | Lighting<br>Sprinklers |
| Compactor<br>ROOM                                     | Concrete            | None            | Concrete<br>Block                 | Exposed               | Lighting<br>Sprinklers |
| Refuse Room                                           | Ceramic<br>Tile     | Ceramic<br>Tile | Brick and<br>Gypsum Bd<br>Painted | Gypsum Bd.<br>Painted | Lighting<br>Sprinklers |

TYPICAL APARTMENTS

| <u>ROOM</u>                | <u>FLOOR</u> | <u>BASE</u>     | <u>WALLS</u>                                           | <u>CEILING</u>                      |
|----------------------------|--------------|-----------------|--------------------------------------------------------|-------------------------------------|
| Entrance Foyer             | Maple        | Painted<br>Wood | Painted<br>Gypsum Board                                | Gypsum Bd.<br>Painted<br>Sprinklers |
| Living Room                | Maple        | Painted<br>Wood | Painted<br>Gypsum Board<br>Exposed<br>Brick<br>Painted | Gypsum Bd.<br>Painted<br>Sprinklers |
| Bedrooms                   | Maple        | Painted<br>wood | Painted<br>Gypsum Board<br>Exposed<br>Brick<br>Painted | Gypsum Bd.<br>Painted<br>Sprinklers |
| Kitchen                    | Maple        | Painted<br>Wood | Painted<br>Gypsum Board                                | Gypsum Bd.<br>Painted<br>Sprinklers |
| Bathroom<br>or Powder room | Ceramic tile | Ceramic tile    | Painted<br>Gypsum Board<br>wainscot                    | Gypsum Bd.<br>Painted<br>Sprinklers |

NEW BATHROOM FIXTURES

BATHTUB - 5'-0" "Americast" or 5'-0" whirlpool with tub fittings.  
LAVATORY - Cast iron/enamel or vitreous china pedestal lavatory or console sink.  
WATER CLOSET - Vitreous China.  
ADDITIONAL EQUIPMENT - Mirror, Medicine Cabinet, Lighting.

NEW KITCHEN EQUIPMENT

RANGE - Frigidaire, Model Number FGS379WECB or FCS388WECFF.  
REFRIGERATOR - Frigidaire, Model Number FRS20BGB or FRS24BGB.  
UNDERSINK DISHWASHER - Frigidaire, Model Number FDB679GFC.  
SINK - Elkay, Stainless Steel, Model Number LR-2522  
MICROWAVE/HOOD - Frigidaire, Model Number FMT118EPB  
STACK COMBINATION WASHING MACHINE AND GAS DRYER - Frigidaire, Model  
Number FLSG72GCSW

NOTES:

1. Bathrooms have full height tile at bathtub walls and wainscot behind plumbing fixtures.
2. All appliances will receive manufacturer's warranty as stated in the instruction manuals.

END OF REPORT

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ADDENDUM TO  
CERTIFICATION OF SPONSOR AND SPONSOR'S  
ENGINEER PURSUANT TO PART 23  
OF THE REGULATIONS ISSUED  
PURSUANT TO GENERAL BUSINESS LAW  
ARTICLE- 23-A AS AMENDED

December 18, 2000

New York State Department of Law  
120 Broadway  
New York, New York 10271  
Attn: Real Estate Financing Bureau

Re: Beekman Landing  
Condominium  
130 Beekman Street  
New York, N.Y. 10038

The following items are clarifications and additional information requested by the review engineer, Mr. J. Kavi from State of New York Office of the Attorney General, dated 12-12-2000.

1. Units electrical panels are 208V/ 3 PH./90 to 125 Amp with total poles ranging from 24 to 42. Number of circuits is indicated on the unit panel schedule-see attachment#1. New electrical service is adequate for the modern use.
2. Lighting fixtures schedule is furnished, as requested-see attachment #2.
3. The manufacturer warrants new roofs for period of 12 years.
4. The part of the uneven west foundation wall was replaced. For structural detail see attachment #3.
5. Fiberglass butt insulation was used for roof and wall insulation. Thickness of the roof insulation is 6 inch (R-19), thickness of the wall insulation is 3.5 inch (R-11)
6. Roof terraces are rubber membrane type and have manufacturer warranty for 12 years.
7. Wood windows are double-hung type, manufactured by "Marvin" and have 5 years manufacturer warranty.
8. Lot line windows on the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors of the east wall are protected by sprinklers, as required by code.
9. Elevator cab, made by Hollister-Whitney Co., has stainless steel finished materials.



10. Sprinkler piping is schedule 40, black steel pipe with threaded ends. Sprinkler heads are pendent type with 1/2 orifice size.
11. Heating system is new. Hot water boilers capacity is 750,000 btu/hr is adequate for the building.
12. Each unit is equipped with split type AC system, consisted of roof-mounted air-cooled condensing units, and indoor air handling units. Units are "Mitsubishi" made, sizes ranging from 2 to 3 ton.
13. Fireplaces are masonry, custom made. All fireplaces have past building fire inspection.
14. See attachment # 4 for all floor plans.
15. Final Certificate of occupancy was issued for the promises 130/132 Beekman Street and dated 06-22-2000.
16. 136 Beekman Street is not part of this building.

S. Schwartz Associates  
Consulting Engineers



Simon S. Schwartz, P.E.



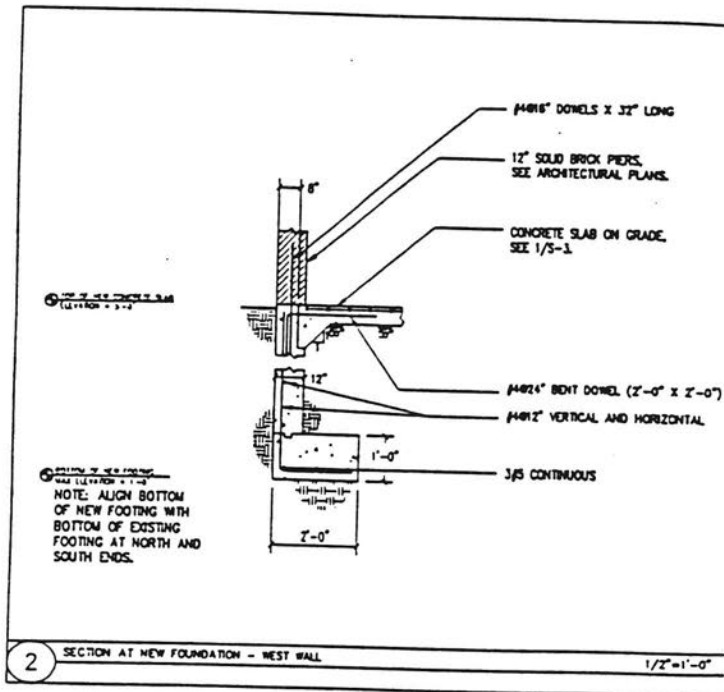
| APARTMENT     |               | PANEL               | SCHEDULE           |                   |                   |                 |                       |                 |   |        |   |                                                  |
|---------------|---------------|---------------------|--------------------|-------------------|-------------------|-----------------|-----------------------|-----------------|---|--------|---|--------------------------------------------------|
| APT/<br>PANEL | AREA<br>SQ FT | GEN LTG<br>3W/SQ FT | APPL LOAD<br>WATTS | A/C LOAD<br>WATTS | DEM LOAD<br>WATTS | TOTAL<br>LOAD I | APT<br>TOTAL<br>POLES | PANEL<br>15A/1P |   | 20A/1P |   | MISC                                             |
|               |               |                     |                    |                   |                   |                 |                       | A               | S | A      | S |                                                  |
| 5A            | 1675          | 5025                | 10,500             | 12,728            | 27,991            | 117             | 42                    | 16              | 3 | 16     | 1 | 1-2/30(20),<br>3-2/20(24,28,32)                  |
| 5B            | 1420          | 4260                | 12,000             | 11,628            | 27,258            | 114             | 36                    | 13              | 3 | 9      | 1 | # 18-GFI-&33 -<br>1-2/30(18)<br>3-2/20(22,26,30) |
| 4A            | 1150          | 3450                | 12,000             | 6,808             | 22,033            | 92              | 30                    | 9               | 3 | 10     | 1 | # 18-GFI                                         |
| 3A            |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 1-2/30(18)                                       |
| 2A            |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 1-2/20(22)                                       |
| 4B            | 780           | 2340                | 10,500             | 3,568             | 16,408            | 68              | 24                    | 7               | 3 | 8      | 1 | # 15-GFI                                         |
| 3B            |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 1-2/30(12)                                       |
| 4C            | 995           | 2985                | 10,500             | 5,856             | 19,341            | 81              | 30                    | 9               | 3 | 9      | 1 | # 11-GFI                                         |
| 3C            |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 1-2/30(16)                                       |
|               |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 1-2/20(12)                                       |
| 3D            | 1300          | 3900                | 12,000             | 9,280             | 24,730            | 103             | 36                    | 13              | 3 | 9      | 1 | # 9-GFI                                          |
|               |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 1-2/30(18)                                       |
|               |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 2-2/20(22,26)                                    |
| 2C            | 950           | 2850                | 10,500             | 5,856             | 19,206            | 80              | 30                    | 9               | 3 | 9      | 1 | # 19-GFI                                         |
| 2MC           |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 1-2/30(16)                                       |
|               |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 1-2/20(12)                                       |
| 2D            | 680           | 2040                | 12,000             | 3,568             | 17,608            | 73              | 24                    | 7               | 3 | 9      | 1 | # 9-GFI                                          |
|               |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 1-2/30(18)                                       |
| 2B            | 780           | 2340                | 10,500             | 3,568             | 16,408            | 68              | 24                    | 7               | 3 | 8      | 1 | # 9-GFI                                          |
|               |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | 1-2/30(16)                                       |
|               |               |                     |                    |                   |                   |                 |                       |                 |   |        |   | # 9-GFI                                          |

ATTACHMENT # 1

## ATTACHMENT # 2

| LIGHTING FIXTURE SCHEDULE |            |                                                                                       |
|---------------------------|------------|---------------------------------------------------------------------------------------|
| TYPE                      | LOCATION   | DESCRIPTION                                                                           |
| AA                        | ENTRY      | SURF INCAND, 2-60W, 9½" DIA, WHITE GLASS DIFF, LEADCO # 848 WHGJM                     |
| BB                        | KITCHEN    | SURF FLUOR, ACRYLIC DIFF, 2-32W, T-8 LAMPS, RAPIDLITE # WA232300120VGJM               |
| CC                        | BATHROOM   | WALL FLUOR, 2-20W, T-8, WHITE ACRYLIC DIFF, RAPIDLITE # MWA282220120VGJ               |
| DD                        | HALL, CLOS | SURF INCAND, 2-60W, 8" DIA, WHITE DRUM, LEADCO # M837WHGJ                             |
| EE                        | DINING/LVG | SURF INCAND, 3-60W, 15" DIA, WHITE GLASS DIFF, LEADCO # M420BRGJ                      |
| FF                        | ----       | NOT USED                                                                              |
| GG                        | KITCHEN    | SURF COMP FLUOR, 11½" DIA, 2-18WCF, G24d Sht, MIROFLECTOR # MMIRO-Q7/218SM120VGJ      |
| HH                        | KITCHEN    | UNDERCABINET, 2-20W, DIMMABLE LOW VOLTAGE HLG, ALKCO # MLINCSCJ                       |
| II                        | TERRACE    | WALL FLUR, WP, 10" DIA, GLASS DIFF, 13W QUAD, TERON #MBEC18QGJ                        |
| A                         | PUBL SPACE | SURF CMPCT FLUOR, POLYCARB LENS, 12½" SQ, 3-PL13 LAMPS. TERON # MMI39GJ               |
| Al                        | PUBL SPACE | SAME AS TYPE "A" EXCEPT WITH EMERG BALLAST.                                           |
| B                         | ----       | NOT USED                                                                              |
| C                         | BASEMENT   | SURF FLUOR, 2-32W, T-8 LAMPS, RAPIDLITE #MFA232120VJG                                 |
| C1                        | BASEMENT   | SAME AS TYPE "C" EXCEPT WITH EMERG BALLAST                                            |
| D                         | BASEMENT   | KEYLESS PORC LAMPHOLDER, 1-18W SELF BALLASTED CMPCT FLUOR, P&S 110, LEVTION # 9875-2  |
| E                         | ----       | NOT USED                                                                              |
| F                         | EXTERIOR   | WALL, HPS, 70W, GASKETED POLYCARB, PHOTOCELL "ON" TIME CLOCK "OFF". TERON # MCA70GJ   |
| G                         | STAIR      | FLUOR, 1x4, SURF, ACRYLIC DIFF, 2-32W, T-8, ELECTRONIC BALLAST, RAPIDLITE # MCON1X4JG |
| H                         | MAILBOX    | SURF, WALLWASH, 150W QTZ, THLGN, T-4 minican base. Rambusch #MSLLP150QWMGJ            |
| I                         | EXTERIOR   | REC, 12"DIA 100WHPS LAMP, SPERO #MREC100HPS120PCR                                     |

## ATTACHMENT # 3



## 12. RECONSTRUCTION OF FOUNDATION WALL SHALL INCLUDE THE FOLLOWING:

- PRE-DEMOLITION SURVEY BY PROJECT ENGINEER TO DEFINE EXACT SCOPE OF DEMOLITION.
- A FULL SET OF SHORING DRAWINGS STAMPED BY AN ENGINEER LICENSED BY THE STATE OF NEW YORK. SHORING SHALL INCLUDE TEMPORARY SUPPORT OF MASONRY WALL AND JOISTS DIRECTLY ABOVE WORK AS WELL AS ANY SHEETING REQUIRED BY EXCAVATION.
- AFTER SHORING IS IN PLACE DEMOLITION OF EXISTING FOUNDATION WALL AND REPLACEMENT OF WALL WITH NEW CONCRETE FOUNDATION WALL AND FOOTING MAY COMMENCE. BOTTOM OF NEW FOOTING SHALL MATCH EXISTING.
- CONSTRUCTION OF NEW FOUNDATION SHALL BE SIMILAR TO SECTION 2/S-4. WIDTH OF FOOTING SHALL MATCH EXISTING AND REINFORCEMENT SHALL BE DETERMINED DURING CONSTRUCTION.
- RECONSTRUCTION OF 227 WATER STREET WEST WALL (BETWEEN 1ST AND 2ND FLOORS) SHALL FOLLOW a THRU d AND MAY OCCUR SIMULTANEOUSLY TO FOUNDATION WORK AS LONG AS SHORING IS PROPERLY DESIGNED.
- EXTENT OF WALL RECONSTRUCTION NOTED IS BASED ON VISUAL PRE-DESIGN SURVEY. FULL EXTENT SHALL BE DETERMINED WHEN EXISTING STUCCO IS REMOVED AND QUALITY OF MASONRY CAN BE EXAMINED. BUILDING MUST BE FULLY LIT FOR INTERIOR EXAMINATION OF MASONRY.

- FINAL DETERMINATION OF JOIST REPLACEMENT (AMONG JOISTS NOTED AS REMAINING) SHALL OCCUR DURING PRE-CONSTRUCTION WALK-THRU WITH PROJECT ENGINEER AND ARCHITECT. BUILDING SHALL BE PROPERLY LIT AND FULLY ACCESSIBLE DURING THIS WALK-THRU.

REVISED: 6 MARCH 1997  
 12 JANUARY 1998

Structural Engineers  
 Friedman & Oppenheimer, LLP  
 151 West 36th Street, 8th Floor  
 New York, NY 10018

## D-22

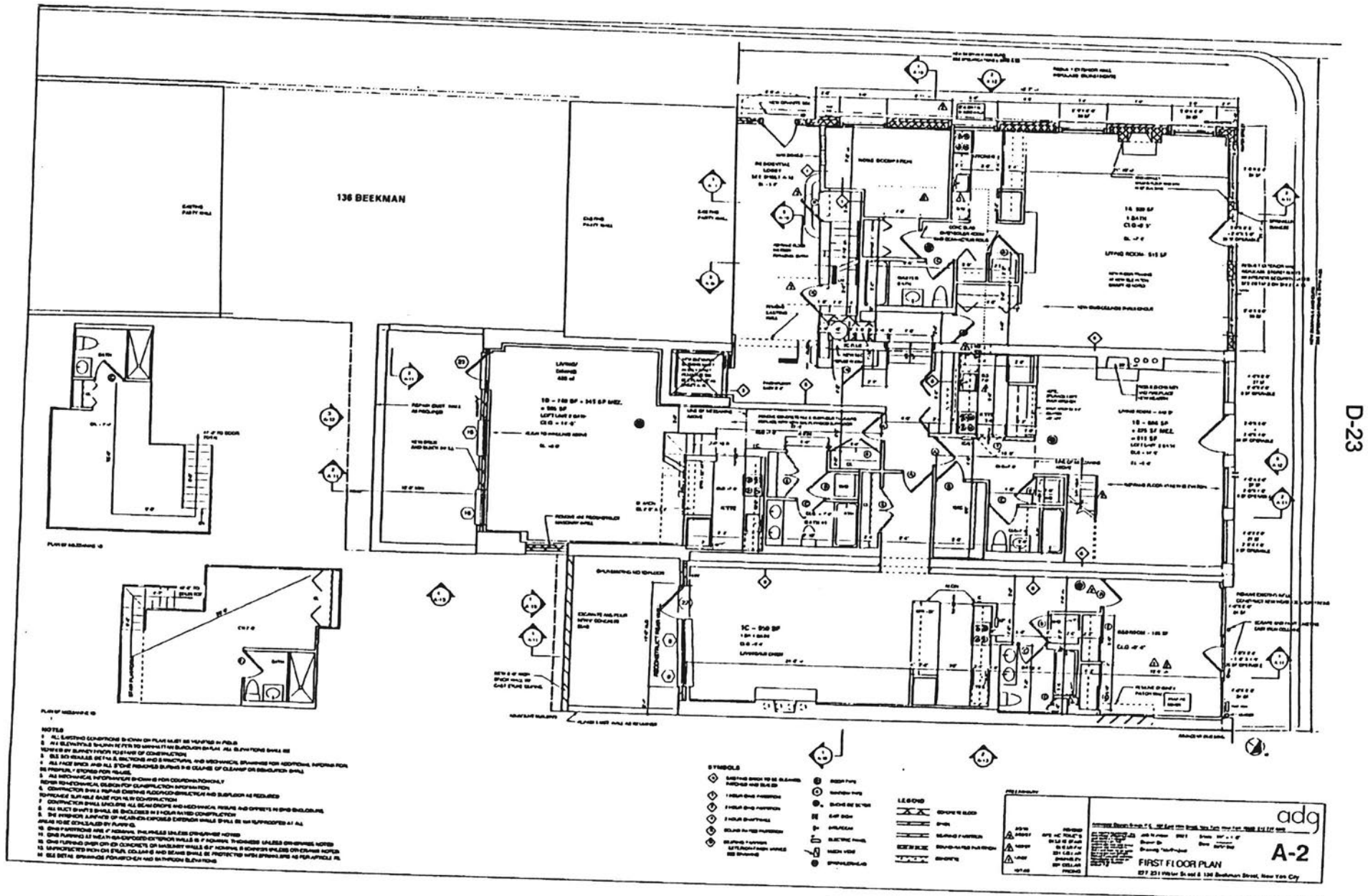


**LEGEND**

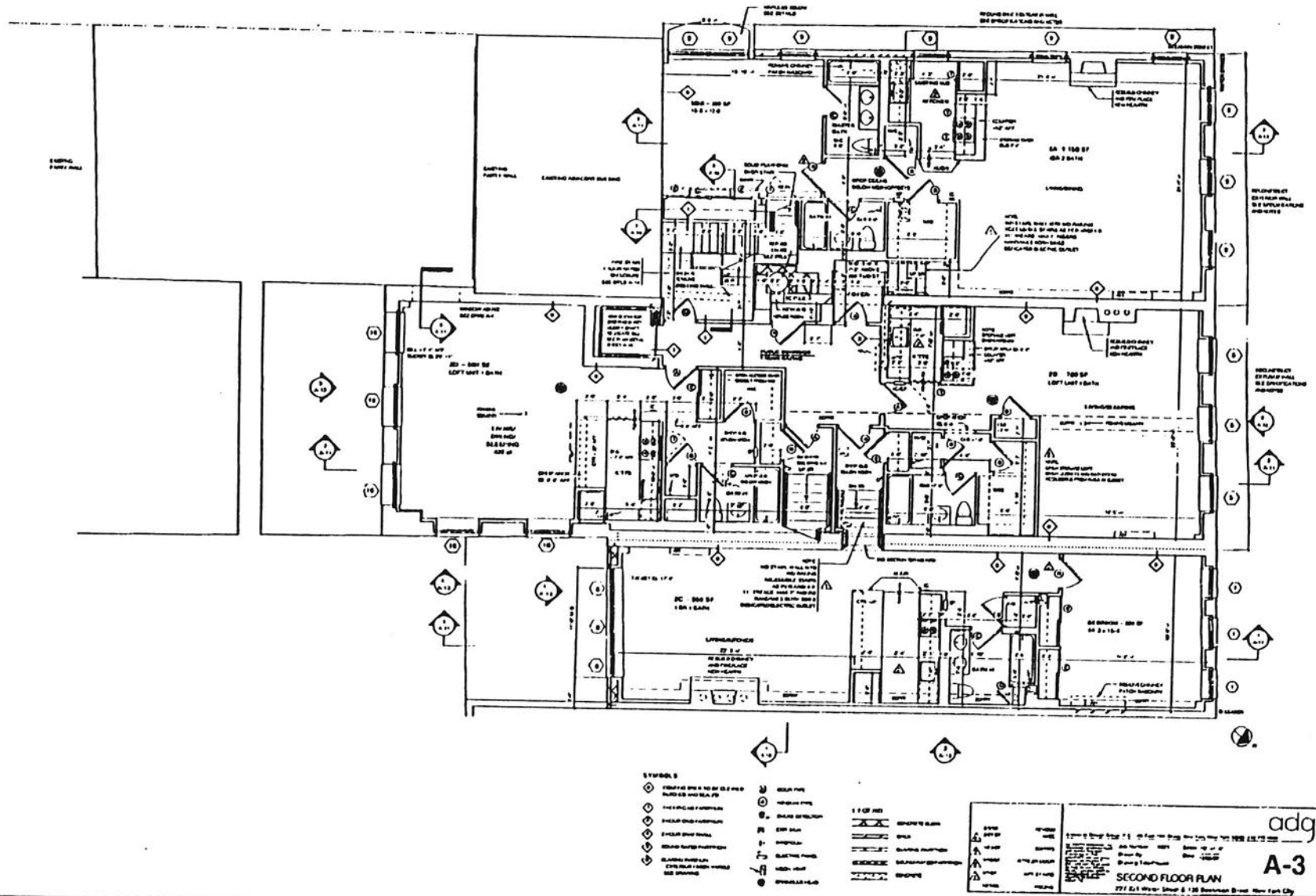
|                                                                                       |                    |
|---------------------------------------------------------------------------------------|--------------------|
|  | CONJUGATE BACTERIA |
|  | SPHER              |
|  | SEPARATING PLASMID |
|  | SEPARATING PLASMID |
|  | CONJUGATE          |

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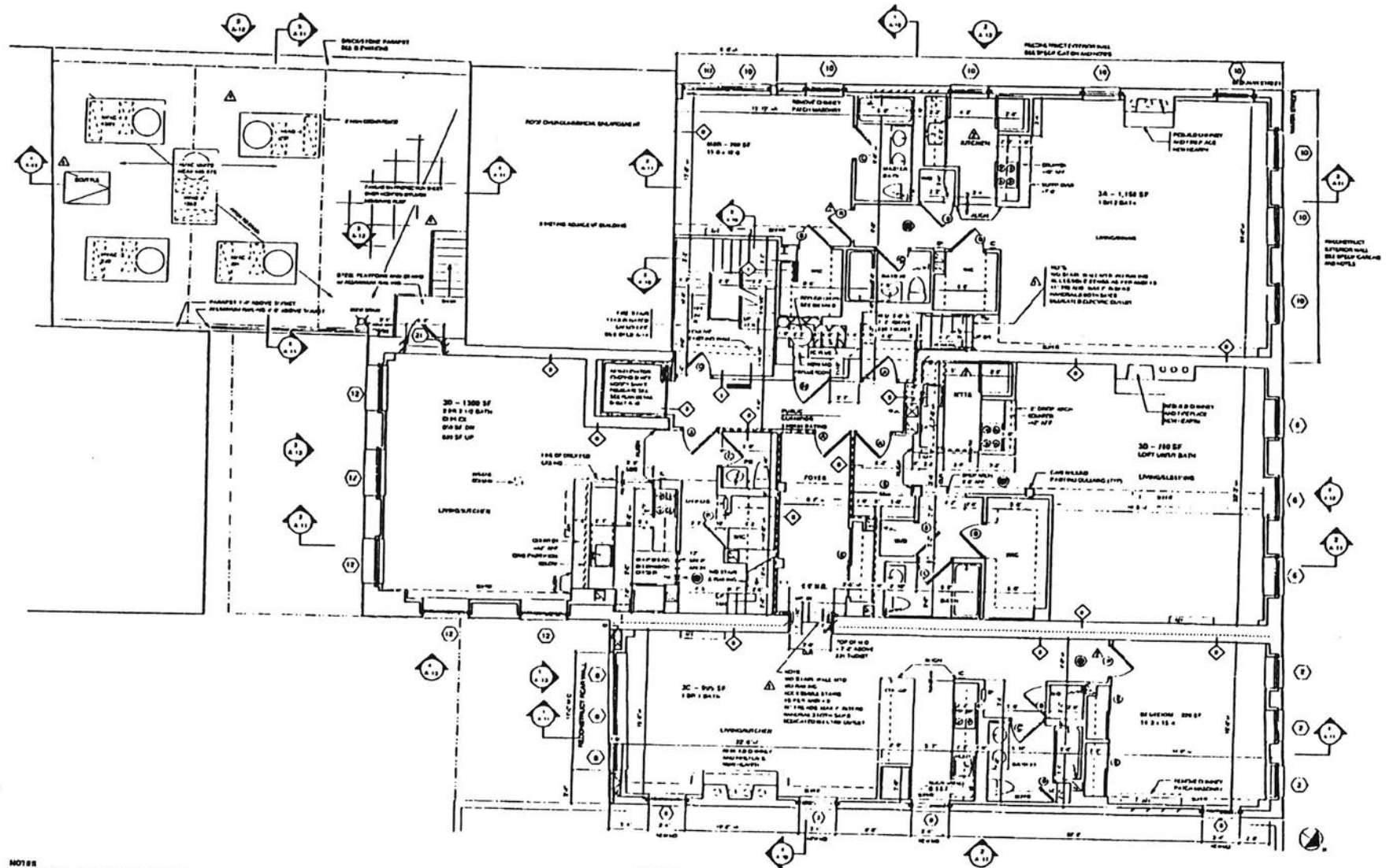




ATTACHMENT # 4.3







- NOTES**
1. ALL FINISH CONDITIONS SHOWN ON PLAN MUST BE SHOWN IN THE B.
  2. ALL ELEVATIONS SHOWN MUST BE SHOWN IN THE B. ALL ELEVATIONS SHALL BE VERIFIED BY SURVEY PRIOR TO START OF CONSTRUCTION.
  3. SEE THE NOTES TO THE B. FOR ADDITIONAL INFORMATION.
  4. ALL FACE BRICK AND ALL SPONGE REMOVED DURING THE COURSE OF CONSTRUCTION FOR ADDITIONAL INFORMATION.
  5. ALL INTERIOR WALLS SHALL BE REMOVED DURING THE COURSE OF CONSTRUCTION FOR ADDITIONAL INFORMATION.
  6. ALL INTERIOR WALLS SHALL BE REMOVED DURING THE COURSE OF CONSTRUCTION FOR ADDITIONAL INFORMATION.
  7. ALL INTERIOR WALLS SHALL BE REMOVED DURING THE COURSE OF CONSTRUCTION FOR ADDITIONAL INFORMATION.
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  11. ALL INTERIOR WALLS SHALL BE REMOVED DURING THE COURSE OF CONSTRUCTION FOR ADDITIONAL INFORMATION.
  12. ALL INTERIOR WALLS SHALL BE REMOVED DURING THE COURSE OF CONSTRUCTION FOR ADDITIONAL INFORMATION.

- SYMBOLS**
- 1. EASTING SOUTH TO THE CENTER
  - 2. NORTH AND SOUTH
  - 3. NORTH AND SOUTH
  - 4. NORTH AND SOUTH
  - 5. NORTH AND SOUTH
  - 6. NORTH AND SOUTH
  - 7. NORTH AND SOUTH
  - 8. NORTH AND SOUTH
  - 9. NORTH AND SOUTH
  - 10. NORTH AND SOUTH
  - 11. NORTH AND SOUTH
  - 12. NORTH AND SOUTH

- LEGEND**
- 1. BRICK TYPE
  - 2. BRICK TYPE
  - 3. BRICK TYPE
  - 4. BRICK TYPE
  - 5. BRICK TYPE
  - 6. BRICK TYPE
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  - 12. BRICK TYPE

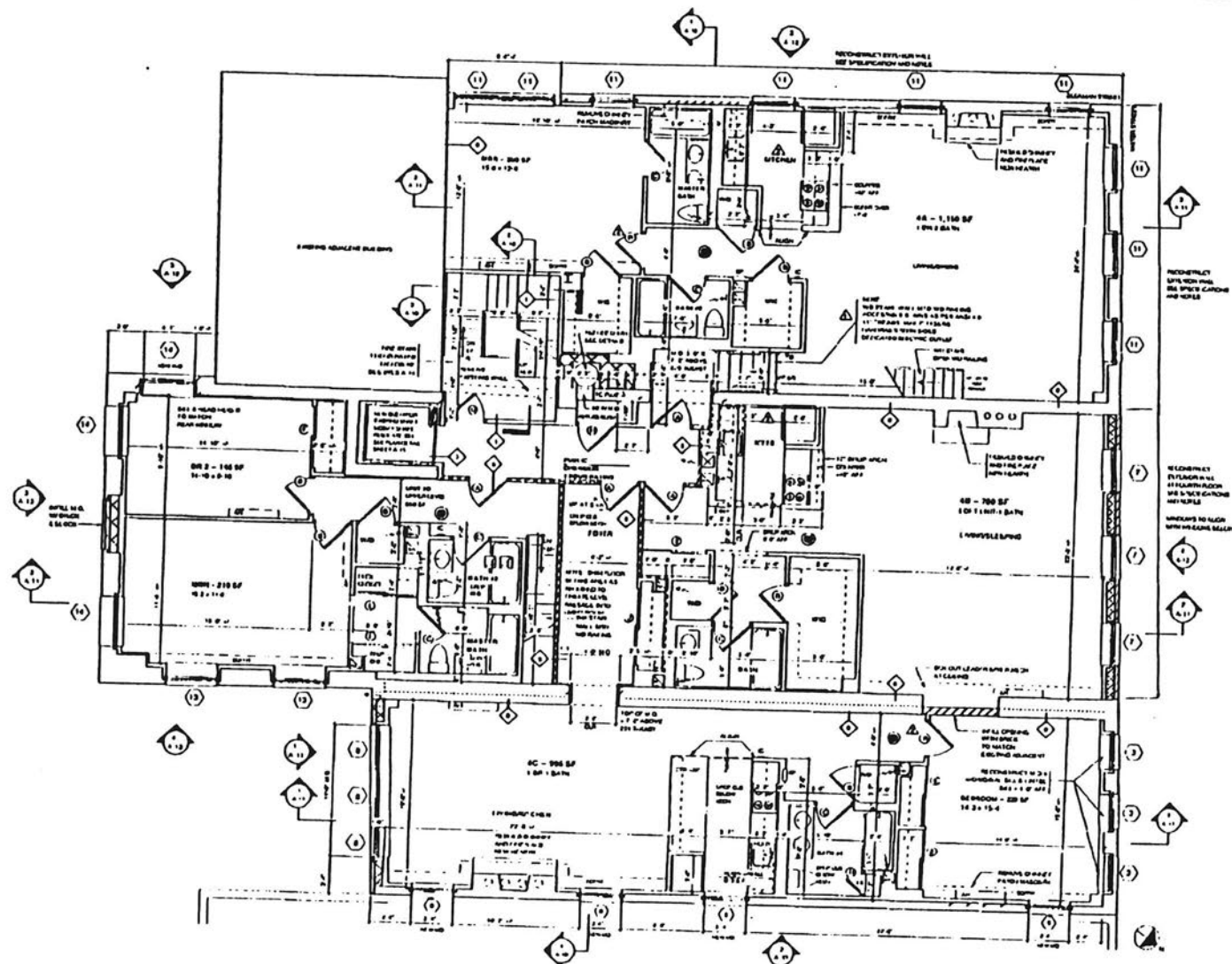
THIRD FLOOR PLAN

222 231 Avenue Street & 10th Avenue Street New York City

adg

A-5

## ATTACHMENT # 4.6



- [illegible]

## SYMBOLS

- |   |                                                   |    |                                                         |
|---|---------------------------------------------------|----|---------------------------------------------------------|
| 1 | 1. <u>What was the main purpose of the study?</u> | 7  | 7. <u>What was the main conclusion of the study?</u>    |
| 2 | 2. <u>What was the research design?</u>           | 8  | 8. <u>What were the limitations of the study?</u>       |
| 3 | 3. <u>What were the participants?</u>             | 9  | 9. <u>What were the strengths of the study?</u>         |
| 4 | 4. <u>What were the independent variables?</u>    | 10 | 10. <u>What were the implications of the study?</u>     |
| 5 | 5. <u>What were the dependent variables?</u>      | 11 | 11. <u>What were the future research directions?</u>    |
| 6 | 6. <u>What were the results of the study?</u>     | 12 | 12. <u>What were the overall findings of the study?</u> |

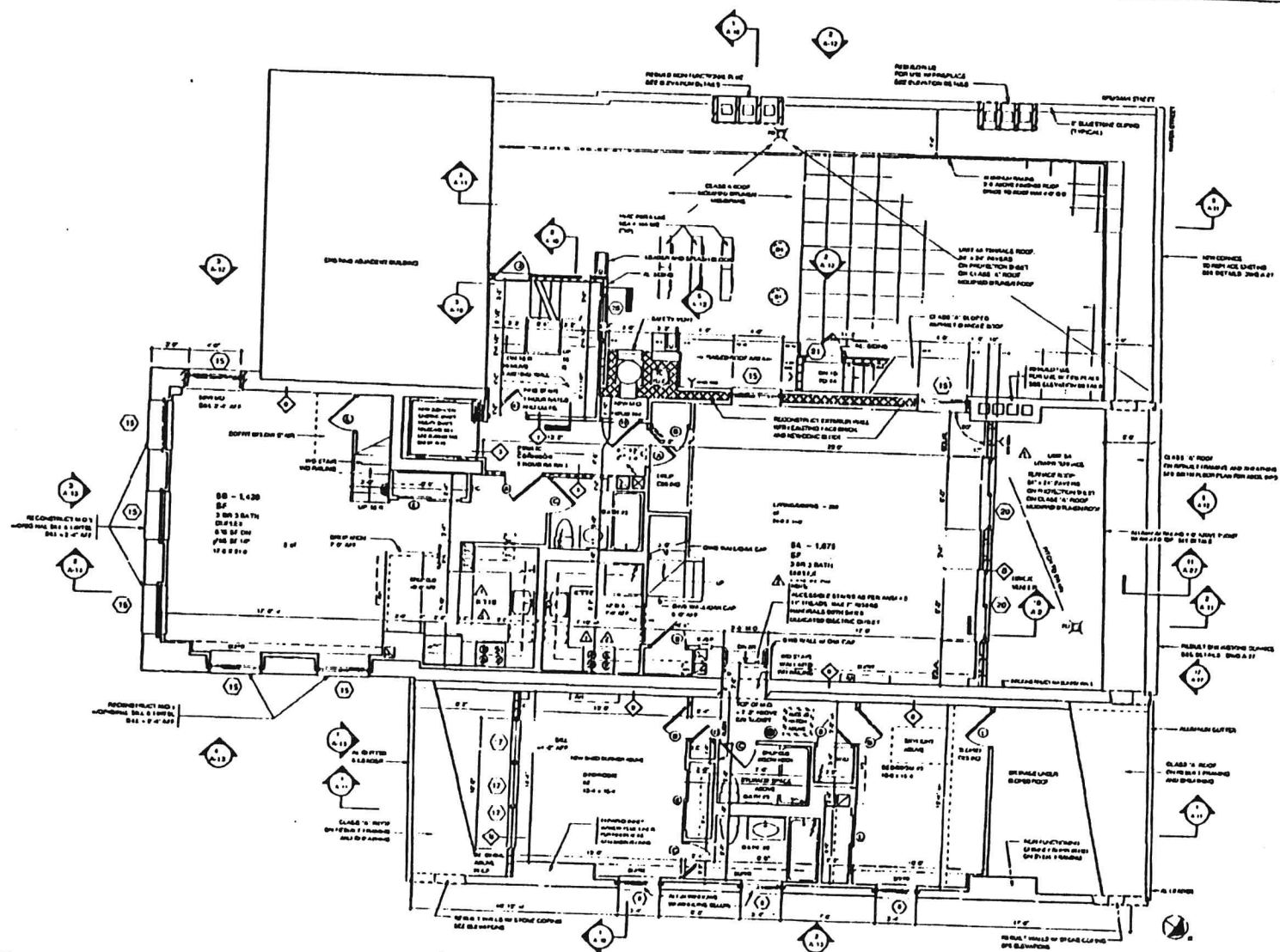
**ISSUED**

**VV** **COPY 9**

adq

A-6



[illegible]

**SYMBOLS**

- ① EATING BREAK TO BE 15 MINUTES AND 15 SECS
- ② 1 HOUR LONG PARTITION
- ③ 2 HOUR LONG PARTITION
- ④ 3 HOUR DOWNFALL
- ⑤ SECOND EATING PARTITION
- ⑥ EATING POINT (10 SECS IN 15 MIN + 15 SECS + 15 SECS)

**LEGEND**

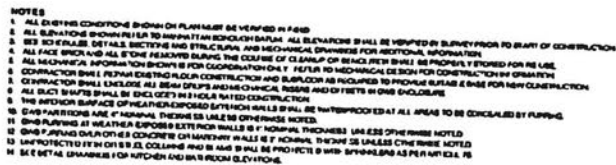
|                                                                                       |                           |
|---------------------------------------------------------------------------------------|---------------------------|
|  | SILICOTITE BLACK          |
|  | GRIT                      |
|  | GLASS FIBER PARTITION     |
|  | SOUND-ABSORBING PARTITION |
|  | CONCRETE                  |

|   |      |      |
|---|------|------|
| △ | 2500 |      |
| △ | 1000 | 1000 |
| △ | 500  | 500  |
| △ | 100  | 100  |

[illegible]

adg  
A-7

D-28



- |   |                            |   |                 |
|---|----------------------------|---|-----------------|
| ① | STRETCH BRICKS TO BE 600mm | ⑩ | BRICK TYPE      |
| ② | PRACTICE AND SEALLED       | ⑪ | WALLS TYPE      |
| ③ | 1 HOUR SHOT PARTITION      | ⑫ | SHOTS DETECTED  |
| ④ | 2 HOUR SHOT PARTITION      | ⑬ | LAIR BOX        |
| ⑤ | 2 HOUR SHOT WALL           | ⑭ | INTERCOM        |
| ⑥ | SOUND BARRIER PARTITION    | ⑮ | IS ACTING PANEL |
| ⑦ | SEALING PARTITION          | ⑯ | WALLS W/O       |
| ⑧ | EXTENSION W/IN 1 HOUR      | ⑰ | 200mm WALL      |
| ⑨ | SEE COMMENTS               |   |                 |

|                                                                                       |               |
|---------------------------------------------------------------------------------------|---------------|
|  | SEALING BLOCK |
|  | SPICE         |
|  | SEALING PAPER |
|  | SEALING PLATE |
|  | CLAMP         |

### LOW POA CONSTRUCTION

adq

# A-9

271 231 241 251 261 271 281 291 301 311 321 331 341 351 361 371 381 391 401 411 421 431 441 451 461 471 481 491 501 511 521 531 541 551 561 571 581 591 601 611 621 631 641 651 661 671 681 691 701 711 721 731 741 751 761 771 781 791 801 811 821 831 841 851 861 871 881 891 901 911 921 931 941 951 961 971 981 991

CONTINENTAL ABSTRACT CORPORATION

One Old Country Road, Carle Place, N.Y. 11514

(516) 248-1180 (212) 936-2666

Fax # (516) 248-7596

August 30, 2000

Barr & Associates  
866 United Nations Plaza  
Suite 415  
New York, N.Y. 10017  
Attn: Franklin Barr, Esq.

Re: Our Title No. : 98 01 100500549 (M338626)  
Premises: 227-229 & 231 Water Street, New York  
Names: Beekman Water Associates, LLC/Client of Applicant

---

Dear Sir:

Enclosed herewith please find the following Schedule(s) to be used in place of the one(s) already in your report:

- |                                                                |                                                                   |
|----------------------------------------------------------------|-------------------------------------------------------------------|
| <input type="checkbox"/> Amended Certification Page            | <input type="checkbox"/> Amended Description (Schedule "A")       |
| <input type="checkbox"/> Amended Schedule "B" (Exception Page) | <input type="checkbox"/> Amended Mortgage Schedule                |
| <input type="checkbox"/> Additional Tax Search                 | <input checked="" type="checkbox"/> Additional Municipal Searches |

Very truly yours,

Continental Abstract Corporation



BRUCE P. KLESTINEC  
BPK/lt  
Enc.

# **BARRETTA RESEARCH**

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1 Old Country Road  
Carle Place, New York 11514  
(516)663-0600  
(800)275-9643  
Fax (516)663-0650  
(800)200-3499

08/25/2000

CONT M338626

Block: 97 Lot(s): 46

130/132 BEEKMAN STREET  
AKA: 227/231 WATER STREET

MANHATTAN

Street Report  
=====

A search of the Topographical Department shows the following results:

Street width: WATER STREET MAPPED AT 50' OPEN 1736 TO THE FULL WIDTH

Cross streets: BEEKMAN STREET MAPPED AT 60' DEEDED 09/27/1708 TO THE FULL  
WIDTH

Barretta Research does hereby certify that the records of the above governmental agency were examined for CONTINENTAL ABSTRACT CORP. The information reported above is a true and accurate abstract of the information reported therein and no liability is assumed. This report is submitted for information purposes only for the exclusive use of CONTINENTAL ABSTRACT CORP.

id# 2252994 6810790

# **BARRETTA RESEARCH**

1 Old Country Road  
Carle Place, New York 11514  
(516)663-0600  
(800)275-9643  
Fax (516)663-0650  
(800)200-3499

CONT M338626

08/28/2000

AKA: 130/132 BEEKMAN STREET  
227/231 WATER STREET

MANHATTAN

BLOCK : 97

LOT : 46

## **CERTIFICATE OF OCCUPANCY SEARCH**

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Attached find (2 ) Certificates of Occupancy issued for the above premises:

227/231 Water Street:

Attached find a copy of Certificate of Occupancy # 101396810 issued on 6/22/2000 for a mezzanine and six story non-fireproof building; eighteen Class "A" apartments.

According to the Building Department Index records, there are no alteration plans approved subsequent to the Certificate of Occupancy that either change or propose to change the legal occupancy of these premises.

136 Beekman Street:

Attached find a copy of Certificate of Occupancy # 102054081 issued on 6/22/2000 for a four story non-fireproof building; one family dwelling and garage.

The attached Certificate of Occupancy is correct by description.

Continued on next page..



# **BARRETTA RESEARCH**

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1 Old Country Road  
Carle Place, New York 11514  
(516)663-0600  
(800)275-9643  
Fax (516)663-0650  
(800)200-3499

Continued

CONT M338626

According to the Building Department Index records, there are no alteration plans approved subsequent to the Certificate of Occupancy that either change or propose to change the legal occupancy of these premises.

Barretta Research does hereby certify that the records of the above governmental agency were examined for CONTINENTAL ABSTRACT CORP. The information reported above is a true and accurate abstract of the information reported therein and no liability is assumed. This report is submitted for information purposes only for the exclusive use of CONTINENTAL ABSTRACT CORP.

id# 2252994 6810786



# DEPARTMENT OF BUILDINGS CERTIFICATE OF OCCUPANCY

BOROUGH MANHATTAN

DATE JUN 23 2000 NO. 101396810

This certificate supersedes C.O. NO

ZONING DISTRICT C6--

THIS CERTIFIES that the ~~new~~ altered ~~existing~~ building—premises located at

227-231 WATER STREET

Block 97 Lot 4

CONFORMS SUBSTANTIALLY TO THE APPROVED PLANS AND SPECIFICATIONS AND TO THE REQUIREMENTS OF ALL APPLICABLE RULES, AND REGULATIONS FOR THE USES AND OCCUPANCIES SPECIFIED HEREIN.

## PERMISSIBLE USE AND OCCUPANCY

| STORY                                                     | LIVE LOAD<br>LBS. PER<br>SQ. FT. | MAXIMUM<br>NO. OF<br>PERSONS<br>PERMITTED | ZONING<br>DWELLING<br>OR ROOMING<br>UNITS | BUILDING<br>CODE<br>HABITABLE<br>ROOMS | ZONING<br>USE GROUP | BUILDING<br>CODE<br>OCCUPANCY<br>GROUP | DESCRIPTION OF USE                     |
|-----------------------------------------------------------|----------------------------------|-------------------------------------------|-------------------------------------------|----------------------------------------|---------------------|----------------------------------------|----------------------------------------|
| CELLAR                                                    | OG                               |                                           |                                           |                                        |                     |                                        | MECHANICAL, STORAGE,<br>COMPACTOR ROOM |
| 1ST FLOOR                                                 | 100<br>40                        |                                           | 4                                         | 6                                      | 2                   | RES                                    | RESIDENTIAL LOBBY                      |
| MEZZANINE                                                 | 40                               |                                           |                                           |                                        | 2                   | RES                                    | CLASS "A" APARTMENTS                   |
| 2ND FLOOR                                                 | 40                               |                                           | 4                                         | 6                                      | 2                   | RES                                    | MEZZANINE                              |
| 2ND MEZZ-<br>ANINE                                        | 40                               |                                           | 1                                         | 2                                      | 2                   | RES                                    | CLASS "A" APARTMENTS                   |
| 3RD FLOOR                                                 | 40                               |                                           | 3+<br>.5                                  | 6                                      | 2                   | RES                                    | CLASS "A" APARTMENTS                   |
| 4TH FLOOR                                                 | 40                               |                                           | 3+<br>.5                                  | 7                                      | 2                   | RES                                    | CLASS "A" APARTMENTS                   |
| 5TH FLOOR                                                 | 40                               |                                           | 2.5                                       | 4                                      | 2                   | RES                                    | CLASS "A" APARTMENTS                   |
| 6TH FLOOR                                                 | 40                               |                                           | 2.5                                       | 4                                      | 2                   | RES                                    | CLASS "A" APARTMENTS                   |
| HEREAFTER ERECTED CLASS A MULTIPLE DWELLING               |                                  |                                           |                                           |                                        |                     |                                        |                                        |
| TOTAL: 18 CLASS "A" APARTMENTS                            |                                  |                                           |                                           |                                        |                     |                                        |                                        |
| MDL ART 7B OLD CODE                                       |                                  |                                           |                                           |                                        |                     |                                        |                                        |
| THIS ZONING LOT IS COMPRISED OF TAX LOTS 44,46 AND 144 AS |                                  |                                           |                                           |                                        |                     |                                        |                                        |
| RECORDED IN THE COUNTY CLERKS OFFICE PAGE 1997 REEL 2975  |                                  |                                           |                                           |                                        |                     |                                        |                                        |
| AND PAGE 2002 REEL 2975.                                  |                                  |                                           |                                           |                                        |                     |                                        |                                        |
| THIS CERTIFICATE OF OCCUPANCY MUST BE POSTED              |                                  |                                           |                                           |                                        |                     |                                        |                                        |
| WITHIN THE BUILDING IN ACCORDANCE WITH THE RULES          |                                  |                                           |                                           |                                        |                     |                                        |                                        |
| OF THE DEPARTMENT PROMULGATED MARCH 21ST, 1907.           |                                  |                                           |                                           |                                        |                     |                                        |                                        |

OPEN SPACE USES

(SPECIFY—PARKING SPACES, LOADING BERTHS, OTHER USES, NONE)

M.G.

NO CHANGES OF USE OR OCCUPANCY SHALL BE MADE UNLESS  
A NEW AMENDED CERTIFICATE OF OCCUPANCY IS OBTAINEDTHIS CERTIFICATE OF OCCUPANCY IS ISSUED SUBJECT TO FURTHER LIMITATIONS, CONDITIONS AND  
SPECIFICATIONS NOTED ON THE REVERSE SIDE.

*Romy A. L...*  
BOROUGH SUPERINTENDENT

*Richard V. ...*  
Acting Commissioner  
37

COMMISSIONER

☐ ORIGINAL☐ OFFICE COPY - DEPARTMENT OF BUILDINGS☒ COPY

THAT THE ZONING LOT ON WHICH THE PREMISES IS LOCATED IS BOUNDED AS FOLLOWS:

BEGINNING at a point on the SOUTHERLY  
 distant 0'-0" SOUTH side of WATER STREET  
 running thence EASTERLY 66.72 feet from the corner formed by the intersection of  
 thence WESTERLY 16.62 and BEEKMAN STREET  
 thence WESTERLY 25.62 feet; thence SOUTHERLY 72.93 feet  
 thence WESTERLY 25.63 feet; thence SOUTHERLY 20.38 feet  
 to the point or place of beginning. EASTERLY 25.40, NORTHERLY 16.37 feet  
 17.90 WESTERLY 25.50 feet  
 NORTHERLY 53.83 feet

101396810  
 XXXX ALT. No.

DATE OF COMPLETION 5/16/00

BUILDING OCCUPANCY GROUP CLASSIFICATION  
 RESIDENTIAL

CONSTRUCTION CLASSIFICATION CLASS 3NON-FI  
 HEIGHT 6 STORIES, 66' FEET

THE FOLLOWING FIRE DETECTION AND EXTINGUISHING SYSTEMS ARE REQUIRED AND WERE INSTALLED IN COMPLIANCE WITH  
 APPLICABLE LAWS.

|                                                  | YES | NO |                            | YES | NO |
|--------------------------------------------------|-----|----|----------------------------|-----|----|
| STANDPIPE SYSTEM                                 |     |    | AUTOMATIC SPRINKLER SYSTEM |     |    |
| YARD HYDRANT SYSTEM                              |     |    |                            |     |    |
| STANDPIPE FIRE TELEPHONE AND<br>SIGNALING SYSTEM |     |    |                            |     |    |
| SMOKE DETECTOR                                   |     |    |                            |     |    |
| FIRE ALARM AND SIGNAL SYSTEM                     |     |    |                            |     |    |

STORM DRAINAGE DISCHARGES INTO:

A) STORM SEWER ☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM ☐

SANITARY DRAINAGE DISCHARGES INTO:

A) SANITARY SEWER ☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM ☐

LIMITATIONS OR RESTRICTIONS:

BOARD OF STANDARDS AND APPEALS CAL. NO. \_\_\_\_\_

CITY PLANNING COMMISSION CAL. NO. \_\_\_\_\_

OTHER: \_\_\_\_\_



# DEPARTMENT OF BUILDINGS CERTIFICATE OF OCCUPANCY

BOROUGH MANHATTAN

DATE: JUN 22 2000

NO. 102054081

This certificate supersedes C.O. NO

THIS CERTIFIES that the ~~NEW~~ altered ~~EXISTING~~ building premises located at

136 BEEKMAN STREET

ZONING DISTRICT C6-

Block 97 Lot

CONFORMS SUBSTANTIALLY TO THE APPROVED PLANS AND SPECIFICATIONS AND TO THE REQUIREMENTS OF ALL APPLICABLE RULES, AND REGULATIONS FOR THE USES AND OCCUPANCIES SPECIFIED HEREIN.

## PERMISSIBLE USE AND OCCUPANCY

| STORY                                                                                                                                                 | LIVE LOAD<br>LBS. PER<br>SQ. FT. | MAXIMUM<br>NO. OF<br>PERSONS<br>PERMITTED | ZONING<br>DWELLING<br>OR ROOMING<br>UNITS | BUILDING<br>CODE<br>HABITABLE<br>ROOMS | ZONING<br>USE GROUP | BUILDING<br>CODE<br>OCCUPANCY<br>GROUP | DESCRIPTION OF USE             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-------------------------------------------|-------------------------------------------|----------------------------------------|---------------------|----------------------------------------|--------------------------------|
| 1ST FLOOR                                                                                                                                             | OG                               |                                           | 1/4                                       |                                        |                     | B-2                                    | GARAGE (ACCESSORY TO DWELLING) |
| 2ND FLOOR                                                                                                                                             | 40                               |                                           | 1/4                                       | 1                                      | 2                   | J-3                                    | PART OF DWELLING UNIT          |
| 3RD FLOOR                                                                                                                                             | 40                               |                                           | 1/4                                       | 1                                      | 2                   | J-3                                    | PART OF DWELLING UNIT          |
| 4TH FLOOR                                                                                                                                             | 40                               |                                           | 1/4                                       | 2                                      | 2                   | J-3                                    | PART OF DWELLING UNIT          |
| ROOF                                                                                                                                                  | 40                               |                                           |                                           |                                        |                     |                                        | STAIR BULKHEAD                 |
| COMMERCIAL<br>OLD CODE                                                                                                                                |                                  |                                           |                                           |                                        |                     |                                        |                                |
| NOTE: ONE (1) DWELLING & GARAGE (ACCESSORY TO DWELLING UNIT)<br>NEW CODE J-3                                                                          |                                  |                                           |                                           |                                        |                     |                                        |                                |
| THIS ZONING LOT IS COMPRISED OF TAX LOTS 44, 46 AND 144<br>AS RECORDED IN THE COUNTY CLERK'S OFFICE PAGE 1997, REEL<br>2975 AND PAGE 2002, REEL 2975. |                                  |                                           |                                           |                                        |                     |                                        |                                |

THIS CERTIFICATE OF OCCUPANCY MUST BE POSTED  
WITHIN THE BUILDING IN ACCORDANCE WITH THE RULES  
OF THE DEPARTMENT PROMULGATED MARCH 21ST, 1967.

OPEN SPACE USES

(SPECIFY - PARKING SPACES, LOADING BERTHS, OTHER USES, NONE)

M.G.

NO CHANGES OF USE OR OCCUPANCY SHALL BE MADE UNLESS  
A NEW AMENDED CERTIFICATE OF OCCUPANCY IS OBTAINEDTHIS CERTIFICATE OF OCCUPANCY IS ISSUED SUBJECT TO FURTHER LIMITATIONS/CONDITIONS AS  
SPECIFICATIONS NOTED ON THE REVERSE SIDE

*Glenn A. Amin*  
BOROUGH SUPERINTENDENT

MBO

*Richard A. Gorman*  
Acting Commissioner

137

COMMISSIONER

☐ ORIGINAL☐ OFFICE COPY - DEPARTMENT OF BUILDINGS☐ COPY

THAT THE ZONING LOT ON WHICH THE PREMISES IS LOCATED IS BOUNDED AS FOLLOWS:

BEGINNING at a point on the SOUTH WEST side of WATER STREET  
 distant 0'-0" feet from the corner formed by the intersection of  
 WATER STREET and BEEKMAN STREET  
 running thence EAST 66.72' feet; thence SOUTH 72.93' feet;  
 thence WEST 16.62' feet; thence SOUTH 20.38' feet;  
 thence WEST 25.62', SOUTH 16.37' feet; thence WEST 25.63, NORTH 37.07 feet;  
 thence EAST 25.54', NORTH 17.90' feet; thence WEST 25.50, NORTH 53.83 feet;  
 to the point or place of beginning.

102054081

XXXX ALT. No.

DATE OF COMPLETION

BUILDING OCCUPANCY GROUP CLASSIFICATION  
 RESIDENTIAL

CONSTRUCTION CLASSIFICATION CLASS 3NON-FIRE  
 HEIGHT 4 & ROOF STORIES 41' 4" FEET

THE FOLLOWING FIRE DETECTION AND EXTINGUISHING SYSTEMS ARE REQUIRED AND WERE INSTALLED IN COMPLIANCE WITH  
 APPLICABLE LAWS.

|                                                   | YES | NO |                            | YES | NO |
|---------------------------------------------------|-----|----|----------------------------|-----|----|
| STANDPIPE SYSTEM                                  |     |    | AUTOMATIC SPRINKLER SYSTEM |     |    |
| YARD HYDRANT SYSTEM                               |     |    |                            |     |    |
| STANDPIPE FIRE TELEPHONE AND<br>SIGNALLING SYSTEM |     |    |                            |     |    |
| SMOKE DETECTOR                                    |     |    |                            |     |    |
| FIRE ALARM AND SIGNAL SYSTEM                      |     |    |                            |     |    |

STORM DRAINAGE DISCHARGES INTO:

A) STORM SEWER ☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM ☐

SANITARY DRAINAGE DISCHARGES INTO:

A) SANITARY SEWER ☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM ☐

LIMITATIONS OR RESTRICTIONS:

BOARD OF STANDARDS AND APPEALS CAL. NO. \_\_\_\_\_

CITY PLANNING COMMISSION CAL. NO. \_\_\_\_\_

OTHERS: \_\_\_\_\_



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# GCI ENVIRONMENTAL ADVISORY, INC.

655 Third Avenue

New York, NY 10017

(212) 986-9460

Fax: (212) 986-9464

March 15, 2000

Mr. Gus Fotos  
Philips International Holding Corp.  
417 Fifth Avenue  
New York, NY 10016

RE: 130 Beekman Street, NYC

Dear Mr. Fotos,

GCI Environmental Advisory, Inc. performed a Visual Asbestos Inspection Survey within the above referenced location during March 13, 2000. The purpose of this survey was to locate, identify and quantify "suspected" asbestos-containing building materials (ACBMs) as they presently exist within the above referenced property. The survey was conducted by Mr. James Grond, a New York City Certified Asbestos Investigator #76456 (Expires 2/12/02).

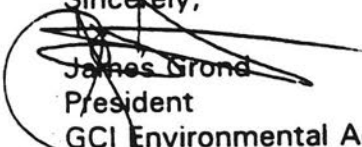
Based upon conversations with the Building Superintendent and the Development Company, the current building is the result of the complete interior demolition (i.e. removal of all interior partitions, walls plaster, wooden floors, roofing materials, mechanical systems, etc.) within three (3) adjoining buildings. The three (3) buildings were then combined and rebuilt in the late 1990s with all new construction materials.

A visual inspection within the present structure indicated that all interior partitions are non-suspect sheetrock with all floors being metal pan with newly installed concrete. Observed walls were exposed and cleaned brick and floors were either hardwood, ceramic tiles or carpet over the concrete. Ceilings were sheetrock over the metal pan. Observed mechanical systems within the basement included new boilers (non-insulated) and all thermal system insulation with non-suspect fiberglass.

Based upon our visual observation and the nature and dates of the reconstruction, it is not anticipated or expected that any asbestos-containing materials are present or remain within the building.

If you have any questions or need additional information please contact me at (212) 986-9460.

Sincerely,



James Grond

President

GCI Environmental Advisory, Inc.

JFG/gj

**DUR-ALL ENVIRONMENTAL INC.**

30-51 14th Street  
L.I.C., N.Y. 11102

(718) 278-8945

Fax (718) 545-3440

August 28, 1998

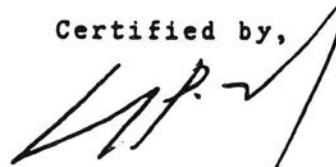
Beekman- Water Associates, LLC  
c/o Phillips International  
417 5th Avenue  
New York, NY 10016

Premises - 227 Water Street, New York, NY  
229 Water Street, New York, NY  
231 Water Street, New York, NY  
136 Beekman Street, New York, NY  
138 Beekman Street, New York, NY

CERTIFICATION

Dur-All Environmental, Inc. certifies that the above listed properties have been inspected for friable asbestos containing materials on August 11, 1998. Based on our inspections, we have determined that the entire complex is free of friable asbestos containing materials.

Certified by,



Richard P. Mucelli  
Licensed NYC  
Asbestos Investigator  
License No. 678459906



ONLY TYPEWRITTEN  
APPLICATIONS WILL  
BE ACCEPTED

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Page 1 of \_\_\_\_\_

## NOT AN ASBESTOS PROJECT

FOR OFFICE PURPOSES ONLY

NOTE: THIS FORM IS TO BE COMPLETED IF THERE IS NO FRIABLE ASBESTOS CONTAINING MATERIAL PRESENT OR IF THE TOTAL AMOUNT OF FRIABLE ASBESTOS CONTAINING MATERIAL IS 10 SQUARE FEET OR LESS, OR 25 LINEAR FEET OR LESS, OR IF NORMALLY NONFRIABLE ACM (AS PER 40 CFR PART 61.141) IS PRESENT IN ANY AMOUNT.

|    |                                       |
|----|---------------------------------------|
| 1. | NYC Buildings Dept. Application No.   |
|    | ACP5 Fee \$                           |
|    | NYC Dept. of Environmental Protection |

2. FACILITY ADDRESS 227 Water Street BORO Manhattan ZIP CODE 10038

AKA \_\_\_\_\_ 3. BLOCK # 97 4. LOT # 46

5. BUILDING OWNER Beekman-Water Associates, LLC TEL # (212) 951-3805

c/o Phillips International  
6. ADDRESS 417 5th Avenue STATE NY ZIP CODE 10016

7. CONTACT PERSON Gus Fotos 8. TEL # (212) 951-3805

9. DESCRIPTION OF ENTIRE SCOPE OF WORK Administrative Only, to secure Certificate of Occupancy. Only finish work remains, i.e. painting, cabinet installation.

10. ESTIMATED START DATE 8/11/98 ESTIMATED COMPLETION DATE 9/30/98 OF THE ENTIRE SCOPE OF WORK.

11. Richard P. Mucelli HAVE CONDUCTED AN ASBESTOS INVESTIGATION ON 8/11/98 IN ACCORDANCE WITH THE PROCEDURES REQUIRED BY THE NYC DEP ASBESTOS CONTROL PROGRAM REGULATIONS AND DECLARE THAT AT SAID FACILITY ADDRESS, THE

- ☐ a. premises to be demolished are free of any asbestos containing material (ACM)
- ☐ b. premises to be demolished contain 10 square feet or less of friable ACM or of normally nonfriable ACM that demolition forces may make friable: all ACM shall be removed according to the NYS DOL ICR 56 or the NYC DEP Asbestos Regulations
- ☒ c. cumulative surfaces of relevant structure(s) affected by an alteration or plumbing repair are free of any friable ACM and free of normally nonfriable ACM that alteration or plumbing repair forces may make friable
- ☐ d. cumulative surfaces of relevant structure(s) affected by an alteration or plumbing repair contain 10 square feet or less of friable ACM or of normally nonfriable ACM that alteration or plumbing repair forces may make friable: removal as in b.
- ☐ e. normally nonfriable ACM shall be disturbed/removed in accordance with the NYS DOL ICR 56 or the NYC DEP Asbestos Regulations: Sq. Ft. \_\_\_\_\_
- ☐ f. friable ACM and/or normally nonfriable ACM will NOT be disturbed during alteration/plumbing repair/modification/renovation: Friable ACM Sq Ft \_\_\_\_\_ Lin Ft \_\_\_\_\_ Nonfriable ACM Sq Ft \_\_\_\_\_

## 12. COMPLETE AND THOROUGH ASBESTOS INVESTIGATION PERFORMED OF

| STORY<br>(include cellar and basement) | DESCRIBE SECTION OF FLOOR<br>(e.g. entire, east wing, room # _____<br>boiler room, lobby, etc.) | ALL FRIABLE SURFACING MATERIALS<br>INCLUDING FRIABLE ACM AND<br>NORMALLY NONFRIABLE ACM | NUMBER<br>OF SAMPLES<br>ANALYZED | ASBESTOS<br>PRESENT |    |
|----------------------------------------|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|----------------------------------|---------------------|----|
|                                        |                                                                                                 |                                                                                         |                                  | YES                 | NO |
| Floors 1 thru 4                        | Entire                                                                                          | Wall/Ceiling Surfaces                                                                   | 4                                |                     | X  |
|                                        |                                                                                                 |                                                                                         |                                  |                     |    |
|                                        |                                                                                                 |                                                                                         |                                  |                     |    |
|                                        |                                                                                                 |                                                                                         |                                  |                     |    |
|                                        |                                                                                                 |                                                                                         |                                  |                     |    |
|                                        |                                                                                                 |                                                                                         |                                  |                     |    |
|                                        |                                                                                                 |                                                                                         |                                  |                     |    |

13. NAME OF LABORATORY THAT ANALYZED SAMPLES Testing Mechanics Corp.

14. ELAP # 11018 NVLAP # 2001  
NYC DEPT. OF HEALTH CERTIFICATION U.S. DEPT. OF COMMERCE, NIST

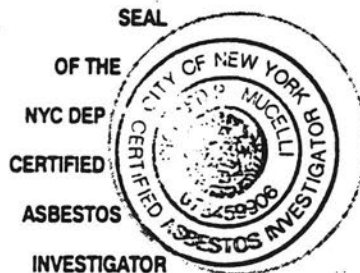
15. DATE(S) SAMPLES ANALYZED 8/15/98

AND THAT THE INFORMATION PROVIDED HEREIN IS TRUE AND COMPLETE

16. [Signature] 8/25/98  
SIGNATURE OF NYC DEP-CERTIFIED ASBESTOS INVESTIGATOR DATE

17. # 678459906  
NYC DEP ASBESTOS INVESTIGATOR CERTIFICATE NUMBER

NOTE: STORAGE, TRANSPORTATION AND DISPOSAL OF ASBESTOS CONTAMINATED WASTES ARE REGULATED BY THE NYC DEPARTMENT OF SANITATION (LL70/85)



THE PIECEMEAL CARRYING OUT OF AN OPERATION TO AVOID COVERAGE BY A STANDARD THAT APPLIES ONLY TO OPERATIONS LARGER THAN A SPECIFIED SIZE IS A VIOLATION.

ACM = Asbestos Containing Material = Material Containing Greater than 1% Asbestos

ANY MODIFICATION OR VARIANCE FROM INFORMATION PROVIDED ON THIS FORM MUST BE REPORTED IMMEDIATELY IN WRITING DIRECTLY TO THE NYC DEPARTMENT OF ENVIRONMENTAL PROTECTION ASBESTOS CONTROL PROGRAM / NYC DEPT. OF ENVIRONMENTAL PROTECTION, 59-17 JUNCTION BLVD. - 8th FLOOR, ELMHURST, NEW YORK 11373-5107

ONLY TYPEWRITTEN  
APPLICATIONS WILL  
BE ACCEPTED

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Page 1 of \_\_\_\_\_

## NOT AN ASBESTOS PROJECT

\*FOR OFFICE PURPOSES ONLY

NOTE: THIS FORM IS TO BE COMPLETED IF THERE IS NO FRIABLE ASBESTOS CONTAINING MATERIAL PRESENT OR IF THE TOTAL AMOUNT OF FRIABLE ASBESTOS CONTAINING MATERIAL IS 10 SQUARE FEET OR LESS, OR 25 LINEAR FEET OR LESS, OR IF NORMALLY NONFRIABLE ACM (AS PER 40 CFR PART 61.141) IS PRESENT IN ANY AMOUNT.

2. FACILITY ADDRESS 229 Water Street BORO Manhattan ZIP 10038  
AKA \_\_\_\_\_ 3. BLOCK # 97 4. LOT # 46  
5. BUILDING OWNER Beekman-Water Associates, LLC TEL # (212) 951-3805  
C/O Phillips International  
6. ADDRESS 417 5th Avenue STATE NY ZIP 10016  
7. CONTACT PERSON Gus Potos 8. TEL # (212) 951-3805  
9. DESCRIPTION OF ENTIRE SCOPE OF WORK Administrative Only, to secure Certificate of Occupancy. Only finish work remains, i.e. painting, cabinet installation.

10. ESTIMATED START DATE 8/11/98 ESTIMATED COMPLETION DATE 9/30/98 OF THE ENTIRE SCOPE OF WORK

11. Richard P. Mucelli HAVE CONDUCTED AN ASBESTOS INVESTIGATION ON 8/11/98 IN ACCORDANCE WITH THE  
Type - Name of Asbestos Investigator Date  
PROCEDURES REQUIRED BY THE NYC DEP ASBESTOS CONTROL PROGRAM REGULATIONS AND DECLARE THAT AT SAID  
FACILITY ADDRESS, THE

- ☐ a. premises to be demolished are free of any asbestos containing material (ACM)  
☐ b. premises to be demolished contain 10 square feet or less or 25 linear feet or less of friable ACM or of normally nonfriable ACM that demolition forces may make friable: all ACM shall be removed according to the NYS DOL ICR 56 or the NYC DEP Asbestos Regulations  
☒ c. cumulative surfaces of relevant structure(s) affected by an alteration or plumbing repair are free of any friable ACM and free of normally nonfriable ACM that alteration or plumbing repair forces may make friable  
☐ d. cumulative surfaces of relevant structure(s) affected by an alteration or plumbing repair contain 10 square feet or less or 25 linear feet or less of friable ACM or of normally nonfriable ACM that alteration or plumbing repair forces may make friable: removal as in b.  
☐ e. normally nonfriable ACM shall be disturbed/removed in accordance with the NYS DOL ICR 56 or the NYC DEP Asbestos Regulations: Sq. Ft. \_\_\_\_\_  
☐ f. friable ACM and/or normally nonfriable ACM will NOT be disturbed during alteration/plumbing repair/modification/renovation:  
Friable ACM Sq Ft \_\_\_\_\_ Lin Ft \_\_\_\_\_ Nonfriable ACM Sq Ft \_\_\_\_\_

## 12. COMPLETE AND THOROUGH ASBESTOS INVESTIGATION PERFORMED OF

| STORY<br>(include cellar<br>and basement) | DESCRIBE SECTION OF FLOOR<br>(e.g. entire, east wing, room # _____<br>boiler room, lobby, etc.) | ALL FRIABLE SURFACING MATERIALS<br>INCLUDING FRIABLE ACM AND<br>NORMALLY NONFRIABLE ACM | NUMBER<br>OF SAMPLES<br>ANALYZED | ASBESTOS<br>PRESENT |    |
|-------------------------------------------|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|----------------------------------|---------------------|----|
|                                           |                                                                                                 |                                                                                         |                                  | YES                 | NO |
| Floors 1 thru 6                           | Entire                                                                                          | Wall/Ceiling Surfaces                                                                   | 6                                |                     | X  |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |

13. NAME OF LABORATORY THAT ANALYZED SAMPLES Testing Mechanics Corp.

14. ELAP # 11018 NVLAP # 2001  
NYC DEPT. OF HEALTH CERTIFICATION U.S. DEPT. OF COMMERCE, NIST

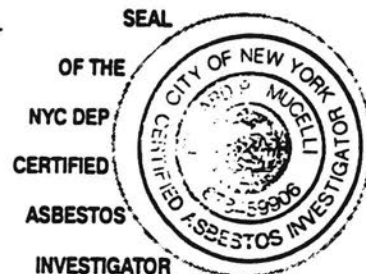
15. DATE(S) SAMPLES ANALYZED 8/15/98

AND THAT THE INFORMATION PROVIDED HEREIN IS TRUE AND COMPLETE

16. [Signature] 8/25/98  
SIGNATURE OF NYC DEP-CERTIFIED ASBESTOS INVESTIGATOR DATE

17. # 678459906  
NYC DEP ASBESTOS INVESTIGATOR CERTIFICATE NUMBER

NOTE: STORAGE, TRANSPORTATION AND DISPOSAL OF ASBESTOS CONTAMINATED WASTES ARE REGULATED BY THE NYC DEPARTMENT OF SANITATION (LL70/85)



THE PIECEMEAL CARRYING OUT OF AN OPERATION TO AVOID COVERAGE BY A STANDARD THAT APPLIES ONLY TO OPERATIONS LARGER THAN A SPECIFIED SIZE IS A VIOLATION.

ACM = Asbestos Containing Material = Material Containing Greater than 1% Asbestos

ANY MODIFICATION OR VARIANCE FROM INFORMATION PROVIDED ON THIS FORM MUST BE REPORTED IMMEDIATELY IN WRITING DIRECTLY TO THE NYC DEPARTMENT OF ENVIRONMENTAL PROTECTION ASBESTOS CONTROL PROGRAM / NYC DEPT. OF ENVIRONMENTAL PROTECTION, 59-17 JUNCTION BLVD. - 8th FLOOR, ELMHURST, NEW YORK 11373-5107



ONLY TYPEWRITTEN  
APPLICATIONS WILL  
BE ACCEPTED

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Page 1 of \_\_\_\_\_

## NOT AN ASBESTOS PROJECT

\*FOR OFFICE PURPOSES ONLY

NOTE: THIS FORM IS TO BE COMPLETED IF THERE IS NO FRIABLE ASBESTOS CONTAINING MATERIAL PRESENT OR IF THE TOTAL AMOUNT OF FRIABLE ASBESTOS CONTAINING MATERIAL IS 10 SQUARE FEET OR LESS, OR 25 LINEAR FEET OR LESS, OR IF NORMALLY NONFRIABLE ACM (AS PER 40 CFR PART 61.141) IS PRESENT IN ANY AMOUNT.

|    |                                       |
|----|---------------------------------------|
| 1. | NYC Buildings Dept Application No.    |
|    | ACP5 Fee \$                           |
|    | NYC Dept. of Environmental Protection |

2. FACILITY ADDRESS 231 Water Street BORO Manhattan ZIP CODE 10038

AKA \_\_\_\_\_ 3. BLOCK # 97 4. LOT # 46

5. BUILDING OWNER Beekman-Water Associates, LLC TEL # (212) 951-3805

6. ADDRESS c/o Phillips International STATE NY ZIP CODE 10016  
417 5th Avenue

7. CONTACT PERSON Gus Fotos 8. TEL # (212) 951-3805

9. DESCRIPTION OF ENTIRE SCOPE OF WORK Administrative Only, to secure Certificate of Occupancy. Only finish work remains, i.e. painting, cabinet installation.

10. ESTIMATED START DATE 8/11/98 ESTIMATED COMPLETION DATE 9/30/98 OF THE ENTIRE SCOPE OF WORK.

11. Richard P. Mucelli HAVE CONDUCTED AN ASBESTOS INVESTIGATION ON 8/11/98 IN ACCORDANCE WITH THE PROCEDURES REQUIRED BY THE NYC DEP ASBESTOS CONTROL PROGRAM REGULATIONS AND DECLARE THAT AT SAID FACILITY ADDRESS, THE

- ☐ a. premises to be demolished are free of any asbestos containing material (ACM)
- ☐ b. premises to be demolished contain 10 square feet or less or 25 linear feet or less of friable ACM or of normally nonfriable ACM that demolition forces may make friable: all ACM shall be removed according to the NYS DOL ICR 56 or the NYC DEP Asbestos Regulations
- ☒ c. cumulative surfaces of relevant structure(s) affected by an alteration or plumbing repair are free of any friable ACM and free of normally nonfriable ACM that alteration or plumbing repair forces may make friable
- ☐ d. cumulative surfaces of relevant structure(s) affected by an alteration or plumbing repair contain 10 square feet or less or 25 linear feet or less of friable ACM or of normally nonfriable ACM that alteration or plumbing repair forces may make friable: removal as in b.
- ☐ e. normally nonfriable ACM shall be disturbed/removed in accordance with the NYS DOL ICR 56 or the NYC DEP Asbestos Regulations: Sq Ft \_\_\_\_\_
- ☐ f. friable ACM and/or normally nonfriable ACM will NOT be disturbed during alteration/plumbing repair/modification/renovation: Friable ACM Sq Ft \_\_\_\_\_ Lin Ft \_\_\_\_\_ Nonfriable ACM Sq Ft \_\_\_\_\_

## 12 COMPLETE AND THOROUGH ASBESTOS INVESTIGATION PERFORMED OF

| STORY<br>(include cellar<br>and basement) | DESCRIBE SECTION OF FLOOR<br>(e.g. entire, east wing, room # _____<br>boiler room, lobby, etc.) | ALL FRIABLE SURFACING MATERIALS<br>INCLUDING FRIABLE ACM AND<br>NORMALLY NONFRIABLE ACM | NUMBER<br>OF SAMPLES<br>ANALYZED | ASBESTOS<br>PRESENT |    |
|-------------------------------------------|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|----------------------------------|---------------------|----|
|                                           |                                                                                                 |                                                                                         |                                  | YES                 | NO |
| Floors                                    | thru 5 Entire                                                                                   | Wall Ceiling Surfaces                                                                   | 5                                |                     | X  |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |
|                                           |                                                                                                 |                                                                                         |                                  |                     |    |

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NYC DEPT. OF HEALTH CERTIFICATION U.S. DEPT. OF COMMERCE, NIST

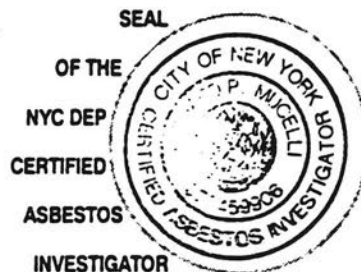
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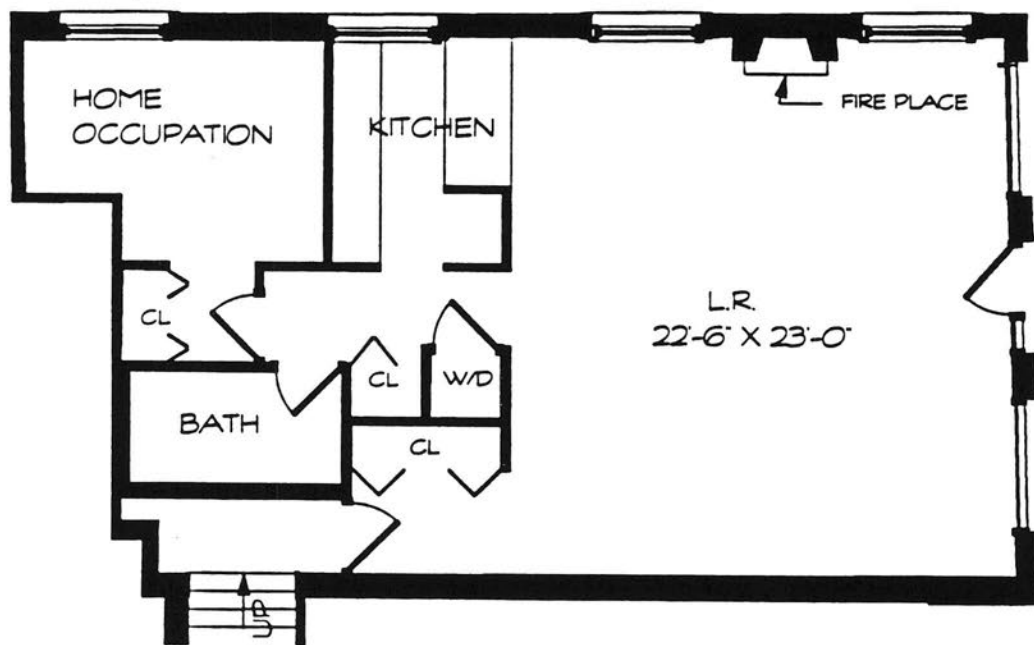
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FLOOR PLANS

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F-1

# 130 BEEKMAN STREET

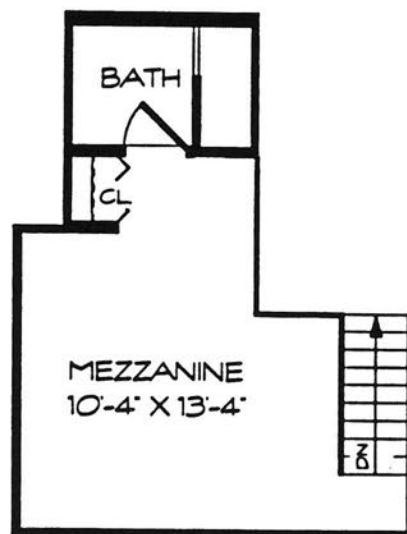
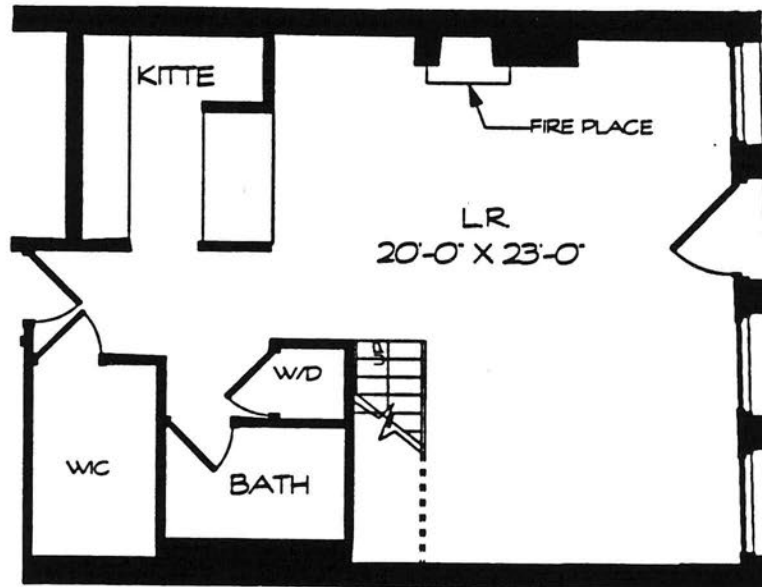


APARTMENT 1A

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES



## 130 BEEKMAN STREET

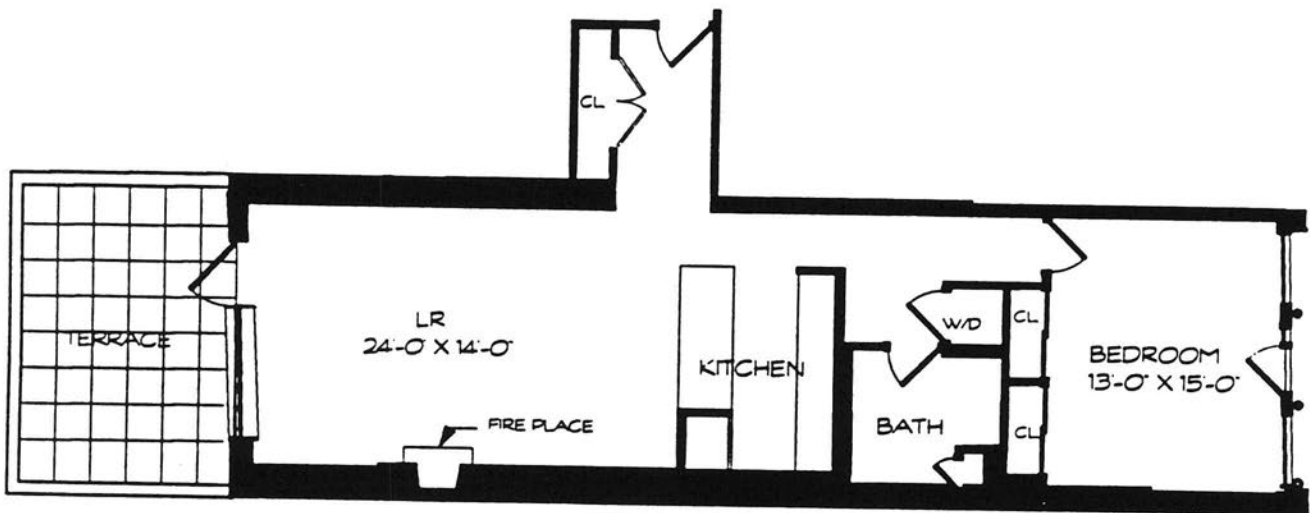


PLAN OF MEZZANINE 1B

## APARTMENT 1B

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

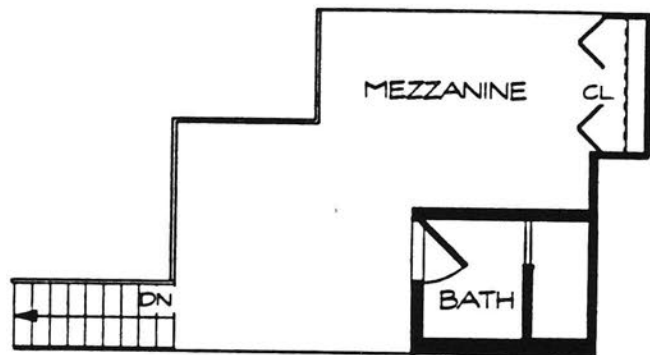
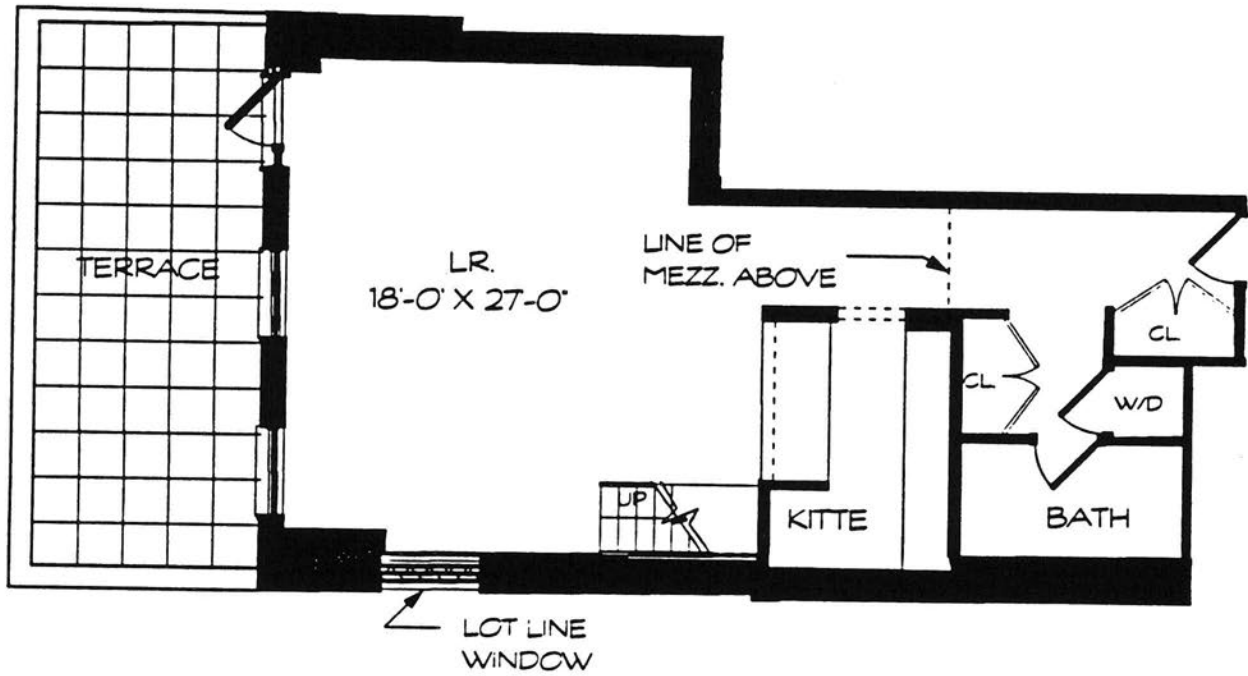
## 130 BEEKMAN STREET



## APARTMENT 1C

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

## 130 BEEKMAN STREET



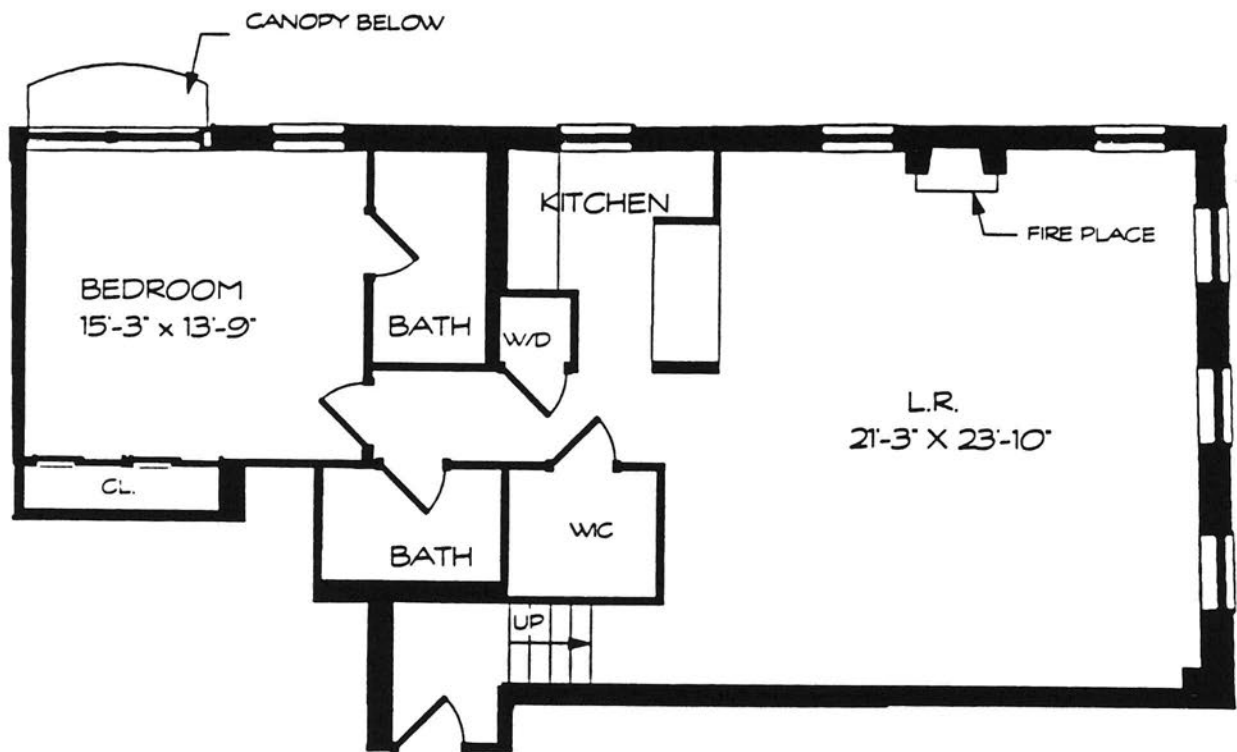
PLAN OF MEZZANINE 1D

## APARTMENT 1D

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

F-5

# 130 BEEKMAN STREET

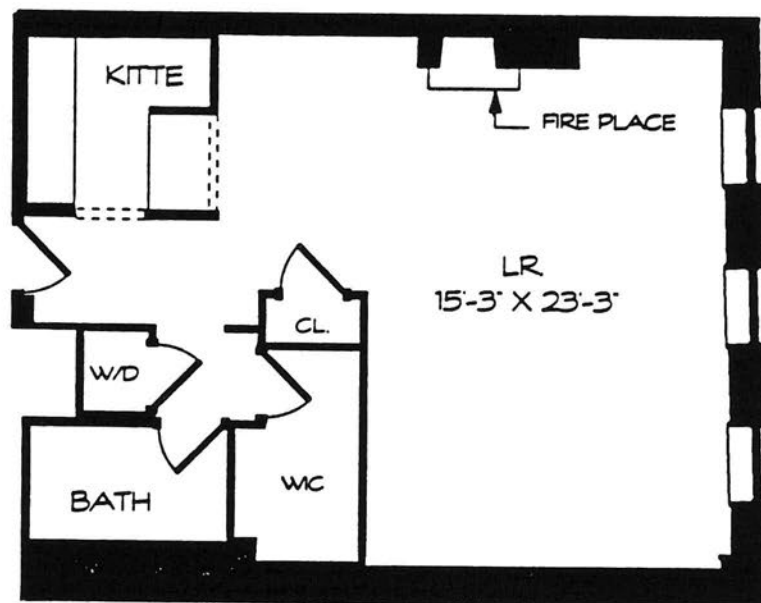


APARTMENT 2A

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

130 BEEKMAN STREET

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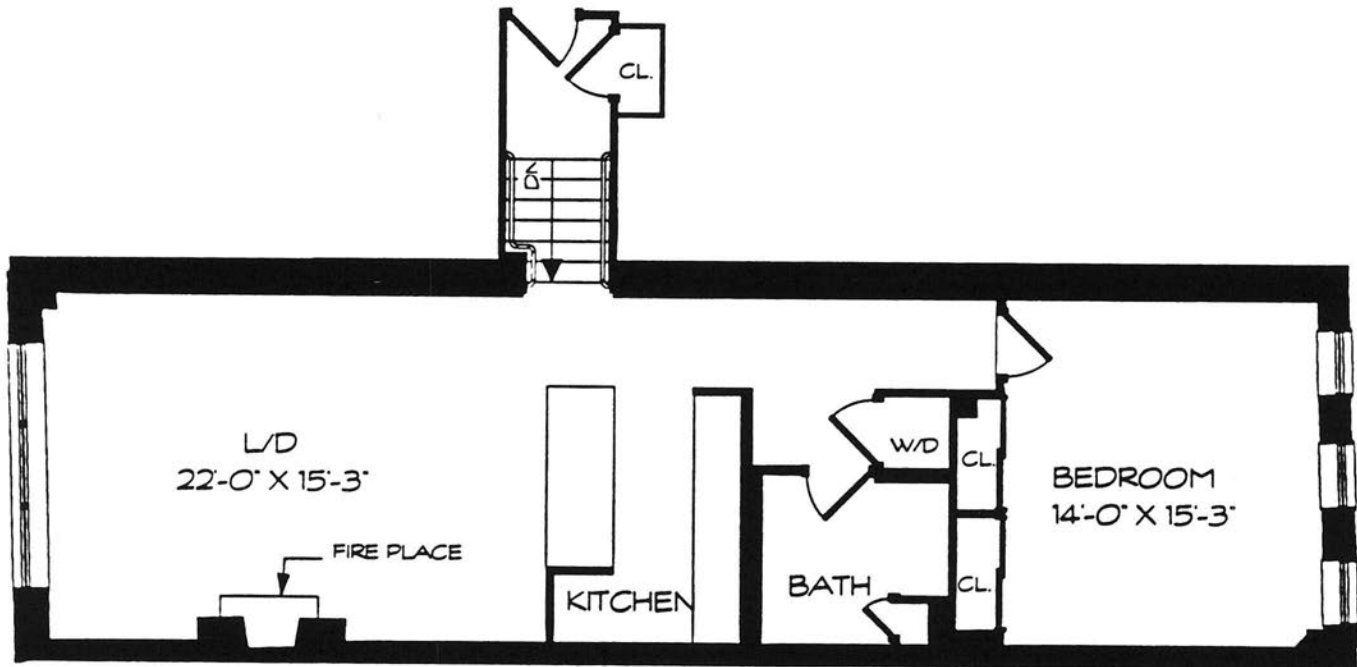


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APARTMENT 2B

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

## 130 BEEKMAN STREET



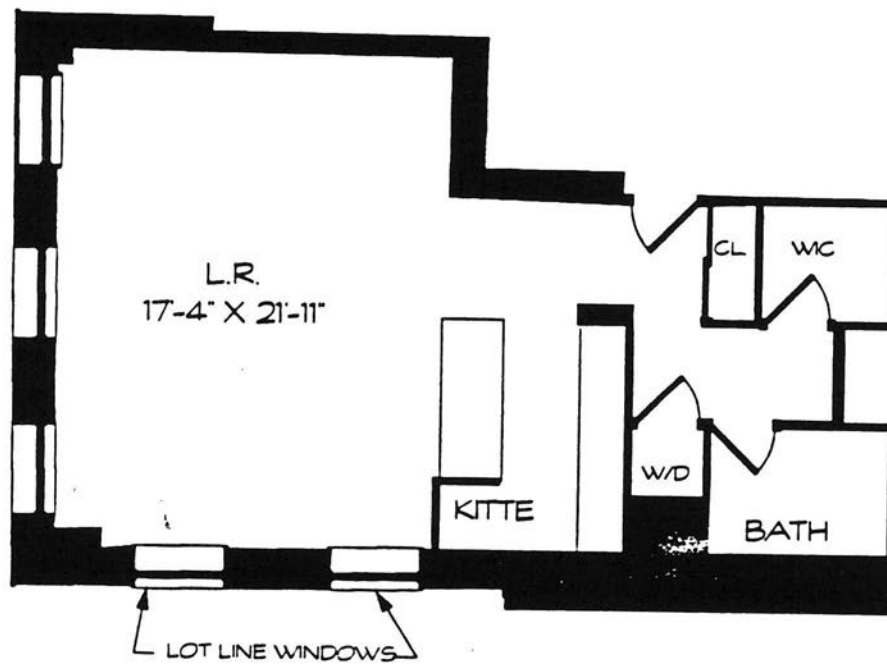
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ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES



130 BEEKMAN STREET

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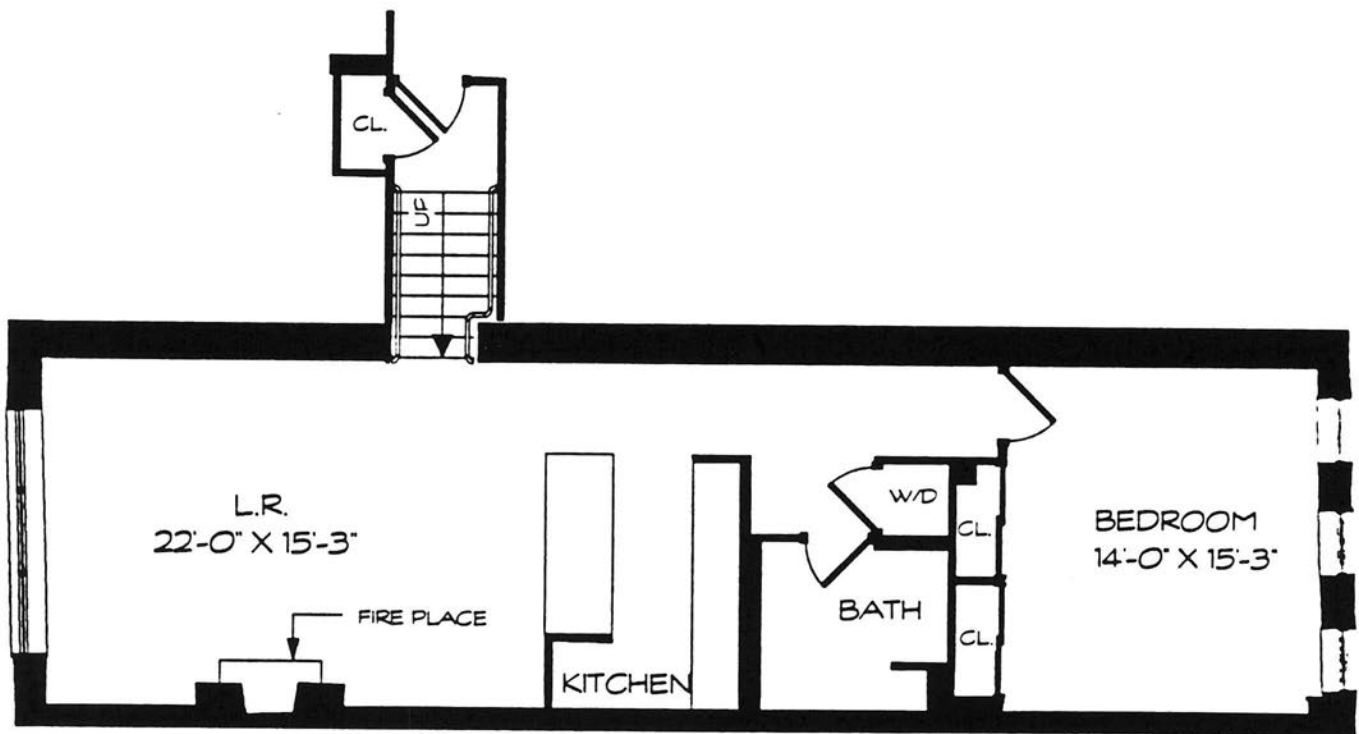


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APARTMENT 2D

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

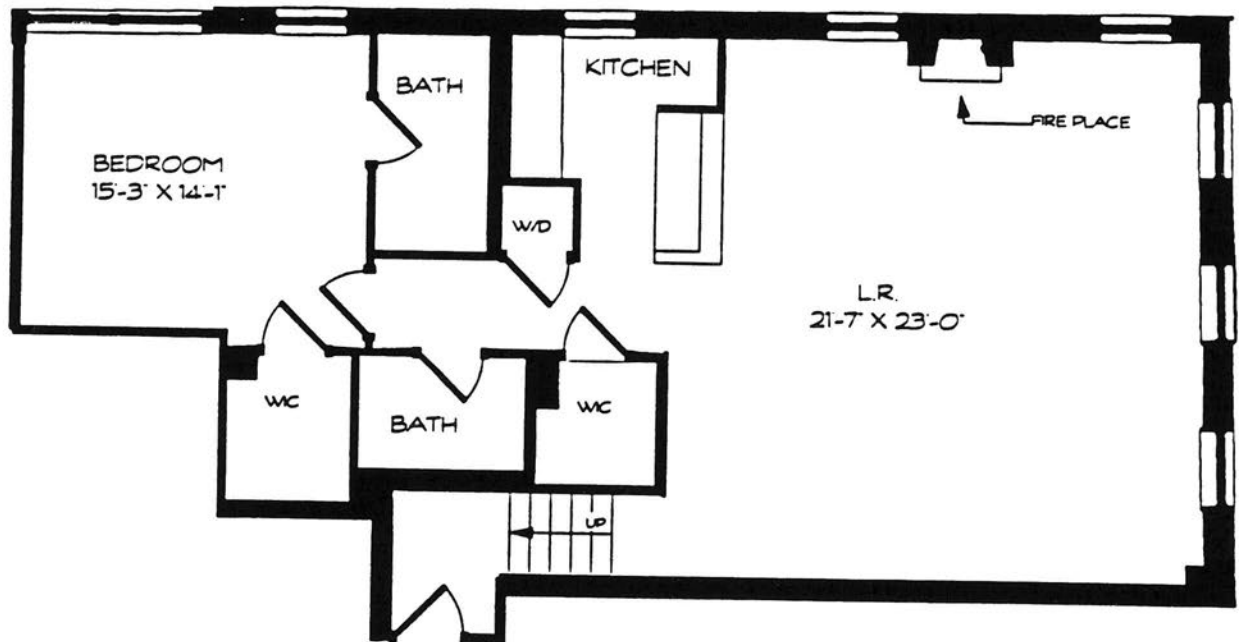
## 130 BEEKMAN STREET



APARTMENT 2MC

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

# 130 BEEKMAN STREET

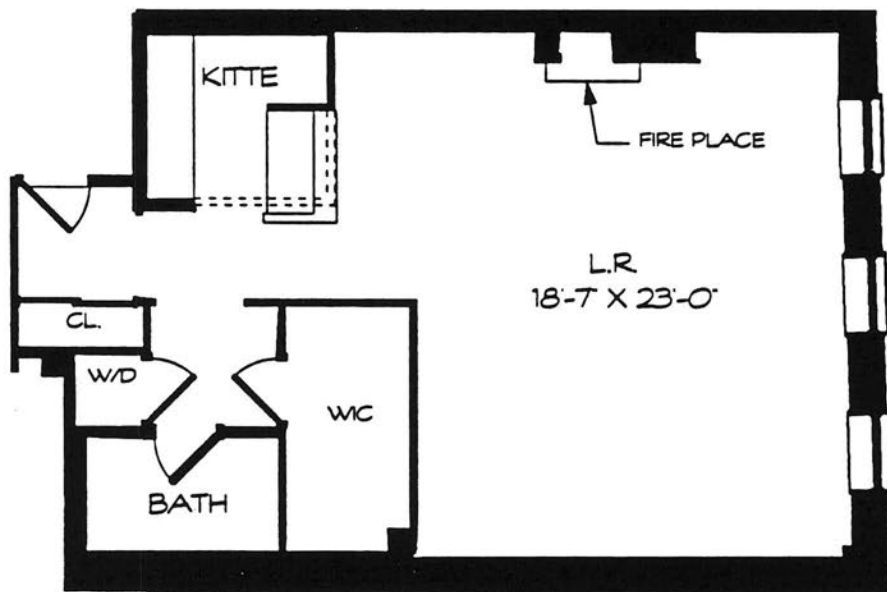


## APARTMENT 3A

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

# 130 BEEKMAN STREET

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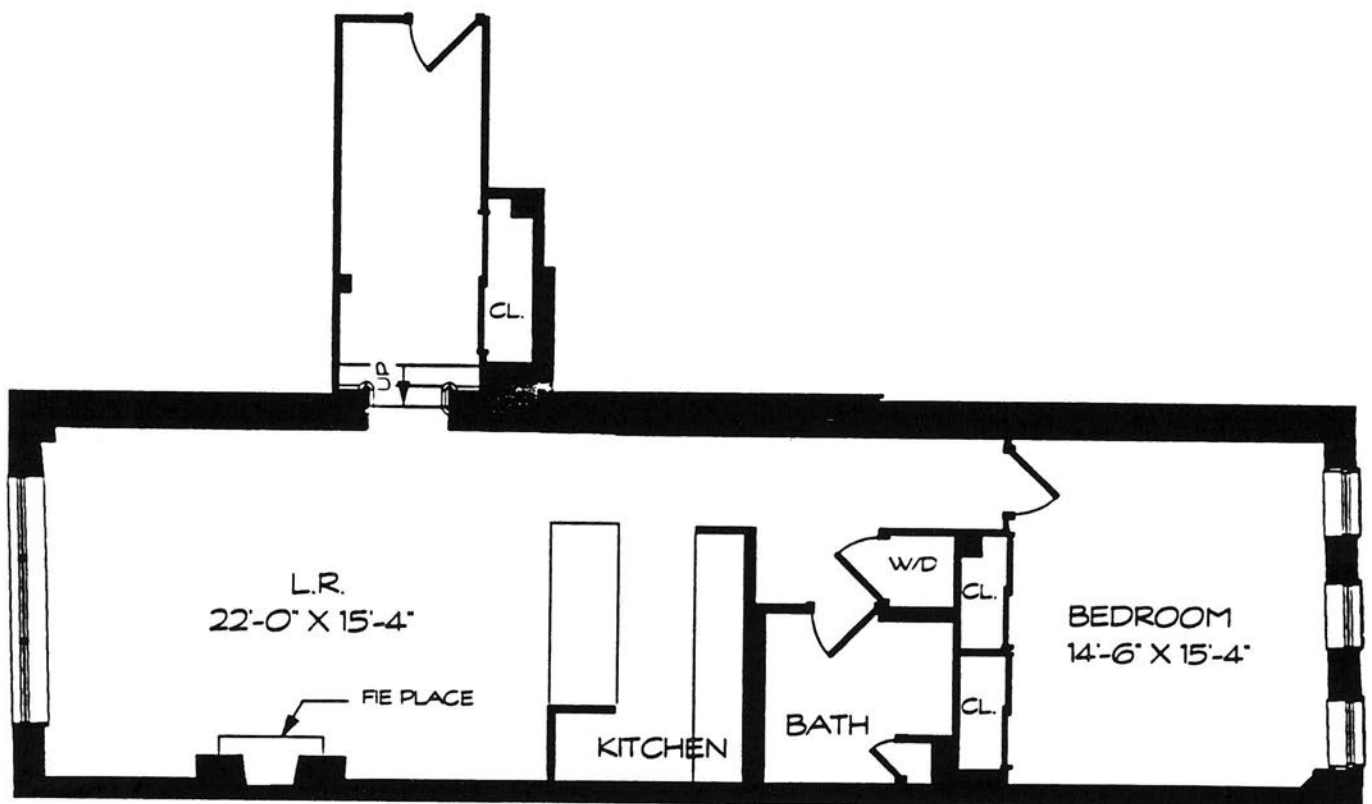


APARTMENT 3B

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ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

## 130 BEEKMAN STREET

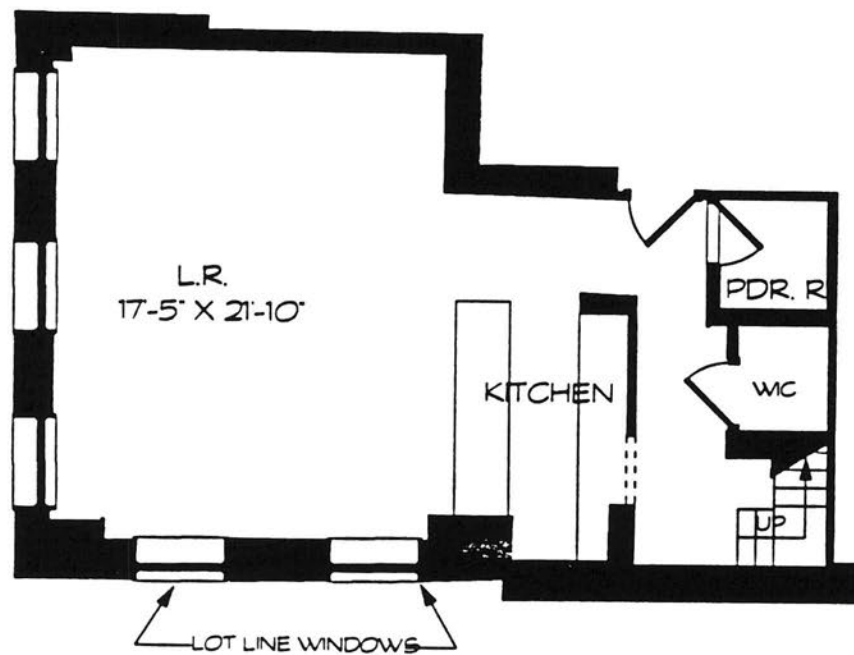


## APARTMENT 3C

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

# 130 BEEKMAN STREET

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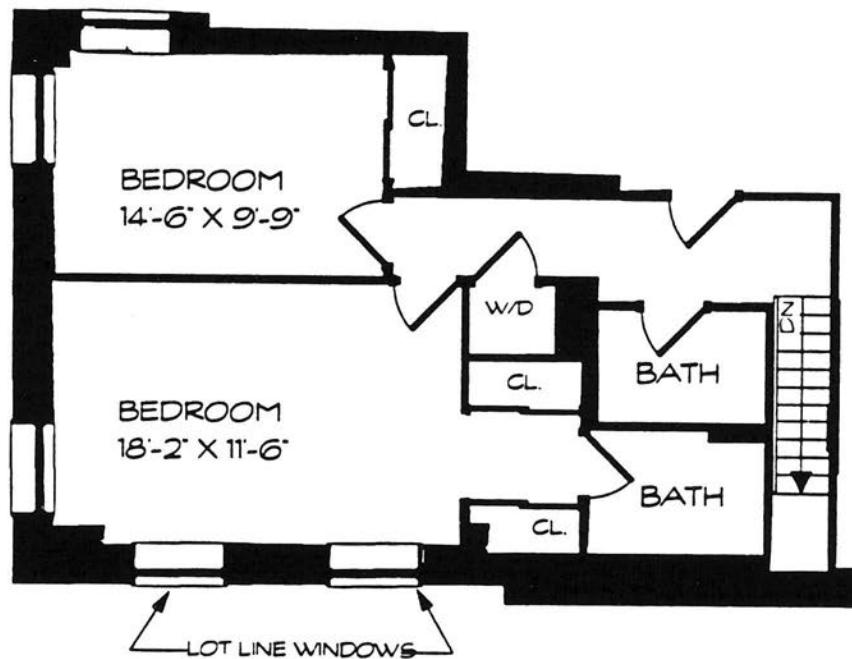


APARTMENT 3D DUPLEX - LOWER LEVEL

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES



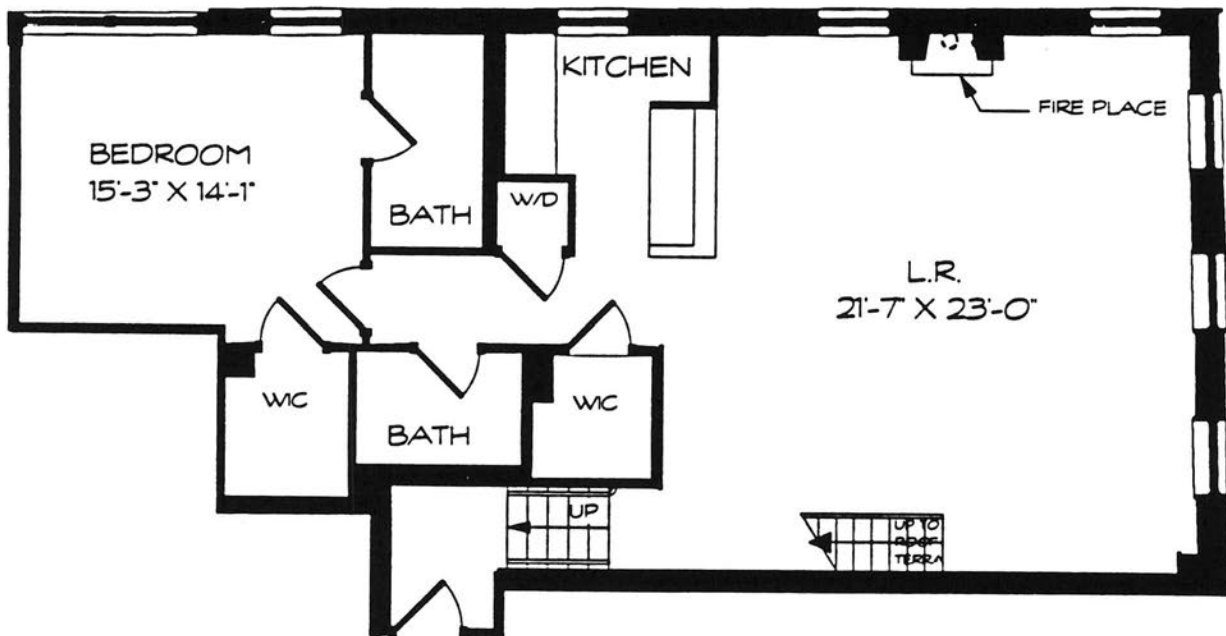
## 130 BEEKMAN STREET



APARTMENT 3D UPPER LEVEL (4th. FLOOR)

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

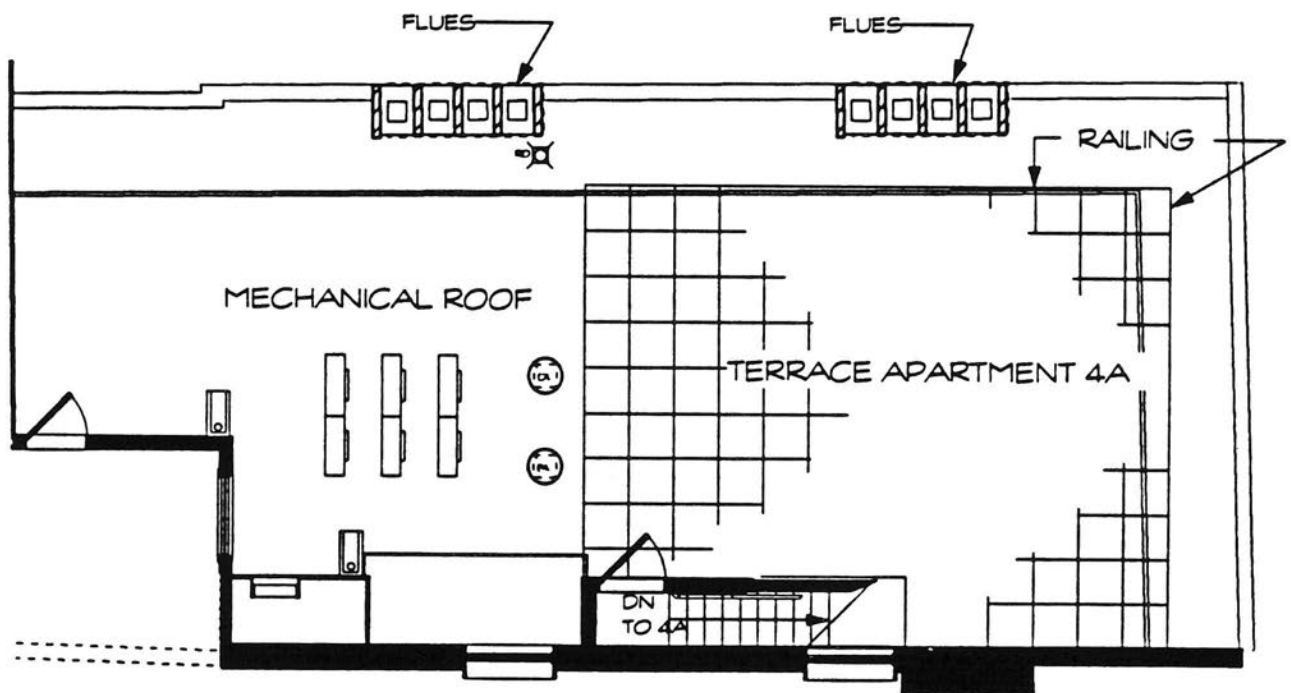
# 130 BEEKMAN STREET



APARTMENT 4A

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

## 130 BEEKMAN STREET



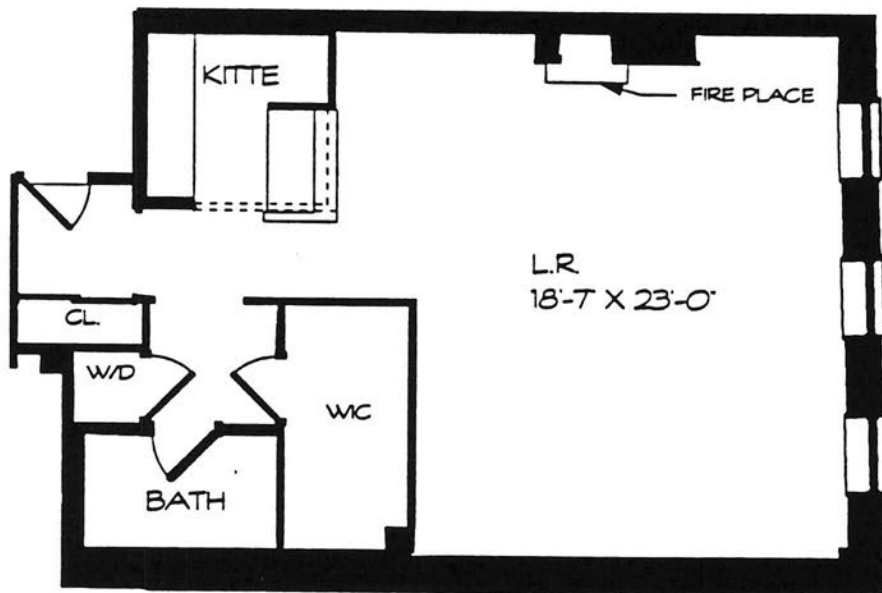
ROOF PLAN ABOVE 4th. FLOOR

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

F-17

# 130 BEEKMAN STREET

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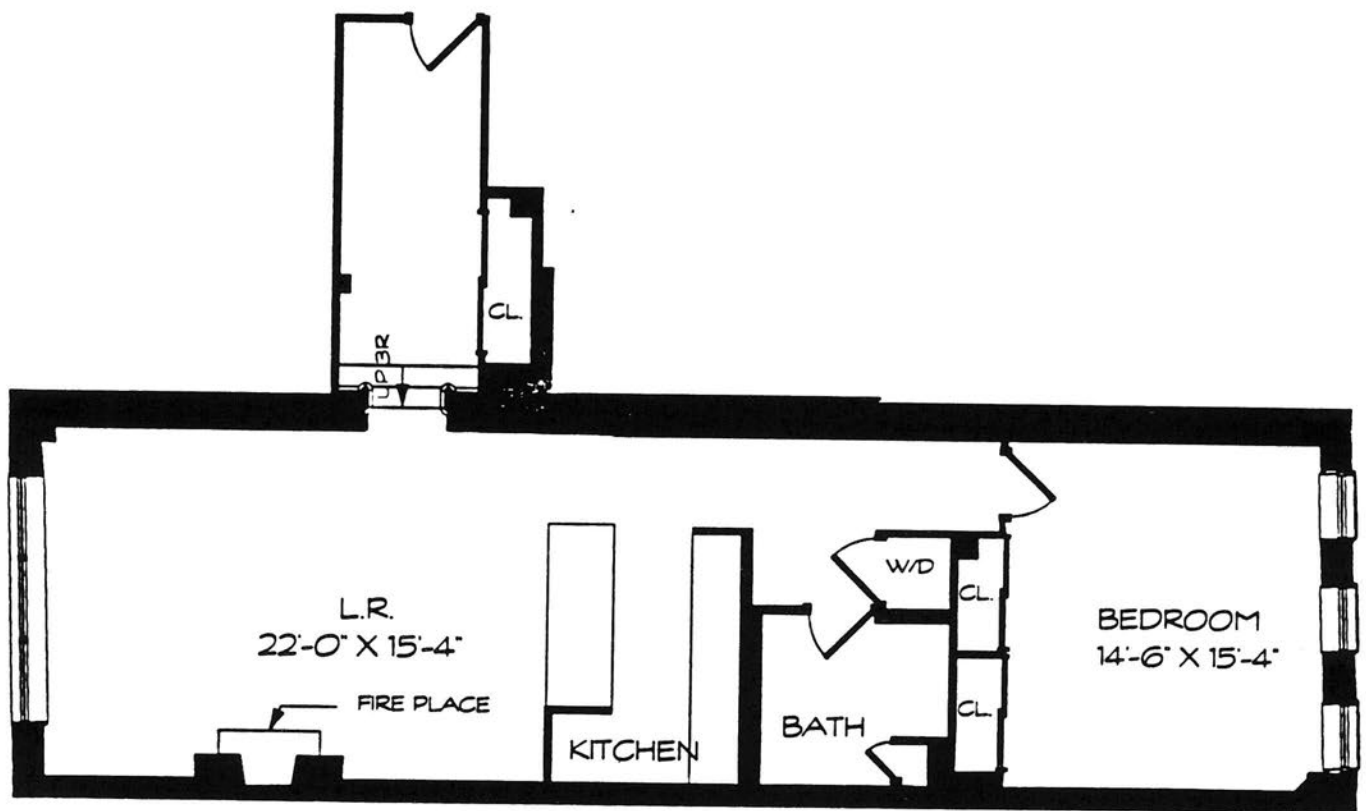


APARTMENT 4B

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ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

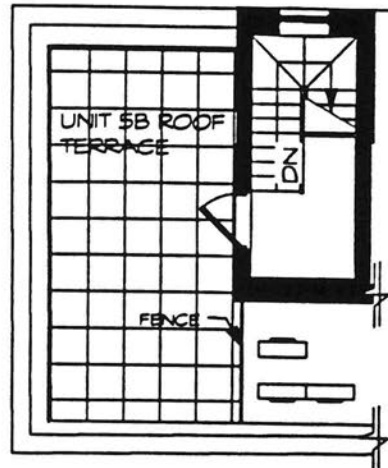
## 130 BEEKMAN STREET



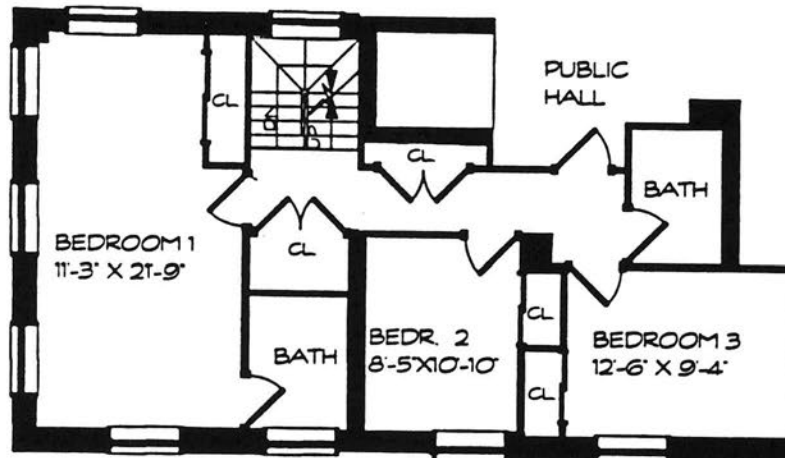
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ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

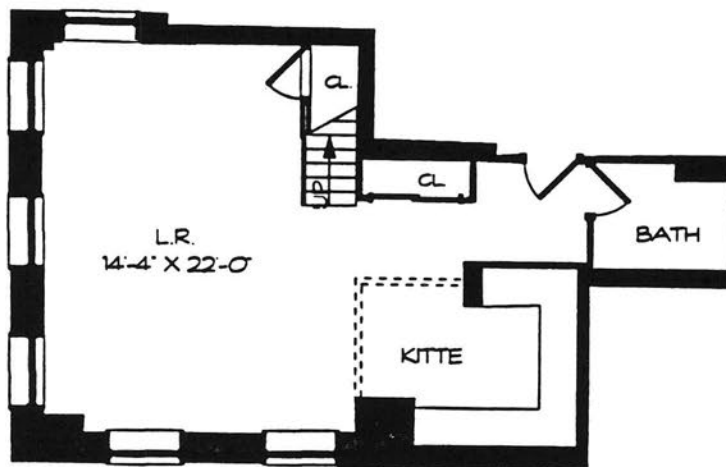
## 130 BEEKMAN STREET



APARTMENT 5B ROOF TERRACE



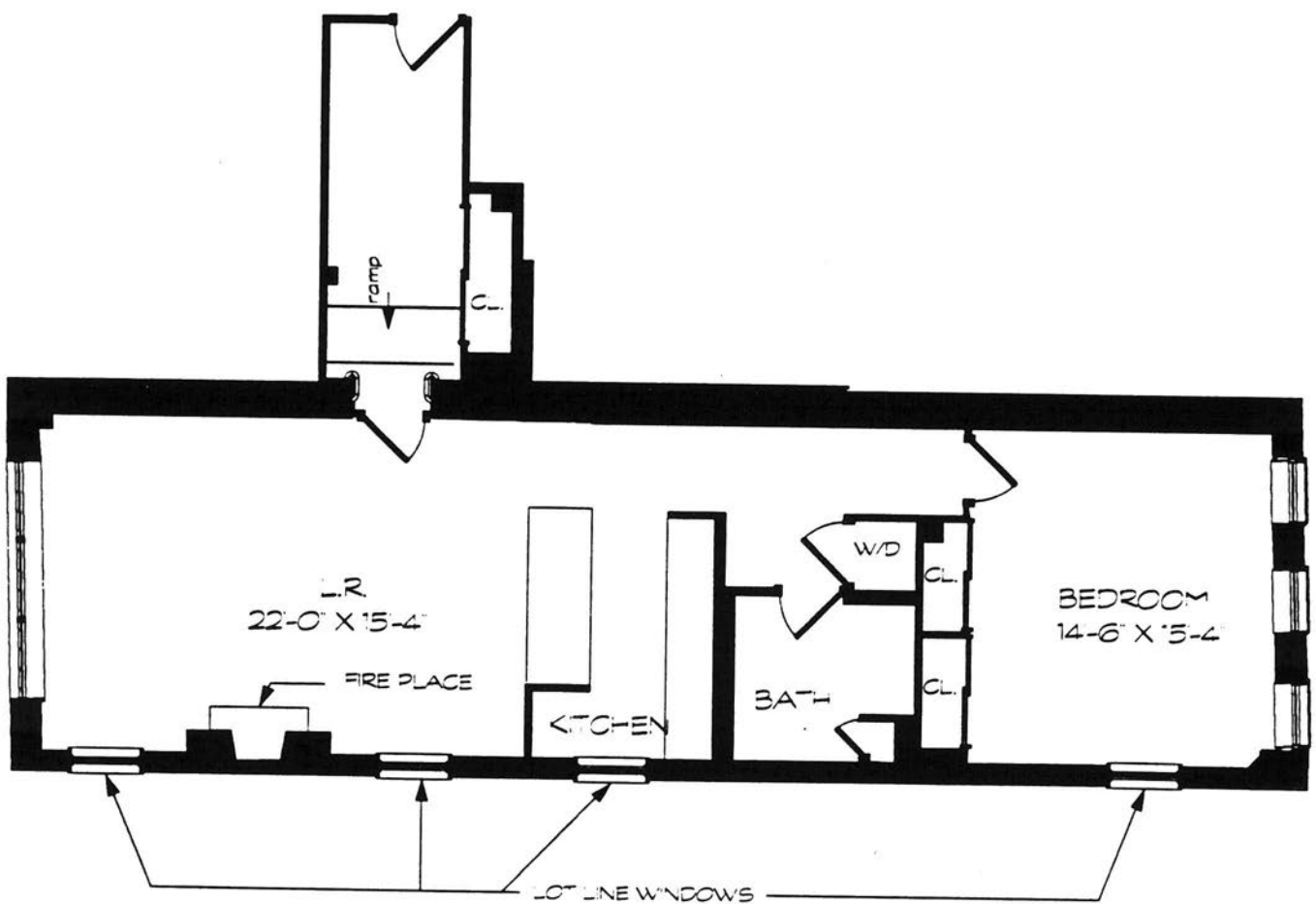
APARTMENT 5B UPPER FLOOR - 6th. FLOOR



APARTMENT 5B LOWER LEVEL - 5th. FLOOR



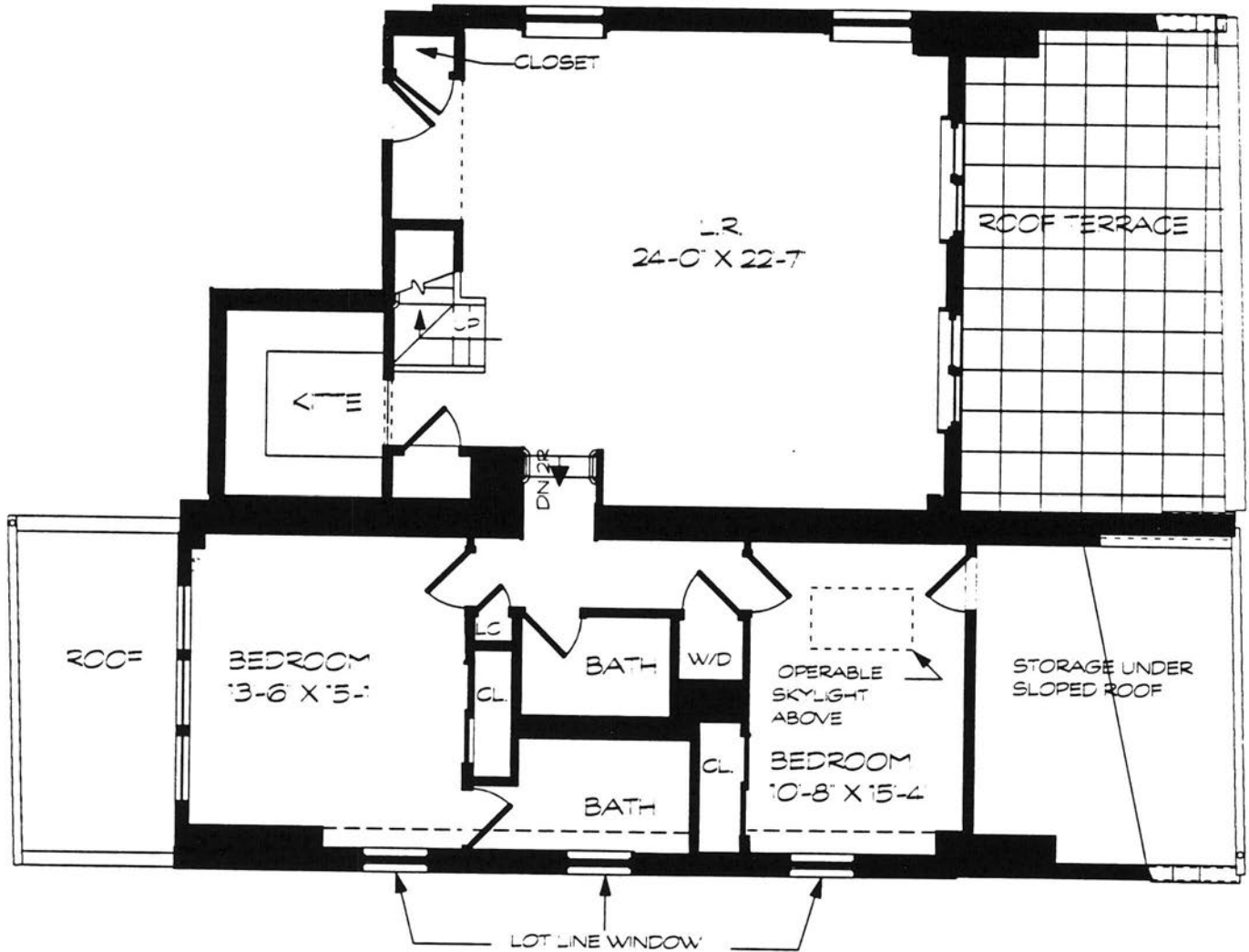
## 130 BEEKMAN STREET



## APARTMENT 4C

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

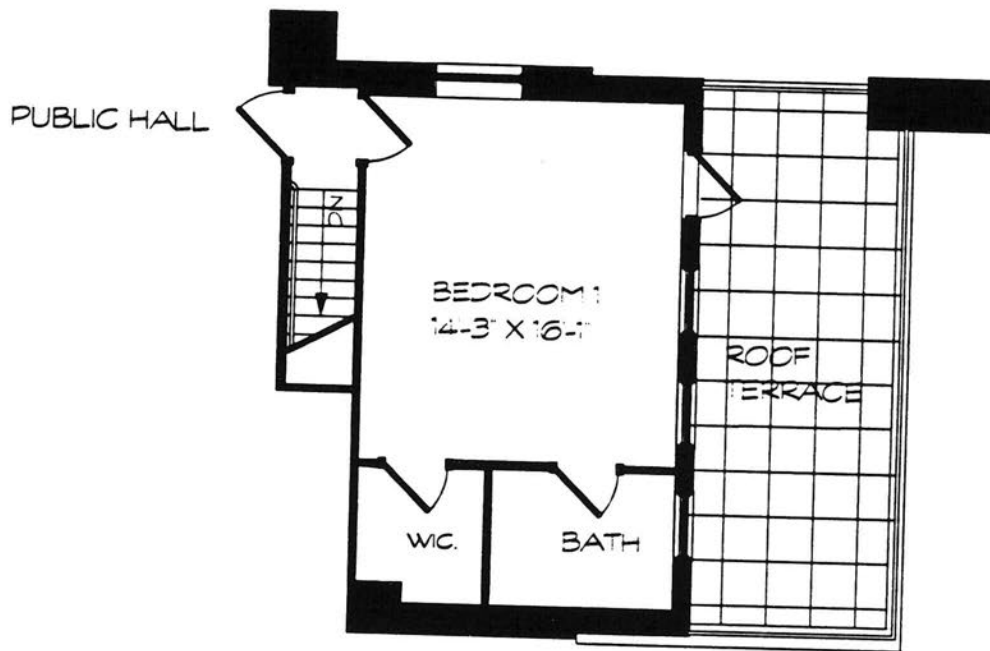
## 130 BEEKMAN STREET



APARTMENT 5A DUPLEX - LOWER LEVEL

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

## 130 BEEKMAN STREET



APARTMENT 5A UPPER LEVEL (6th FLOOR)

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES

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**DECLARATION**

Establishing a Plan for Condominium Ownership  
of the Premises known as

130 Beekman Street, a/k/a 227, 229 & 231 Water Street  
New York, New York

Pursuant to Article 9-B of the Real Property  
Law of the State of New York

Name: The Beekman Landing Condominium

Declarant: Beekman-Water Associates LLC  
c/o Philips International  
417 Fifth Avenue, 3rd Floor  
New York, N.Y. 10016

Date of Declaration: \_\_\_\_\_, 19\_\_

Prepared by: Barr & Associates  
866 United Nations Plaza  
Suite 415  
New York, N.Y. 10017

The land affected by the within instrument  
lies in Section \_\_\_\_\_, Block \_\_\_\_\_, Lot \_\_\_\_\_,  
on the Tax Map of the Borough of Manhattan,  
County of New York, City and State of New York.

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**PART II**

| <b><u>Exhibit</u></b> | <b><u>Subject</u></b>                |      |
|-----------------------|--------------------------------------|------|
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| E                     | Unit Owner's Power of Attorney ..... | B-1  |



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**DECLARATION  
OF  
THE BEEKMAN LANDING CONDOMINIUM**

**(Pursuant to Article 9-B of the Real Property Law  
of the State of New York)**

Beekman-Water Associates LLC, a New York limited liability company having an office c/o Philips International 417 Fifth Avenue, 3rd Floor, New York, N.Y. 10016 (hereinafter referred to as "Declarant", does hereby declare as follows:

**PART I**

**ARTICLE I**

Definitions

All capitalized terms used in this Declaration that are not otherwise defined in the Articles hereof shall have the meanings set forth in Exhibit C annexed hereto, unless the context in which the same are used shall otherwise require. All capitalized terms used in this Declaration that are defined in any of the Articles hereof shall have the meanings ascribed to them in such Articles, unless the context in which the same are used shall otherwise require. Each of the said capitalized terms shall be applicable to singular and to plural nouns, as well as to verbs of any tense.

**ARTICLE 2**

Submission of the Property

Declarant hereby submits the Property to the provisions of the Condominium Act and, pursuant thereto, does hereby establish a regime for the condominium ownership of the Property as more particularly set forth herein and in the By-Laws.

**ARTICLE 3**

Name of Condominium

The condominium shall be known as The Beekman Landing Condominium.

#### **ARTICLE 4**

##### The Land

The Land, which is located in the Borough of Manhattan in the County of New York in the City and State of New York and is more particularly described in Exhibit A annexed hereto, is owned by Declarant in fee simple absolute and has an area of approximately 21,801 square feet.

#### **ARTICLE 5**

##### The Building

The Buildings that comprise the Beekman Landing Condominium consists of a five (5) story building, and a four (4) to six (6) story building. There are eighteen Residential Units.

#### **ARTICLE 6**

##### The Units

(a) Exhibit B annexed hereto sets forth the following data with respect to each Unit necessary for the proper identification thereof; (i) its designation number; (ii) its tax lot number, (iii) its approximate location in the Building; (iv) its approximate area; (v) the number of rooms contained therein; (vi) the portions of the Common Elements to which such Unit has immediate access; and (vii) the Common Interest appurtenant to such Unit. The precise location of each Unit within the Building is shown on the Floor Plans.

(b) Each Residential Unit consists of the area enclosed horizontally by the exterior face of the exterior masonry walls of the building and by the centerline of the masonry walls and partitions dividing the Units from corridors, elevator shaft, stair common elements or other units. Vertically, each Residential Unit consists of the space between the upper face of the subfloor and the upper face of the drywall ceiling on each of one or two floors. Doors, windows and skylights which open from or form the border of a unit shall be deemed part of the unit.

Any mechanical equipment located outside a unit which only service a particular unit, shall be a fixture which is the personal property of the unit owner of the unit it services. Such unit owner shall be responsible for the cost of any maintenance, repair or replacement of such mechanical equipment. Any common element located within a Unit will not be considered a part of such Unit.

(c) Each Unit includes: (i) the entrance doors to such Unit; (ii) the interior walls, partitions and floor coverings and plastered ceilings affixed, attached, or appurtenant to such Unit; (iii) any and all equipment, fixtures and appliances (including, without limitation, heating and cooling equipment, plumbing, plumbing facilities, sinks, bathtubs, waterclosets, refrigerators, ovens, ranges, dishwashers and any other appliances) affixed, attached, or appurtenant to such Unit; and (iv) all Facilities affixed, attached, or appurtenant to such Unit and benefiting only that Unit.

(d) Notwithstanding anything contained in this Article 6 to the contrary, each Unit Owner shall have the right, exercisable at any time and from time to time, to install, at such Unit Owner's sole cost and expense, such decorations, fixtures and coverings (including, without limitation, painting, finishing, wall papering, carpeting, pictures, mirrors, shelving and lighting fixtures) on the surfaces of the walls, ceilings and floors that face the interior of such Unit Owner's Unit and to a depth of one inch behind such surfaces for the purposes of installing nails, screws, bolts, receptacles and the like, provided that no such installation shall impair the structural integrity of such Unit or of the Building.

## ARTICLE 7

### The Common Elements

(a) The Common Elements are comprised of (i) the General Common Elements, which are described in paragraph (b) of this Article 7 and (ii) the Limited Common Elements, which are described in paragraph (c) of this Article 7.

(b) The General Common Elements consist of the Land and those rooms, areas, corridors and other portions of the Building (other than the Units), as well as those Facilities therein, either currently or hereafter existing for the common use of the Units or of the Unit Owners or necessary for, or convenient to, the existence, maintenance, management, operation, or safety of the Property. Without intention to limit the generality of the foregoing in any respect, the General Common Elements include:

(i) the Land;

(ii) all foundations, columns, beams, supports, girders, exterior walls, interior walls, partitions, windows (including panes, casements and frames), floors, roofs, and ceilings in, on, or under the Building, to the extent that the same are not expressly included as a part of a Unit pursuant to the terms of Article 6 hereof or as part of a Limited Common Element pursuant to the terms of paragraph (c) of this Article 7;

(iii) all hallways, corridors, lobbies, vestibules, basements and cellars (except to the extent that Units are located on such levels), yards, storage spaces, common laundry spaces, mail rooms, mail boxes, stairs, stairways, elevator shafts and pits, other mechanical and electrical equipment spaces, spaces devoted to the lodging or use of the superintendent or other persons employed in connection with the operation of the Property and entrances to, and exits from, the Building;

(iv) all central and appurtenant installations and Facilities for services such as power, light, telephone, intercom, gas, sewer, plumbing, drainage, hot and cold water distributions, heat, garbage disposal, cable television and other mechanical and electrical systems to the extent that the same are not expressly included as a part of a Unit pursuant to the terms of Article 6 hereof; and

(v) all other parts of the Property, and all apparatus and installations now existing or hereafter constructed in the Building or on the Property, either existing for the common use of the Units or the Unit Owners or necessary for, or convenient to, the existence, maintenance, or safety of the Property.

(c) The Limited Common Elements consist of all portions of the Land and the Building (other than the Units) that are for the use of one or more specified Units to the exclusion of all other Units. The Limited Common Elements include:

(i) any patio/yard used exclusively by the respective Unit Owner(s) of Unit 1C and 1D and the terraces attached to units 4A, 5A and 5B (other than the structural elements thereof) to which there is direct and exclusive access from the interior of a Residential Unit and the fireplaces used exclusively by the respective Unit Owners of 1A, 1B, 1C, 2A, 2B, 2C, 2MC, 3A 3B, 3C, 4A, 4B and 4C. The Owners having exclusive use of a patio or terraces may not build any structure in the patio or terrace space. The Board of Managers and/or their agents shall have unimpeded access to the patio space and terraces for the purposes of making inspections and repairs to the building. The Limited Common Element must be separately maintained by the Unit Owner who has exclusive use thereof; and

(ii) the entrance doors, canopies and corridors (if any) leading directly and exclusively from any street to any Unit or any portion thereof (which shall be for the exclusive use of such Unit); and each individual Unit Owner is responsible for the repair, maintenance and/or replacement of the video panel within the Unit that is hooked up to the common intercom video system, the air conditioning fan motor in the air conditioning unit within the Unit with its condenser on the roof. Those Unit Owners with a fireplace in

their Unit are responsible for the care, maintenance and/or replacement of their fireplace and the exhaust system servicing the fireplaces in the building.

(d) The Common Elements shall remain undivided, and no Unit Owner or any other Person shall bring, or shall have the right to bring, any action for partition or division thereof, except as is expressly permitted pursuant to the terms of Article 15 hereof and Section 5.5 of the By-Laws.

## ARTICLE 8

### Determination of Common Interests

The percentage of Common Interest for Residential Units has been calculated in accordance with Section 339i (1) (ii) of the Condominium Act on the basis of the approximate proportion which the floor area (i.e. square foot area) of each unit bears to the total floor area (i.e. total square foot area) of all the units as of the date of the Declaration and taking into account the substantially exclusive advantages enjoyed by the units in parts of the common elements, referred to herein as Limited Common Elements.

## ARTICLE 9

### Use of Units

(a) As more particularly set forth in the By-Laws, each Residential Unit may be used only as a residence except as may be otherwise allowed by law, and not more than one natural person and his Family Members plus one additional occupant and his dependent children may occupy a Residential Unit at one time. Upon the prior written consent of Declarant (or, when there are no longer any Unsold Units, the Condominium Board), any Residential Unit may be used as a professional or business office, provided, however, that such use is permitted by Law.

(b) A Residential Unit owned or leased by an individual, corporation, partnership, fiduciary, or any other entity may be occupied only by said individual, or by an officer, director, stockholder, or employee of such corporation, or by a partner or employee of such partnership, or by said fiduciary (including a director, officer, stockholder, or employee of a corporate fiduciary and a partner or employee of a partnership fiduciary), or by the beneficiary of said fiduciary, or by a principal or employee of such other entity, or by Family Members or guests of any of the foregoing. Residential Units may be leased in accordance with the By-Laws and the Rules and Regulations.



(c) Notwithstanding the foregoing or anything contained in the By-Laws or the Rules and Regulations to the contrary, Declarant may, without the consent of the Condominium Board or other Unit Owners: (i) grant permission for the use of any Unsold Residential Unit as a professional office or for any other purpose, provided, however, that such use is permitted by Law; (ii) use any Unsold Units as model units and offices for the selling, renting, management, operation and promotion of the Unsold Residential Units or for any other purpose, subject only to compliance with Law and (iii) lease any Unsold Units to third parties for their occupancy.

## ARTICLE 10

### Easements for the Enjoyment of Common Elements

(a) Subject to the terms of the By-Laws and the Rules and Regulations, Declarant, the Unit Owners, all other permitted tenants and occupants of the Building, the Selling Agent, the Managing Agent, the Condominium Board and all officers, partners, employees, agents, guests, invitees and licensees of the foregoing shall have, in common with all of the others, an easement for ingress and egress through, as well as for the use and enjoyment of, all of the General Common Elements, and the General Common Elements shall be subject to such easement. Notwithstanding the foregoing, however, no Person shall use or enjoy the General Common Elements except in accordance with the reasonable purposes for which they are intended and without encroaching upon the rights of other Persons to do so.

(b) Each Unit Owner whose Unit has one or more appurtenant Limited Common Elements shall have an exclusive easement for the use thereof. The Units having Limited Common Elements are indicated on Exhibit B.

(c) Notwithstanding anything to the contrary contained in paragraph (a) hereof, Declarant and its designees, successors, assignees, invitees, licensees, contractors, employees, agents and tenants shall have an easement in, over, under, through and upon the General Common Elements to use the same, without being subject to any fee or charge, for all purposes and activities in connection with the sale or renting of Unsold Units and shall have the right to use any one or more Unsold Units as sales, rental and/or management offices and/or as model units. Such Unsold Units shall remain Units within the meaning of this Declaration, the By-Laws and the Condominium Act, and shall not comprise a part of the General Common Elements. In addition, Declarant reserves the right, to the extent permitted by Law, without charge or limitation to use one or more portions of the Common Elements, as designated by Declarant in its sole discretion, for sale, rental, or display purposes, which right shall include, without limitation, the right to place "for sale", "for rent" and other

signs and promotional materials, of such size and content as Declarant shall determine, in, on, about and adjacent to the Building (including on the exterior walls thereof) and the Property. The foregoing right shall be exercised by Declarant without unreasonably interfering with the rights of Unit Owners. The provisions of this paragraph (c) may not be amended without the consent of Declarant.

## ARTICLE 11

### Other Easements

(a) Subject to the terms of the By-Laws and to the Rules and Regulations, each Unit Owner shall have, in common with all other Unit Owners, an easement to use any of the Common Elements, and all pipes, wires, ducts, cables, conduits, public utility lines and all other utility distribution systems, whether or not Common Elements, located in, over, under, through, adjacent to, or upon any other Unit or the Common Elements to the extent that such Common Elements and utility distribution system serve, or are necessary to the service of, his Unit, and each Unit and all of the Common Elements shall be subject to such easement. In addition, the Condominium Board shall have an easement and a right of access to each Unit and to the Common Elements to inspect them, to remove violations therefrom and to install, operate, maintain, repair, alter, rebuild, restore and replace any of the Common Elements located in, over, under, through, adjacent to, or upon the same, and each Unit and the Common Elements shall be subject to such easement and right of access. Such entry shall be permitted on not less than one (1) day's notice, except that no such notice shall be necessary in the event of repairs or replacements immediately necessary or required for the preservation or safety of the Building, for the safety of the occupants of the Building or other persons, or to avoid the suspension of any necessary service in the Building.

(b) Each Unit and the Common Elements shall have easements of subjacent support and necessity, and such easements shall be subject to the same easements in favor of all of the other Units and the Common Elements.

(c) If (i) any portion of the Common Elements now encroaches upon any Unit or upon any other portion of the Common Elements, (ii) any Unit now encroaches upon any other Unit or upon any portion of the Common elements or (iii) any such encroachment shall hereafter occur as a result of (x) the settling or shifting of the Building, (y) any repair or alteration made to the Common Elements in accordance with the terms of this Declaration and the By-Laws by, or with the consent of, the Condominium Board, by Declarant, its designee or (z) any repair or restoration made to the Building or any portion thereof, to any Unit, or to the Common Elements in accordance with the terms of this Declaration and the By-Laws after damage by fire or other casualty or after any taking

by condemnation or eminent domain proceedings, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same for so long as the Building or the affected Unit or Common Elements shall stand.

(d) In addition to the specific easements set forth in this Article 11 and in Article 10 hereof, the Property and every portion thereof shall be subject to all easements and rights of access prescribed in the Condominium Act.

## ARTICLE 12

### Alterations, Additions, Improvements and Changes to Unsold Units

Except to the extent prohibited by Law, Declarant or its designee with respect to Unsold Units shall have the right, without the consent or approval of the Condominium Board, any Unit Owner, the Selling Agent, the Managing Agent, or the Mortgage Representatives, if any, to:

(i) make alterations, additions, or improvements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon Unsold Units;

(ii) change the layout, or number of rooms, in any of such Units;

(iii) change the size and/or number of Unsold Units by (w) subdividing one or more such Units into two or more separate Units, (x) combining two or more separate Units (including, without limitation, those resulting from such subdivision or otherwise) into one or more Units, (y) altering the boundary walls of any of such Units or (z) otherwise; and

(iv) if appropriate, reapportion among such Units affected by such change in size or number pursuant to the preceding clause (iii) their respective Common Interests; provided, however, that, with respect to any such alteration, addition, improvement, or change in, to, of, or upon such Unit:

(1) no physical modification shall be made to any Unit or its Common Interest unless the owner of such other affected Unit shall consent thereto;

(2) Declarant or its designee shall comply with Law;

(3) Declarant or its designee shall agree to hold the Condominium Board and all other Unit Owners harmless from any liability arising therefrom; and

(4) such alteration, addition, improvement or change shall not jeopardize the soundness or structural integrity of any part of the Building or the safety of any tenant or other person at the Property.

Notwithstanding the foregoing, however, the aggregate amount of the Common Interests of all of the Units shall always remain at 100%, and no reapportionment of the Common Interest appurtenant to any Unit shall be made unless there is first delivered to the Condominium Board a written certification stating that the new Common Interest of the affected Unit has been based upon the factors set forth in Article 8 hereof. The certification referred to in the preceding sentence shall be delivered, at Declarant's election, by Declarant, the Selling Agent, the Managing Agent, or any other Person reasonably acceptable to the Condominium Board. The provisions of this Article 12 may not be added to, amended, modified, or deleted without the prior written consent of Declarant or its designee.

### **ARTICLE 13**

#### Acquisitions of Units by the Condominium Board

If (i) any Unit Owner surrenders his Unit, together with its Appurtenant Interests, to the Condominium Board pursuant to the terms of the By-Laws or of Section 339-X of the Condominium Act of (ii) the Condominium Board, pursuant to the terms of the By-Laws or otherwise, either (x) acquire or leases a Unit, together with its Appurtenant Interests, or (y) purchases a Unit, together with its Appurtenant Interests, at a foreclosure or other similar sale, then, in any such event, title or the leasehold estate, as the case may be, in and to such Unit and such Appurtenant Interests shall be held by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective Common Interests. Any lease or sublease of any Unit leased or subleased by the Condominium Board or its designee shall be held by the Condominium Board or such designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective Common Interests.

### **ARTICLE 14**

#### Power of Attorney to Declarant and the Condominium Board

(a) Each Unit Owner, by acceptance of a deed or otherwise succeeding to title to a Unit, shall be deemed to have nominated, constituted and appointed as such Unit Owner's attorney-in-fact, which power is irrevocable and coupled with an interest and with power of substitution, (i) Declarant, to amend the Condominium Documents pursuant to the terms of Article 18 hereof and (ii) the



Persons who shall from time to time constitute the Condominium Board, jointly, to:

(x) acquire or lease any Unit, together with its Appurtenant Interests, (1) whose owner desires to sell, convey, transfer, assign, lease, or surrender the same or (2) that becomes the subject of a foreclosure or other similar sale, in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners;

(y) convey, sell, lease, mortgage, or otherwise deal with (but not to vote the Common Interest appurtenant to) any Unit so acquired or to sublease any Unit so leased; and

(z) execute, acknowledge and deliver (1) any declaration or other instrument affecting the Condominium that the Condominium Board deems necessary or appropriate to comply with any Law applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Condominium or (2) any consent, covenant, restriction, easement, or declaration, or any amendment thereto, affecting the Condominium or the Common Elements that the Condominium Board deems necessary or appropriate.

(b) In confirmation of the foregoing power of attorney, each Unit Owner, upon the request of either Declarant or the Condominium Board, shall duly execute, acknowledge and deliver to the requesting party, for recording in the Register's Office, a Unit Owner's Power of Attorney in the form set forth as Exhibit E to this Declaration.

## ARTICLE 15

### Termination of Condominium

The Condominium shall continue until terminated by (i) casualty loss, condemnation, or eminent domain, as more particularly provided in the By-Laws or (ii) withdrawal of the Property from the provisions of the Condominium Act by a vote of at least eighty (80%) percent of all Unit Owners, both in number and in aggregate Common Interests. No such vote under clause (ii) in the preceding sentence shall be effective without the written consent of the Mortgage Representatives, if any, which consent shall not be unreasonably withheld or delayed. Declarant will not vote the aggregate Common Interests appurtenant to the Unsold Units for such withdrawal unless at least eighty (80%) percent, both in number and in aggregate Common Interests, of all other Unit Owners so elect for such withdrawal, or Declarant is the owner of all Units, in either of which cases, Declarant may choose to vote either in favor of or against withdrawal from condominium ownership, as it sees fit. In the event that said withdrawal is authorized by a vote of Unit Owners other than Declarant as aforesaid, but only in such event, the Property shall be subject

to an action for partition by any Unit Owner or lienor as if owned in common, in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first been paid, out of such Unit Owner's share of such net proceeds, all liens on the Unit Owner's Unit, in the order of priority of such liens.

## ARTICLE 16

### Covenant of Further Assurances

(a) Any Person who is subject to the terms of this Declaration, whether such Person is a Unit Owner, a lessee or a sublessee of a Unit Owner, an occupant of a Unit, a member of the Condominium Board, an officer of the Condominium, or otherwise, shall, at the expense of any such other Person requesting the same, execute, acknowledge and deliver to such other Person such instruments, in addition to those specifically provided for herein, and take such other action, as such other Person may reasonably request to effectuate the provisions of this Declaration or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

(b) If any Unit Owner or any other Person who is subject to the terms of this Declaration fails or refuses to execute, acknowledge, or deliver any instrument, or fails or refuses, within ten (10) days after request therefore, to take any action that such Unit Owner or Person is required to take pursuant to this Declaration, then the Condominium Board is hereby authorized as attorney-in-fact for such Unit Owner or other Person, which power is irrevocable and deemed to be coupled with an interest and with power of substitution to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Unit Owner or other Person, and such document or action shall be binding on such Unit Owner or other Person.

(c) If any Unit Owner or the Condominium Board or any other Person who is subject to the terms of this Declaration fails or refuses to execute, acknowledge, or deliver any instrument, or fails or refuses, within ten (10) days after request therefor, to take any action that the Condominium Board, Unit Owner, or other Person is required to take pursuant to this Declaration at the request of Declarant, then Declarant is hereby authorized as attorney-in-fact for the Condominium Board, such Unit Owner or other Person, which power is irrevocable and deemed to be coupled with an interest and with power of substitution to execute, acknowledge and deliver such instrument, or to take such action, in the name of the Condominium Board, such Unit Owner or other Person, and such document or action shall be binding on the Condominium Board, such Unit Owner or other Person, as the case may be.



**ARTICLE 17**Covenants to Run With the Land

(a) All provisions of this Declaration, the By-Laws and the Rules and Regulations, including, without limitation, the provisions of this Article 17, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions thereof shall be binding upon, and shall inure to the benefit of, the owner of all or any part thereof, or interest therein, and his heirs, executors, administrators, legal representatives, successors and assigns, but the same are not intended to create, nor shall they be construed as creating, any rights in or for the benefit of the general public. All present and future owners, tenants and occupants of Units shall be subject to, and shall comply with, the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance, the entering into a lease, or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the By-Laws and the rules and Regulations, as they may be amended from time to time, are accepted and ratified by such owner, tenant, or occupant, and all of such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having, at any time, any interest or estate in such Unit as though such provisions were recited and stipulated at length in each and every deed, conveyance, or lease.

(b) If any provision of this Declaration or of the By-Laws is invalid under, or would cause this Declaration and the By-Laws to be insufficient to submit the Property to the provisions of the Condominium Act, such provision shall be deemed deleted from this Declaration or the By-Laws, as the case may be, for the purpose of submitting the property to the provisions of the Condominium Act, but shall nevertheless be valid and binding upon, and shall inure to the benefit of, the owners of the Property and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under other applicable Law to the extent permitted under such applicable Law with the same force and effect as if, immediately after the recording of this Declaration and the By-Laws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land. If any provision that is necessary to cause this Declaration and the By-Laws to be sufficient to submit the Property to the provisions of the Condominium Act is missing from this Declaration or the By-Laws, then such provision shall be deemed included as a part of this Declaration or the By-Laws, as the case may be, for the purposes of submitting the Property to the provisions of the Condominium Act.

(c) Subject to the terms of paragraph (b) of this Article 17, if this Declaration and the By-Laws are insufficient to submit the Property to the provisions of the Condominium Act, the provisions of this Declaration and the By-Laws shall nevertheless be valid and binding upon, and shall inure to the benefit of, the owners of the Property and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under other applicable Law to the extent permitted under such applicable Law with the same force and effect as if, immediately after the recording of this Declaration and the By-Laws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land.

## ARTICLE 18

### Amendments to this Declaration

(a) Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions, or deletions affecting Declarant or its designee, or any Unsold Units, and except as hereinafter otherwise provided, any provision of this Declaration may be amended, modified, added to, or deleted by the vote of at least 66-2/3% of all Unit Owners, both in number and in aggregate Common Interests, taken in accordance with the provisions of the By-Laws. Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions, or deletions affecting Declarant or its designee, or any Unsold Units, no amendment, modification, addition, or deletion pursuant to the preceding sentence shall be effective without the written consent of the Mortgage Representatives, if any, which consent shall not be unreasonably withheld or delayed. No such amendment, modification, addition, or deletion shall be effective until recorded in the Register's Office. Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions, or deletions affecting Declarant or its designee, or any Unsold Units, any such amendment, modification, addition, or deletion shall be executed by the Condominium Board as Attorney-in-fact for the Unit Owners, which power is irrevocable and deemed to be coupled with an interest and power of substitution, and the Condominium Board is hereby authorized by the Unit Owners so to act as their Attorney-in-fact. Subject to the rights of Declarant or its designee under Articles 9, 10, 11, 12, 14 and 15 of this Declaration, Articles 9, 10, 11, 12, 14 and 15 of this Declaration may be amended, modified, added to, or deleted only if (in addition to the consent, if required, of the Mortgage

Representatives, if any, as set forth above) eighty (80%) percent, both in number and in aggregate Common Interests, of all Unit Owners affected thereby approve such amendment, modification, addition, or deletion in the manner set forth above.

(b) Declarant or its designee shall have the right, at its sole cost and expense and without the vote or consent of any other Unit Owners, the Condominium Board, or the Mortgage Representatives, if any, to execute, acknowledge and record (or, at Declarant's or such designees' sole option, to require the Condominium Board or any other Unit Owners to execute, acknowledge and record) in the Register's Office and elsewhere, if required by Law, one or more amendments to this Declaration (including, without limitation, to Exhibit B hereto), together with such documents, plans and maps as Declarant or such designee deems appropriate to effectuate the same:

(i) to reflect any changes in Unsold Units and/or the reapportionment of the Common Interest of the affected Unsold Units resulting therefrom made by Declarant or such designee in accordance with the terms of Article 12 hereof; or

(ii) required by (x) an Institutional Lender designated by Declarant to make a loan secured by a mortgage on any Unit, (y) any governmental agency having regulatory jurisdiction over the Condominium or (z) any title insurance company selected by Declarant to insure title to any Residential Unit.

provided, however, that any amendment made pursuant to the terms of subparagraph (i) or (ii) of this paragraph shall not (1) change the Common Interest of any Unit other than a Unit owned by Declarant, (2) require a material, physical modification of any Unit other than a Unit owned by Declarant or (3) adversely affect the priority or validity of the lien of any purchase money mortgage or any mortgage held by an Institutional Lender unless the owner of such affected Unit (in the event described in subparagraph (1) or (2) of this paragraph) or the holder of such mortgage (in the event described in subparagraph (3) of this paragraph) shall consent thereto by joining in the execution of such amendment.

(c) Any amendment to this Declaration may be executed: (i) if on behalf of Declarant pursuant to the terms of paragraph (b) hereof, (ii) if on behalf of the Unit Owners or by the Condominium Board, by the President or Vice President and the Secretary or an Assistant Secretary of the Condominium. If the amendment requires the approval of a specified percentage of Unit Owners pursuant to the terms of this Declaration or the By-Laws, then there shall be attached to such amendment an original executed Secretary's Certification, certifying that the requisite number and percentage of Unit Owners approved the amendment at a duly constituted meeting or (when permitted in this Declaration or the By-Laws) in writing without a meeting, in which Certification shall be

described the number and percentage of Unit Owners so consenting and (if voted upon at a meeting) the date and time of the meeting.

(d) Notwithstanding anything contained in the Condominium Documents to the contrary, but subject to any limitation imposed by the Condominium Act, no amendment to the Condominium Documents shall be adopted for so long as Declarant or its designee owns any Unit if the same would (i) unreasonably interfere with the sale, lease, or other disposition of a Unit owned by Declarant or such designee; (ii) abridge, modify, suspend, eliminate, or otherwise affect any right, power, easement, privilege, or benefit reserved to Declarant or such designee; or (iii) impose any discriminatory charge or fee against Declarant or such designee; without the consent of Declarant or its designee whichever may be affected.

(e) In the event North Fork Bank has a security interest in one or more unsold Units no amendment to the Declaration shall be made without the written consent of North Fork Bank, its designee and or its successor in interest.

(f) The provisions of this Article 18 may not be modified, amended, added to, or deleted, in whole or in part, without the consent of Declarant or its designee.

## ARTICLE 19

### Consents of Declarant and the Condominium Board

Wherever the consent, approval, satisfaction, or permission of Declarant or its designee is required under this Declaration or the By-Laws, such consent, approval, satisfaction, or permission shall not be required when Declarant or such designee no longer owns any Units. All consents required to be given by Declarant or the Condominium Board shall be given in writing. Wherever the consent, approval, satisfaction or permission of Declarant or its designee is required, the granting of such consent, approval, permission or acknowledgment of satisfaction shall be solely in the discretion of the party whose consent, approval, satisfaction or permission is required and no standard of reasonableness shall be imposed on such party.

## ARTICLE 20

### Person to Receive Service

Philips International Holding Corp., 417 Fifth Avenue, New York, N.Y. 10016, or any successor Managing Agent, is hereby designated to receive service of process in any action that may be brought against the Condominium.



**ARTICLE 21**

Incorporation by Reference

The terms, covenants, conditions, descriptions and other information contained in (i) the property description annexed hereto as Exhibit A; (ii) the description of the Units annexed hereto as Exhibit B; (iii) the table of definitions annexed hereto as Exhibit C; (iv) the By-Laws annexed hereto as Exhibit D; (v) the Unit Owner's Power of Attorney annexed hereto as Exhibit E; and (vi) the Floor Plans are, by this reference, each incorporated herein and made a part of this Declaration as if the same were set forth at length in the text hereof.

**ARTICLE 22**

Waiver

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches that may occur.

**ARTICLE 23**

Severability

Subject to the provisions of paragraphs (b) and (c) of Article 17 hereof, if any provision of the Condominium Documents is invalid or unenforceable as against any Person or under certain circumstances, the remainder of the Condominium Documents and the applicability of such provision to other Persons or circumstances shall not be affected thereby. Each provision of the Condominium Documents shall, except as otherwise provided herein, be valid and enforced to the fullest extent permitted by Law. Any conflict between any provision of the Condominium Documents and the Condominium Act, or any questions regarding the interpretation of any of the Condominium Documents, shall be governed by the Condominium Act.

**ARTICLE 24**

Successors and Assigns

The rights and/or obligations of Declarant as set forth herein shall inure to the benefit of, and shall be binding upon, any successor or assignee of Declarant or, with consent of Declarant, any transferee of all of the then Unsold Units. Subject to the foregoing, Declarant shall have the right, at any time, in

its sole discretion, to assign or otherwise transfer its interest herein, whether by merger, consolidation, lease, assignment, or otherwise.

**ARTICLE 25**

Gender

A reference in this Declaration to any one gender, masculine, feminine, or neuter, includes the other two, and the singular includes the plural, and vice-versa, unless the context otherwise requires.

**ARTICLE 26**

Captions

The index hereof and the captions herein inserted are included only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of this Declaration or the intent of any provision hereof.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Beekman-Water Associates LLC

By: \_\_\_\_\_



State of New York                                 }  
                                                              } SS.:  
County of                                                 }

On the        day of                                 in the year 200    , before me, the undersigned, a Notary Public  
in and for said State, personally appeared,

                                                              , personally known to me or proved to me on the basis of  
satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the  
person upon behalf of which the individual(s) acted executed the instrument.

---

Notary

**EXHIBIT A TO THE DECLARATION  
OF THE BEEKMAN LANDING CONDOMINIUM**

**DESCRIPTION OF THE LAND**

**PARCEL A**

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, County, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Water Street, distant fifty feet one inch easterly from the corner formed by the intersection of the said southerly side of Water Street and the easterly side of Beekman Street;

THENCE easterly along said southerly side of Water Street sixteen feet six inches to a point opposite the centre line of a party wall;

THENCE southerly along the centre line of said party wall and a line in continuation thereof, seventy-two feet ten and one-half inches to the centre line of the block;

THENCE westerly along the said centre line of the block, 16 feet 7 inches to the easterly face of the independent wall of the building upon the premises adjoining the same on the west;

THENCE northerly along the easterly face of the said last mentioned wall, thirteen feet four and three-quarter inches to the southerly face of the rear wall of the building upon the premises herein described;

THENCE westerly along the southerly face of the said last mentioned wall, two inches to a point in the centre of the 24-inch wall standing between the building on the premises herein described and the building upon the premises adjoining on the west; and

THENCE northerly along the centre line of the said last mentioned wall, fifty-nine feet six inches to the southerly side of Water Street, the point or place of BEGINNING.

SAID PREMISES being known as 231 Water Street.

**PARCEL B**

BEGINNING at the corner formed by the intersection of the northeasterly side of Beekman Street with the-southeasterly side of Water Street;

RUNNING THENCE northeasterly along the southeasterly side of Water Street, 24 feet 9 inches to a point in the centre or in a line in continuation of the center of 12 inch wall standing half on the

premises herein described and half on the premises adjoining on the northeast;

THENCE southeasterly along a line in continuation of the center and along the center of said 12 inch wall and along the southwesterly face of southwesterly wall of the six-story brick building on the premises described in Schedule A, 54 feet 4 inches to the northwesterly face of the northwesterly wall of the brick building on the premises known as 134 Beekman Street;

THENCE southwesterly along the northwesterly face of said northwesterly wall, 25 feet 6 inches to the northeasterly side of Beekman Street; and

THENCE northwesterly along the northeasterly side of Beekman Street 53 feet 10. inches to the corner, the point or place of BEGINNING.

SAID PREMISES being known as 227 Water Street.

PARCEL C

BEGINNING at a point on the southeasterly side of Water Street distant 24 feet 9 inches northeasterly from the corner formed by the intersection of the northeasterly side of Beekman Street with the southeasterly side of Water Street;

RUNNING THENCE northeasterly along the southeasterly side of Water Street 25 feet 4 inches to a point in the center or in a line in continuation of the center of a 24 inch wall standing half on the premises herein described and half on the premises adjoining on the northeast;

THENCE southeasterly along a line in continuation of the center and along the center of said 24 inch wall and along the northeasterly face of the northeasterly wall of the six story brick building and of the one story brick building on the premises described in Schedule A, 93 feet 4 inches to the southeasterly face of the southeasterly wall of said one story brick building on the premises described in Schedule A;

THENCE southwesterly along said southeasterly face of said southeasterly wall 25 feet 4-1/2 inches to the southwesterly face of the southwesterly wall of said one story brick building;

THENCE northwesterly along said southwesterly face of said southwesterly wall of said one story brick building and along the southwesterly face of the southwesterly wall of the six story brick building -on the premises described in Schedule A and through the center of a party wall 92 feet 9 inches to the southeasterly side of Water Street the point or place of BEGINNING.

SAID PREMISES being known as 229 Water Street.

**EXHIBIT B TO THE DECLARATION  
OF THE BEEKMAN LANDING CONDOMINIUM**

**DESCRIPTION OF THE UNITS**

**Exhibit B**

**TO THE DECLARATION OF THE BEEKMAN LANDING CONDOMINIUM**

| <u>Unit<br/>Number</u> | <u>Tax lot<br/>Number</u> | <u>Location</u>               | <u>Sq. Ft./Unit</u> | <u>Rooms/<br/>Baths</u> | <u>Common<br/>Access</u>        | <u>Limited<br/>Common<br/>Elents</u> | <u>%<br/>Common<br/>Intent</u> |
|------------------------|---------------------------|-------------------------------|---------------------|-------------------------|---------------------------------|--------------------------------------|--------------------------------|
| 1A                     |                           | First Floor                   | 1,025               | 3.5/1                   | Corridor, elevator, outside     | None                                 | 4.32                           |
| 1B                     |                           | First Floor                   | 1,072               | 2.5/2                   | Corridor, elevator, outside     | None                                 | 4.54                           |
| 1C                     |                           | First Floor                   | 1,113               | 3.5/1                   | Corridor, elevator, outside     | Patio/Yard                           | 5.98                           |
| 1D                     |                           | First Floor                   | 1,176               | 2.5/2                   | Corridor, elevator              | Patio/Yard                           | 6.27                           |
| 2A                     |                           | Second Floor                  | 1,286               | 3.5/2                   | Corridor, elevator              | None                                 | 5.55                           |
| 2B                     |                           | Second Floor                  | 807                 | 2.5/1                   | Corridor, elevator              | None                                 | 3.34                           |
| 2C                     |                           | Second Floor                  | 1,084               | 3.5/1                   | Corridor, elevator              | None                                 | 4.61                           |
| 2D                     |                           | Second Floor                  | 814                 | 2.5/1                   | Corridor, elevator              | None                                 | 3.37                           |
| 2MC                    |                           | Second Floor                  | 1,099               | 3.5/1                   | Corridor, elevator              | None                                 | 4.68                           |
| 3A                     |                           | Third Floor                   | 1,257               | 3.5/2                   | Corridor, elevator              | None                                 | 5.41                           |
| 3B                     |                           | Third Floor                   | 886                 | 2.5/1                   | Corridor, elevator              | None                                 | 3.70                           |
| 3C                     |                           | Third Floor                   | 1,164               | 3.5/1                   | Corridor, elevator              | None                                 | 4.98                           |
| 3D                     |                           | Third Floor &<br>Fourth Floor | 1,564               | 4.5/2.5                 | Corridor, elevator              | None                                 | 6.78                           |
| 4A                     |                           | Fourth Floor                  | 1,307               | 3.5/2                   | Corridor, elevator &<br>terrace | Terrace                              | 7.07                           |
| 4B                     |                           | Fourth Floor                  | 886                 | 2.5/1                   | Corridor, elevator              | None                                 | 3.70                           |
| 4C                     |                           | Fourth Floor                  | 1,164               | 3.5/1                   | Corridor, elevator              | None                                 | 4.98                           |
| 5A                     |                           | Fifth Floor &<br>Sixth Floor  | 2,365               | 5.5/3                   | Corridor, elevator &<br>terrace | Terrace                              | 11.91                          |
| 5B                     |                           | Fifth Floor &<br>Sixth Floor  | 1,732               | 5.5/3                   | Corridor, elevator &<br>terrace | Terrace                              | 8.81                           |

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**EXHIBIT C TO THE DECLARATION  
OF THE BEEKMAN LANDING CONDOMINIUM**

**DEFINITIONS**

"Appurtenant Interest" shall mean, with respect to any Unit, the undivided interest of the owner thereof pursuant to the terms of Section 339-x of the Condominium Act in and to: (i) the Common Elements; (ii) any other Units owned or leased at the time in question by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, (iii) any proceeds of the sale or lease of Units of the nature described in subdivision (ii) above and (iv) any other assets of the Condominium.

"Building" shall mean the building situated on the Land and known as 130 Beekman Street a/k/a 227, 229 & 231 Water Street, New York, New York 10038.

"By-Laws" shall mean the by-laws of the Condominium, which are annexed as Exhibit D to the Declaration, as the same may be amended from time to time pursuant to the terms thereof.

"Common Elements" shall mean, collectively, the Limited Common Elements, and the General Common Elements and shall consist of all parts of the Property other than the Units.

"Common Charges" shall mean the charges allocated and assessed by the Condominium Board to the Unit Owners, pro-rata in accordance with their respective Common Interests (except as otherwise provided in the Declaration or in the By-Laws), to meet the Common Expenses.

"Common Expenses" shall mean all costs and expenses to be incurred generally by the Unit Owners pursuant to the Declaration and/or the By-Laws in connection with: (i) the repair, maintenance, replacement, restoration and operation of, and any alteration, addition, or improvement to, the Common Elements; (ii) the establishment and/or maintenance of a general operating reserve or a reserve fund for working capital, for replacements with respect to the Common Elements, or to make up any deficit in the Common Charges for any prior year(s); (iii) the purchase, lease, or sublease by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, of any Unit whose owner has elected to sell, lease, transfer, or convey the same or that is to be sold at a foreclosure or other sale and (iv) generally, the conduct of the affairs of the Condominium.

"Common Interest" shall mean the undivided percentage interest of each Unit in the Common Elements.

"Condominium" shall mean The Beekman Landing Condominium, which was established pursuant to the terms of the Declaration and is to be governed pursuant to the terms of the By-Laws.



"Condominium Act" shall mean Article 9-B of the Real Property Law of the State of New York, as the same may be amended from time to time.

"Condominium Board" shall mean the governing body of the Condominium, whose members shall be selected pursuant to the terms of Articles 2 and 4 of the By-Laws.

"Condominium Documents" shall mean the Declaration, the By-Laws and the Rules and Regulations.

"Declarant" shall mean Beekman-Water Associates LLC.

"Declaration" shall mean the declaration executed by Declarant for the purposes of submitting the Property to the provisions of the Condominium Act and establishing a regime for the condominium ownership thereof.

"Facilities" shall mean all personal property and fixtures now or hereafter existing in, on, or under the Land or the Building and either existing for the common use of the Units or the Unit owners or necessary or convenient for the existence, maintenance, or safety of the Property. For purposes of illustrating the broad scope of such term and without intention to limit the generality of the foregoing in any respect, the term "Facilities" shall include all systems, equipment, apparatus, convectors, radiators, heaters, converters, heat exchangers, mechanisms, devices, machinery, induction units, fan coil units, motors, pumps, controls, tanks, tank assemblies, installations, condensers, compressors, fans, dampers, blowers, thermostats, thermometers, coils, vents, sensors, shut off valves, other valves, gongs, panels, receptacles, outlets, relays, alarms, sprinkler heads, electric distribution facilities, wiring, wireways, switches, switchboards, circuit breakers, transformers, fittings, siamese connections, hoses, plumbing fixtures, lighting fixtures, other fixtures, bulbs, signs, antennae, telephones, meters, meter assemblies, scaffolding, piping, lines, ducts, conduits, cables, risers, mains, shafts, pits, flues, locks, hardware, racks, screens, strainers, traps, drains, catch basins, leaders, filters, incinerators, canopies, closets, cabinets, doors, railings, copings, steps, furniture, mirrors, furnishings, appurtenances, urns, baskets, mail chutes, mail boxes, carpeting, tiles, floor coverings, draperies, shades, window coverings, wallpaper, wall coverings, trees, shrubbery, flowers, plants, horticultural tubs and horticultural boxes.

"Family Members" shall mean the spouse, children (natural and adopted), stepchildren, grandchildren, siblings, parents, parents-in-law and grandparents, sons-in-law or daughters-in-law of a person.

"First Closing" shall mean the first date upon which title to a Non-Commercial Unit is conveyed to a purchaser pursuant to the terms of the Plan.

"Floor Plans" shall mean the floor plans of the Units certified by Architects Design Group, P.C., and filed in the Register's Office simultaneously with the recording of the Declaration, together with any supplemental floor plans thereto.

"General Common Elements" shall mean those certain portions of the Land and the Building (other than the Units), as well as those facilities therein, either existing for the common use of the Units or the Unit Owners or necessary for, or convenient to, the existence, maintenance, or safety of the Property, as more particularly described in paragraph (b) of Article 7 of the Declaration.

"Initial Control Period" shall mean the period ending on the earlier of: (i) the closing of title with purchasers under the Plan to Residential having more than fifty percent of the aggregate Common Interests appertaining to all Residential or (ii) five years after the First Closing.

"Institutional Lender" shall mean (i) a savings bank, savings and loan association, bank or trust company, insurance company, real estate investment trust, or mortgage trust or (ii) a federal, state, municipal, teacher's or union employee, welfare, pension or retirement fund or system.

"Insurance Mortgage" shall mean any first mortgage covering one or more Units that is a Permitted Mortgage and the initial holder of which is either Declarant or its designee or an Institutional Lender.

"Insurance Trustee" shall mean a bank or a trust company, in either event having both an office in the City of New York and a capital surplus and undivided profits of \$500,000,000.00 or more, from time to time appointed to serve as such by the Condominium Board.

"Land" shall mean all that certain tract, plot, piece and parcel of land situate, lying and being in the County of New York, City and State of New York, as more particularly described in Exhibit A to the Declaration.

"Law" shall mean the laws and ordinances of any or all of the federal, state or municipal governments, the rules, regulations, orders and directives of any or all departments, subdivisions, bureaus, agencies, or offices thereof or of any other governmental, public, or quasi-public authorities having jurisdiction over the Property and/or the condominium, and/or the direction of any public officer pursuant to law.

"Limited Common Element" shall mean those certain portions of the Land and the Building (other than the Units) that are to be used by the owners of one or more specified Units to the exclusion

of all other Unit Owners, as more particularly described in paragraph (c) of Article 7 of the Declaration.

"Managing Agent" shall mean a Person employed by the Condominium Board pursuant to paragraph (C) Section 2.6 of the By-Laws, who shall undertake to perform the duties and services that the Condominium Board shall direct and who shall have whatever powers the Condominium shall delegate, subject to the limitations contained in paragraph (D) of Section 2.6 of the By-Laws.

"Majority of Unit Owners" shall mean those Unit Owners having more than fifty (50%) percent of the total authorized votes of all Unit Owners (determined in accordance with the terms of Section 4.8 of the By-Laws) who are present, in person or by proxy, and voting at any duly constituted meeting of the Unit Owners at which a quorum is present.

"Mortgage Representatives" shall mean the representatives of the holders of all mortgages encumbering Units, designated by the holders of Institutional Mortgages in accordance with the terms of paragraph (B) of Section 8.6 of the By-Laws.

"Permitted First Mortgage" shall mean a Permitted Mortgage that is a first mortgage lien against a Unit.

"Permitted First Mortgagee" shall mean any holder of a Permitted First Mortgage.

"Permitted Mortgage" shall mean any mortgage covering one or more Units that is placed thereon in compliance with the terms contained in Article 8 of the By-Laws.

"Permitted Mortgagee" shall mean any holder of a Permitted Mortgage at the time in question.

"Person" shall mean any natural person, partnership, corporation, trust, estate, fiduciary, unincorporated association, syndicate, joint venture, organization, government or any department or agency thereof, or any other entity.

"Plan" shall mean that certain offering plan pursuant to which the Property is converted to condominium ownership and which was accepted for filing by the Department of Law of the State of New York pursuant to Section 352-e of the General Business Law of the State of New York.

"Property" shall mean the Land, the Building, all other improvements erected or to be erected on the Land, all easements, rights and appurtenances pertaining thereto and all other property, real, personal, or mixed, used or intended to be used in connection therewith.

"Register's Office" shall mean the New York County office of the Register of the City of New York.

"Residential Unit" shall mean any of the 18 "Units", as such term is defined in the Condominium Act, which Units are more particularly described in Article 6 of, and Exhibit B to, the Declaration and in the Floor Plans.

"Residential Unit Owner" shall mean any Person who holds fee title, of record, to one or more Residential Units at the time in question.

"Rules and Regulations" shall mean the rules and regulations of the Condominium which are annexed as an addendum to the By-Laws, as any of the same may be amended, modified, added to, or deleted from time to time pursuant to the terms of the By-Laws, provided that they are not in conflict with the terms of the Condominium Act, the Declaration, or the By-Laws.

"Selling Agent" shall mean any Person employed by Declarant or its designee in connection with the sale or leasing of the Unsold Units.

"Special Assessments" shall mean the charges allocated and assessed by the Condominium Board to the Unit Owners, pro-rata in accordance with their respective Common Interests (except as otherwise provided in the Declaration or in the By-Laws), in accordance with paragraph (C) of Section 6.1 of the By-Laws.

"Sponsor" shall mean Beekman-Water Associates, LLC a New York Limited Liability Company, having an office c/o Philips International 417 Fifth Avenue, 3rd Floor, New York, N.Y. 10016.

"Unit Owners" shall mean the Residential Unit Owners at the time in question.

"Units" shall mean the Residential Units.

"Unsold Unit" shall mean any Residential Unit owned by Declarant or its designee at the time in question.

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EXHIBIT D TO THE DECLARATION  
OF THE BEEKMAN LANDING CONDOMINIUM

BY-LAWS

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BY-LAWS

OF

THE BEEKMAN LANDING CONDOMINIUM

\_\_\_\_\_, 20\_\_

Prepared by:

Barr & Associates  
866 United Nations Plaza, Suite 415  
New York, New York 10017

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**BY-LAWS  
OF  
THE BEEKMAN LANDING CONDOMINIUM**

**ARTICLE I**

General

**Section 1.1 Purpose.** The purpose of these By-Laws is to set forth the rules and procedures concerning the conduct of the affairs of the Condominium. The Condominium covers the Property, which consists of: (i) the Land which lies in Section \_\_\_\_\_, Block \_\_\_\_\_, Lot \_\_\_\_\_ on the Tax Map of the Borough of \_\_\_\_\_, City and State of New York; (ii) the Building, which includes, without limitation, the Units, the Common Elements and all easements, rights and appurtenances belonging thereto and (iii) all other property, real or personal intended for use in connection therewith. The Property has been submitted to the provisions of the Condominium Act by the recording of the Declaration in the Register's Office, of which Declaration these By-Laws form a part.

**Section 1.2 Definitions.** All capitalized terms used in these By-Laws that are not otherwise defined in any of the Articles hereof shall have the meanings set forth in Exhibit C to the Declaration, unless the context in which the same are used shall otherwise require. All capitalized terms used in these By-Laws that are defined in any of the Articles hereof shall have the meanings ascribed to them in such Articles, unless the context in, which the same are used shall otherwise require. Each of the aforescribed capitalized terms shall be applicable to singular and to plural nouns, as well as to verbs of any tense.

**Section 1.3 Applicability of By-Laws.** These By-Laws are applicable to the Property and to the use and occupancy thereof.

**Section 1.4 Application of By-Laws.** All present and future Unit Owners, mortgagees, lessees, subleases and occupants of Units, and employees and guests of Unit Owners, as well as all other Persons who may use the Property, are and shall be subject to the Declaration, these By-Laws and the Rules and Regulations, as each of the same may be amended from time to time. The acceptance of a deed or other instrument of conveyance, or the succeeding to title to, or the execution of a lease or sublease for, or the act of occupancy of, a Unit shall constitute an agreement that the provisions of the Declaration, these By-Laws and the Rules and Regulations, as each of the same may be amended from time to time, are accepted, ratified and will be complied with.

**Section 1.5 Principal Office of the Condominium.** The principal office of the Condominium shall be located either at the Property or at such other place in the City of New York reasonably



convenient thereto as may be designated from time to time by the Condominium Board.

## ARTICLE 2

### Board of Managers

**Section 2.1 General.** As more particularly set forth in Sections 2.4, 2.5 and 2.6 hereof, the affairs of the Condominium shall be governed by the Condominium Board. In exercising its powers and performing its duties under the Declaration and these By-Laws, the Condominium Board shall act as, and shall be, the agent of the Unit Owners, subject to, and in accordance with, the terms of the Declaration and these By-Laws.

**Section 2.2 Status of the Condominium Board.** Unless and until the Condominium Board shall incorporate in accordance with the terms of Section 2.4 hereof, the Condominium Board shall have, to the extent permitted by Law, the status conferred upon unincorporated associations under, or pursuant to, the terms of the General Association Law of the State of New York. If the Condominium Board shall incorporate in accordance with the terms of Section 2.4 hereof, the Condominium Board shall have, to the extent permitted by Law, the status conferred upon it under, or pursuant to, the terms of the applicable statutes of the State of New York. In either event, however, the Condominium Board shall also have the status conferred upon it under, or pursuant to, the terms of the Condominium Act.

**Section 2.3 Principal Office of the Condominium Board.** The principal office of the Condominium Board shall be located either at the Property or at such other place in the City of New York reasonably convenient thereto as may be designated from time to time by the Condominium Board.

**Section 2.4 Powers and Duties of the Condominium Board.** (A) The Condominium Board shall have all of the powers and duties necessary for, or incidental to, the administration of the affairs of the Condominium, provided, however, that the Condominium Board shall not have such powers and duties that by Law, or pursuant to the terms of the Declaration and these By-Laws, may not be delegated to the Condominium Board by the Unit Owners. Without intention to limit the generality of the foregoing in any respect, the Condominium Board shall have the following specific powers and duties:

- (i) to operate, maintain, repair, restore, add to, improve, alter and replace the Common Elements, including, without limitation, as the Condominium Board shall deem necessary or proper in connection therewith: (a) the purchase and leasing of supplies, equipment and material and (b) the employment, compensation and dismissal of personnel;

(ii) to acquire, in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of the Unit Owners, all rights, titles and interests in real and personal property deemed necessary or proper by the Condominium Board for use in connection with the ownership and operation of the Property as a residential condominium.

(iii) to maintain complete and accurate books and records with respect to the finances and the operation of the Condominium, including, without limitation: (a) detailed accounts, in chronological order, of receipts and expenditures affecting the property; (b) detailed books of account of the Condominium Board; (c) other financial records, as well as other books of account of the Condominium, as may be required to be kept pursuant to the terms of these By-Laws and (d) minutes and other records of all meetings held pursuant to the terms of these By-Laws;

(iv) to prepare and adopt a budget for the Condominium for each fiscal year thereof, setting forth, without limitation: (a) a detailed accounting of the anticipated Common Expenses for the ensuing fiscal year and (b) a detailed projection of all sources and amounts of income necessary to discharge the same;

(v) to determine the amount and establish the methods of payment of, and to collect, the Common Charges and Special Assessments from the Unit Owners;

(vi) to borrow money on behalf of the Condominium when required in connection with the operation, maintenance, repair, restoration, improvement, alteration and replacement of the Common Elements, provided, however, that: (a) the affirmative consent of at least two-thirds (2/3) of the members of the Condominium Board shall be required for the borrowing of any sum in excess of \$10,000.00 in any one fiscal year (regardless of the balance of any loans outstanding from previous fiscal years); (b) the affirmative consent of at least two-thirds (2/3), both in number and in aggregate Common Interests, of all Unit Owners shall be required for the borrowing of any sum in excess of \$25,000.00 in any one fiscal year (regardless of the balance of any loans outstanding from previous fiscal years); (c) no lien to secure repayment of any sum borrowed may be created on any Unit or its Appurtenant Interests without the consent of the owner of such Unit and (d) the documentation executed in connection with any such borrowing shall provide that, if any sum borrowed by the Condominium Board pursuant to this subparagraph (vi) shall not be repaid by the Condominium Board, any Unit Owner who pays to the creditor thereunder such proportion of the then outstanding indebtedness represented or secured thereby as such Unit Owner's Common Interest bears to the aggregate Common Interests of all Unit Owners shall be entitled to obtain from the creditor a

release of any judgment or other lien that the said creditor shall have filed, or shall have the right to file, against such Unit Owner's Unit;

(vii) to open and maintain bank accounts on behalf of the Condominium and to designate the signatories required therefor;

(viii) to use the Common Charges and Special Assessments collected from Unit Owners, as well as all other funds held by the Condominium Board or received in connection with the operation of the Property, for the administration of the Condominium, including, without limitation: (a) the payment of Common Expenses and (b) the making of restorations, additions, alterations and improvements to the Common Elements;

(ix) to obtain insurance for the Property, including the Units, pursuant to the terms of Section 5.4 hereof;

(x) to adjust and settle claims under insurance policies obtained pursuant to the terms of Section 5.4 hereof, and to execute and deliver releases upon such adjustment and settlement on behalf of: (a) all Unit Owners; (b) all holders of mortgages and other liens on Units and (c) all holders of any other interest in the Property;

(xi) to make, or to contract with others for the making of, repairs, maintenance, additions and improvements to, and alterations, restorations and replacements of, the Property after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings, all in accordance with the terms of these By-Laws;

(xii) to obtain and keep in force fidelity bonds, in amounts deemed appropriate by the Condominium Board, but in no event less than \$25,000.00, for: (a) all members of the Condominium Board; (b) all officers and employees of the Condominium and (c) the Managing Agent, and the premiums on all such fidelity bonds shall constitute a part of the Common Expenses.

(xiii) to accept the surrender of any Unit pursuant to the terms of paragraph (C) of Section 6.2 hereof, in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of all Unit owners;

(xiv) in accordance with the Condominium Documents to purchase, lease, or otherwise acquire Units offered for sale or lease by their owners, in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of all Unit Owners;

(xv) to purchase Units at foreclosure or other judicial sales, in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of all Unit Owners;

(xvi) to sell, lease, mortgage and otherwise deal with Units acquired by, and to sublease Units leased by, the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, provided, however, that the Condominium Board or its designees shall in no event be entitled to vote the votes appurtenant to any such Unit;

(xvii) in accordance with the Condominium Documents, to adopt and amend the Rules and Regulations and to levy and collect fines against Unit Owners for violations of the same;

(xviii) to enforce by legal means the terms, covenants and conditions contained in the Condominium Documents and to bring or defend against any proceedings that may be instituted on behalf of, or against, the Unit Owners;

(xix) to incorporate, to the extent and in the manner provided in the Condominium Act, provided, however, that: (a) the certificate of incorporation and by-laws of any such resulting corporation shall conform as closely as practicable to the terms of the Declaration and these By-Laws and (b) the terms of the Declaration and these By-laws shall prevail in the event of any inconsistency or conflict between the terms thereof and the terms of such certificate of incorporation and by-laws;

(xx) to organize corporations to act as the designees of the Condominium Board in acquiring title to, or leasing of, Units and in acquiring rights, title and interest in real and personal property for use in connection with the ownership and operation of the Property as a residential condominium;

(xxi) to execute, acknowledge and deliver; (a) any declaration or other instrument affecting the Property that the Condominium Board deems necessary or appropriate to comply with any Law applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Building and (b) any consent, covenant, restriction, easement or declaration affecting the Property that the Condominium Board deems necessary or appropriate;

(xxii) to prepare, execute, acknowledge and record on behalf of all Unit Owners, as their attorney in fact, coupled with an interest, a restatement of the Declaration or these By-Laws, whenever, in the Condominium Board's estimation, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the same; and



(xxiii) to carry out any other duties imposed upon the Condominium Board pursuant to the Declaration and these By-Laws.

(B) The Condominium Board shall be responsible for carrying out the duties imposed upon it under the Condominium Documents regardless of whether a Unit is vacant or occupied by the owner thereof or by a permitted lessee or other permitted occupant.

**Section 2.5** Certain Limitations on the Powers of The Condominium Board. (A) Notwithstanding anything to the contrary contained in these By-Laws, for a period of three years from the First Closing, so long as Declarant or its designee or both shall continue to collectively own Units representing 25% or more in aggregate Common Interest, the Condominium Board may not, without Declarant's or such designee's prior written consent:

(i) make any addition, alteration, or improvement to the Common Elements or to any Unit, unless the same shall be required by Law or an insurance company insuring the Property;

(ii) assess any Common Charges or Special Assessments for the creation or replacement of, or the addition to, all or any part of a reserve, contingency, or surplus fund in excess of five percent in the aggregate of the estimated Common Expenses for any year of operation;

(iii) increase the number or change the type of employees from that described in Schedule B set forth in the Plan;

(iv) enter into any service or maintenance contracts for work not covered in the schedule referred to in subparagraph (iii) hereinabove; or

(v) borrow money on behalf of the Condominium.

(B) Notwithstanding anything to the contrary contained in these By-Laws, the Condominium Board shall not take any of the following actions unless Unit Owners representing at least 75% in aggregate Common Interest shall approve the same in writing or by vote at a duly constituted meeting called for such purpose:

(i) increase the number, or change the type, of employees from those hired at the time of recording the Declaration;

(ii) provide for new or additional services from those being provided at the time of recording the Declaration;

(iii) impose any Common Charge or Special Assessment for the purpose of making any capital or major improvement,

alteration, or addition to the Common Elements or to any Unit, unless required by Law or an insurance company insuring the Property; or

(iv) establish any reserves, including, without limitation, a reserve for contingencies, repairs, improvements, or replacements, other than a twelve-month reserve for contingencies not exceeding five percent of the budgeted operating expenses for the ensuing twelve months of operation.

**Section 2.6 Exercise and Delegation of Powers and Duties.**

(A) Any act within the power of the Condominium Board to perform, and deemed necessary or desirable to be performed by the Condominium Board, shall be performed by the Condominium Board or shall be performed on its behalf and at its direction by the agents, employees or designees of the Condominium Board.

(B) The Condominium Board may appoint an Executive Committee by duly adopted resolution, which Executive Committee shall have, and may exercise, all of the powers of the Condominium Board subject to both the exceptions and limitations contained in paragraph (D) of this Section 2.6 and such additional exceptions and limitations as the Condominium Board may from time to time deem appropriate, during the intervals between the meetings of the Condominium Board. In addition, the Condominium Board may from time to time appoint, by duly adopted resolutions, such other committees as the Condominium Board may deem appropriate to perform such duties and services as the Condominium Board shall direct, each of which committees shall have, and may exercise, all of the powers delegated to it in its enabling resolution, subject, however, to the exceptions and limitations contained in paragraph (D) of this Section 2.6. The Executive Committee and each other committee shall consist of three or more members of the Condominium Board, at least one of whom shall be a member designated by Declarant for so long as Declarant shall have the right to designate or elect one or more members of the Condominium Board.

(C) The Condominium Board may employ a Managing Agent to serve at a compensation to be established by the Condominium Board and to perform such duties and services as the Condominium Board shall direct. Subject to the exceptions and limitations contained in paragraph (D) of this Section 2.6 the Condominium Board may delegate to the Managing Agent any of the powers granted to the Condominium Board in these By-Laws.

(D) Notwithstanding anything to the contrary contained in this Section 2.6, the Executive Committee and the Managing Agent shall neither have nor be entitled to exercise, and the Condominium Board shall not delegate to either of them or to any other committee, the powers or duties described in subparagraphs (ii), (iv), (v), (vi), (vii), (x), (xiii), (xiv), (xv), (xvi), (xvii), (xix), (xx), and (xxi) of paragraph (A) of Section 2.4



hereof. In addition, neither the Managing Agent nor any of the committees described in Subsection (B) of this Section 2.6 shall have, or be entitled to exercise, any of the powers of the Condominium Board, except to the extent permitted by Law.

**Section 2.7 Number, Election and Qualification of Members.**

Until the first annual meeting of the Unit Owners held pursuant of the terms of Section 4.1 hereof, the Condominium Board shall consist of three individuals to be designated from time to time by Declarant. From and after the first annual meeting of the Unit Owners, the Condominium Board shall consist of five individuals to be elected by the Unit Owners pursuant to the terms of Section 4.9 hereof. Except for members designated or elected by Declarant or its designee pursuant of the terms of this Section 2.7 or of Section 2.10 or 4.9 hereof, all members of the Condominium Board shall be either: (i) individual Unit Owners; (ii) individual Permitted Mortgages; (iii) officers, directors, shareholders, partners, principals, employees, or beneficiaries of corporations, partnerships, fiduciaries, or any other entities that are Unit Owners or Permitted Mortgagees; or (iv) adult Family Members of any of the foregoing. However, no Unit Owner against such Unit Owner's Unit and the amount necessary to release such lien has not been paid at the time of such election.

**Section 2.8 Term of Office of Members.** The terms of office of three members of the Condominium Board designated by Declarant prior to the first annual meeting of the Unit Owners shall expire when the five individuals to be elected at such meeting are so elected and qualified. The term of office of each of the five individuals elected and qualified at the first annual meeting of the Unit Owners shall be for one year. At each annual meeting of the Unit Owners subsequent to the first such meeting, the members of the Condominium Board shall be elected pursuant to the terms of Section 4.9 hereof to serve a term of office fixed at one year. Notwithstanding anything to the contrary contained in this Section 2.8, however, each member of the Condominium Board shall serve until his successor shall be elected and qualified. There shall be no limit on the number of terms of office, successive or otherwise, that a member of the Condominium Board may serve.

**Section 2.9 Removal and Resignation of Members.** (A) Any member of the Condominium Board who was elected there either by the Unit Owners, pursuant to the terms of Section 2.10 hereof, or by the Condominium Board, pursuant to the terms of Section 2.10 hereof, may be removed from office, with or without cause by a vote of a Majority of Unit Owners. Any member of the Condominium Board who was designated as such or elected by Declarant or its designee, pursuant to the terms of Section 2.7, 2.10, or 4.9 hereof may be removed, with or without cause, only by Declarant or the said designee. Any member of the Condominium Board whose proposed removal is to be acted upon at a meeting of the Unit Owners shall be given prior written notice thereof and an opportunity to be present and heard thereat.

(B) Any member of the Condominium Board may resign his membership at any time by giving written notice thereof to the Condominium Board and, with respect to members of the Condominium Board designated as such or elected by Declarant or its designee, to Declarant or such designee. In addition, any member of the Condominium Board who shall cease to be qualified for membership pursuant to the terms of Section 2.7 hereof shall be deemed to have resigned his membership effective as of the date upon which such qualification shall cease.

**Section 2.10 Vacancies.** (A) Any vacancy on the Condominium Board that is caused by the removal, resignation, or death of a member who was elected thereof by the Unit Owners shall be filled by an individual who is qualified to be a member pursuant to the terms of Section 2.7 hereof and who is elected by a vote of the majority of the members of the Condominium Board then in office. A special meeting of the Condominium Board shall be held for the purpose of filling any such vacancy promptly after the occurrence thereof, and the election held thereat shall be effective to fill such vacancy even if the number of members present at such meeting shall not constitute a quorum.

(B) Any vacancy on the Condominium Board that is caused by the removal, resignation, or death of a member who was designated as such or elected by Declarant or its designee shall be filled by an individual designated by Declarant or such designee.

(C) Each member of the Condominium Board who is elected thereto or designated as such to fill a vacancy pursuant to the terms of paragraph (A) or (B), respectively, of this Section 2.10 shall serve as a member of the Condominium Board for the remainder of the term of the member he replaced and until his successor shall be selected and qualified at the appropriate annual meeting of the Unit Owners pursuant to the terms of Section 4.9 hereof.

**Section 2.11 Organizational Meeting of the Condominium Board.** The first meeting of the Condominium Board following each annual meeting of the Unit Owners shall be held within ten (10) days of such annual meeting, at such time and place in the City of New York as shall be both fixed informally by a majority of the members of the Condominium Board and designated in a written notice given to all members thereof by personal delivery, mail, or telegram not later than five (5) business days prior to such date.

**Section 2.12 Regular Meetings of the Condominium Board.** Regular meetings of the Condominium Board may be held at such time and place in the City of New York as shall be determined from time to time by a majority of the members thereof, provided that at least four (4) such meetings shall be held during each fiscal year. Written notice of all regular meetings of the Condominium Board shall be given to each member thereof by personal delivery, mail, or telegram at least five (5) business days prior to the day named for such meeting.

**Section 2.13 Special Meetings of the Condominium Board.** The President may call a special meeting of the Condominium Board whenever he deems the same to be necessary or desirable. However, the President shall call such a meeting upon the written request of three or more members of the Condominium Board. Written notice of all special meetings shall be given to each member thereof by personal delivery, mail, or telegram at least five (5) business days prior to the day named for such meeting, which notice shall state the time, place (in the City of New York) and purpose of the meeting.

**Section 2.14 Waiver of Notice of Meetings.** Any member of the Condominium Board may, at any time, waive notice of any meeting thereof in writing, and such waiver shall be deemed equivalent to the giving of notice. Attendance by a member of the Condominium Board at any meeting thereof shall constitute a waiver by him of notice of the time and place thereof. If all of the members of the Condominium Board are present at any meeting thereof, no notice of such meeting shall be required and any business may be transacted at such meeting.

**Section 2.15 Quorum of the Condominium Board.** For purposes of all meetings of the Condominium Board, a majority of the members thereof shall constitute a quorum for the transaction of business. In connection therewith, one or more members of the Condominium Board may participate in any meeting thereof by means of a conference telephone or similar communications equipment permitting all individuals participating in the meeting to hear each other at the same time, and such participation shall constitute presence at such a meeting for all purposes. If, at any meeting of the Condominium Board, there shall be less than a quorum present, a majority of the members of the Condominium Board in attendance may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting originally called but for the lack of a quorum may be transacted without further notice.

**Section 2.16 Conduct of Meetings.** The President shall preside at all meetings of the Condominium Board, and the Secretary shall faithfully record the minutes thereof, which minutes shall include the full text of all resolutions duly adopted by the Condominium Board and a record of all transactions and proceedings occurring thereat. The then current edition of Robert's Rules of Order, or any other rules of procedure from time to time acceptable to a majority of the Condominium Board, shall govern the conduct of the meetings of the Condominium Board unless the same shall be in conflict with the terms of the Declaration, these By-Laws, or the Condominium Act.

**Section 2.17 Decisions by the Condominium Board.** Except as otherwise expressly provided in the Declaration or these By-Laws, the vote of a majority of the members of the Condominium Board present at a meeting thereof at which a quorum is present shall



constitute the decision of the Condominium Board. Alternatively, any decision that is required or permitted to be made by the Condominium Board may be made without a meeting thereof if all members of the Condominium Board shall individually or collectively consent in writing to such decision, and all such written consents shall be duly filed by the Secretary of the Condominium in the minutes of the Condominium Board.

**Section 2.18 Compensation of Members.** No member of the Condominium Board shall receive any compensation from the Condominium for acting as such.

**Section 2.19 Common or Interested Members of the Condominium Board.** Each member of the Condominium Board shall perform his duties, and shall exercise his powers, in good faith and with a view to the interests of the Condominium. To the extent permitted by Law, no contract or other transaction between the Condominium Board and either (i) any of its members or (ii) any corporation, partnership, fiduciary, firm, association, or other entity in which any of the members of the Condominium Board are officers, directors, employees, partners, fiduciaries, beneficiaries, or principals, or are otherwise interested, pecuniarily or otherwise, shall be deemed either void or voidable because either (a) any such member of the Condominium Board was present at the meeting or meetings of the Condominium Board during which such contract or transaction was discussed, authorized, approved, or ratified, or (b) the vote of any such member was counted for such purpose, provided, however, that either:

(x) the fact thereof is disclosed to, or known by, the Condominium Board or a majority of the members thereof or noted in the minutes thereof, and the Condominium Board shall authorize, approve, or ratify such contract or transaction in good faith by a vote of a majority of the entire Condominium Board, less the number of such members;

(y) the fact thereof is disclosed to, or known by, a Majority of Unit owners shall authorize, approve, or ratify such contract or transaction; or

(z) the contract or transaction is commercially reasonable to the Condominium Board at the time that the same is authorized, approved, ratified, executed, or otherwise consummated.

Any such member of the Condominium Board may be counted in determining the presence of a quorum of any meeting of the Condominium Board that authorizes, approves, or ratifies any such contract or transaction, but no such member shall be entitled to vote thereat to authorize, approve, or ratify such contract or transaction.

**Section 2.20 Liability of the Condominium Board.** (A) The members of the Condominium Board shall have no liability to the Unit Owners for errors of judgment, negligence, or otherwise,

except that each member of the Condominium Board shall be liable thereto for his own bad faith or willful misconduct. In connection therewith, members of the Condominium Board designated as such by Declarant shall not be deemed either to be in bad faith or to have committed willful misconduct by reason of any self-dealing in connection with any contract made, or other transaction entered into, between the Condominium Board and Declarant or its agents, provided that any compensation paid, or to be paid, to Declarant or its agents in connection with any such contract or transaction is disclosed in the Plan or an amendment thereto or is at competitive rates for goods sold or services rendered in the Borough of Manhattan.

(B) Every contract made, and other document executed, by or on behalf of the Condominium Board, any committee thereof, or the Managing Agent shall expressly state (if obtainable and in addition to the limitation of liability of the members of the Condominium Board and the Unit Owners pursuant to the terms of Sections 3.10 and 4.12 hereof, respectively) that the same is made or executed by or on behalf of the Condominium Board, such committee, or the Managing Agent solely as agent for the Unit Owners and that the members of the Condominium Board or such committee or the Managing Agent shall have no liability thereon, except to the extent of their liability, if any, as Unit Owners pursuant to the terms of Section 4.12 hereof.

(C) Neither the Condominium Board nor any member thereof shall be liable for either:

(i) any failure or interruption of any utility or other services to be obtained by, or on behalf of, the Condominium Board or to be paid for as a Common Expense; or

(ii) any injury, loss, or damage to any individual or property, occurring in or upon either a Unit or the Common Elements, and either: (a) caused by the elements, by any Unit Owner or by any other Person; (b) resulting from electricity, water, snow or ice that may leak or flow from a Unit or any portion of the Common Elements or (c) arising out of theft or otherwise.

(D) The Unit Owners shall jointly and severally indemnify and hold each member of the Condominium Board harmless from and against any claim or liability to others arising from his acts or omissions as, or by reason of the fact that such individual is or was, a member of the Condominium Board, except, however, to the extent that such claim or liability shall be due to, or shall arise out of, the bad faith or willful misconduct of such member.

## ARTICLE 3

OFFICERS

**Section 3.1 General.** The principal officers of the Condominium shall be the President, the Vice President, the Secretary and the Treasurer. The Condominium Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its discretion may be necessary or desirable. All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed, upon the direction of the Condominium Board, by any two officers of the Condominium or by such lesser number of officers or by such other Person or Persons as may be designated from time to time by the Condominium Board.

**Section 3.2 President.** The President shall be chief executive officer of the Condominium and shall preside at all meetings of the Unit Owners and of the Condominium Board. The President shall have all of the general powers and duties that are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York (hereinafter referred to as the "BCL"), including, but not limited to, the power to appoint the members of all committees created by the Condominium Board from amongst the Unit Owners from time to time as he may decide, in his discretion, are appropriate to assist in the conduct of the affairs of the Condominium.

**Section 3.3 Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If both the President and the Vice President are unable to act, the Condominium Board shall appoint some other member of the Condominium Board to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall be imposed upon him from time to time by the Condominium Board or by the President.

**Section 3.4 Secretary.** The Secretary shall keep the minutes of all meetings of the Unit Owners and of the Condominium Board. The Secretary shall have charge of such books and papers as the Condominium Board shall direct and, in general, shall perform all of the duties that are incident to the office of secretary of a stock corporation organized under the BCL.

**Section 3.5 Treasurer.** The Treasurer shall have the care and custody of the funds and securities of the Condominium and shall be responsible for keeping full and accurate financial records and books of account thereof, showing all receipts and disbursements necessary for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all funds and other securities in the name of the Condominium Board or in the name of the Managing Agent in such depositories as may from time to time be designated by the Condominium Board and, in general, shall perform all of the duties



incident to the office of treasurer of a stock corporation organized under the BCL.

**Section 3.6 Election, Term of Office and Qualifications of Officers.** Each of the officers of the Condominium Board shall be elected annually by a majority vote of the Condominium Board taken at the organizational meeting of each new Condominium Board, and shall serve at the pleasure of the Condominium Board. The President and the Vice President shall be elected from amongst the members of the Condominium Board. The other officers of the Condominium, however, need not be Unit Owners or members of the Condominium Board and need not have any interest in the Condominium.

**Section 3.7 Removal and Resignation of Officers.** Any officer of the Condominium may be removed from office, with or without cause, by an affirmative vote of a majority of the members of the Condominium Board. In addition, any officer may resign at any time by giving written notice to the Condominium Board. Finally, if the President or the Vice President of the Condominium shall cease to be a member of the Condominium Board during his term of office, such officer shall be deemed to have resigned his office effective upon the date upon which his membership shall cease.

**Section 3.8 Vacancies.** Any vacancy in an office shall be filled by a majority vote of the Condominium Board at any regular meeting of the Condominium Board or at a special meeting thereof called for such purpose.

**Section 3.9 Compensation of Officers.** No officer of the Condominium shall receive any compensation from the Condominium for acting as such.

**Section 3.10 Liability of the Officers of the Condominium.**  
(A) The officers of the Condominium shall have no liability to the Unit Owners for errors of judgment, negligence, or otherwise, except that each officer of the Condominium shall be liable thereto for his own bad faith or willful misconduct. In addition, every contract made, and other document executed, by one or more officers or other Persons on behalf of the Condominium shall expressly state (if obtainable and in addition to the limitation of liability of the members of the Condominium Board and the Unit Owners pursuant to the terms of Sections 2.20 and 4.12 hereof, respectively) that the same is made or executed by such officers or persons on behalf of the Condominium solely as agent for the Unit Owners and that such officers or Persons shall have no liability thereon, except to the extent of their liability, if any, as Unit Owners pursuant to the terms of Section 4.12 hereof.

(B) None of the officers of the Condominium shall be liable for either:

(i) any failure or interruption of any utility or other services to be obtained by any such officer on behalf of the Condominium or to be paid for as a Common Expense; or

(ii) any injury, loss, or damage to any individual or property, occurring in or upon either a Unit or the Common Elements, and either: (a) caused by the elements, by any Unit Owner or by any other Person; (b) resulting from electricity, water, snow or ice that may leak or flow from a Unit or any portion of the Common Elements or (c) arising out of theft or otherwise.

(C) The Unit Owners shall jointly and severally indemnify and hold each officer of the Condominium harmless from his acts or omissions as, or by reason of the fact that such individual is or was, an officer of the Condominium, except, however, to the extent that such claim or liability shall be due to, or shall arise out of, the bad faith or willful misconduct of such officer.

#### ARTICLE 4

##### UNIT OWNERS

**Section 4.1** Annual Meetings of the Unit Owners. The first annual meeting of the Unit Owners shall be held not later than seven months after the First Closing, at which meeting the incumbent three-member Condominium Board shall resign and a successor seven-member Condominium Board shall be elected or designated by the Unit Owners, as provided both in this Article 4 and in Article 2 hereof. Thereafter, annual meetings of the Unit Owners shall be held on or about the second Wednesday in October of each year, unless such date shall occur on a legal holiday, in which event the meeting will be held on or about the succeeding business day. At each such subsequent meeting, the Unit Owners shall elect successors to the members of the Condominium Board whose term of office expires on the day of such meeting and shall transact such other business as may properly come before such meeting.

**Section 4.2** Special Meetings of the Unit Owners. The President shall call a special meeting of the Unit Owners whenever so directed by a duly adopted resolution of the Condominium Board or upon receipt by the Secretary of a petition calling for such a meeting signed by Unit Owners having, in the aggregate, not less than 25% of the Common Interests of all Unit Owners. Each such resolution or petition shall set forth, in reasonable detail, the purposes for calling such a meeting, and no business shall be transacted at such special meeting except business reasonably related to such stated purposes.

**Section 4.3** Place of Meetings. Meetings of the Unit Owners shall be held at the principal office of the Condominium or at such other suitable and convenient place in the City of New York as may be designated by the Condominium Board.

**Section 4.4 Notice of Meetings.** (A) The Secretary of the Condominium shall give notice of each annual or special meeting of the Unit Owners to all Unit Owners then of record entitled to vote at such meeting, which notice shall set forth the purpose, time and place of such meeting. Such notice may be given to any Unit Owner by personal delivery, mail or telegram not later than five (5) business days prior to the day fixed for the meeting; however, the mailing of such notice to any Unit Owner, addressed to his address at the Property, at least ten (10) days prior to the day fixed for the meeting shall be conclusively deemed the giving of notice to such Unit Owner of such meeting. Any Unit Owner may designate an address for the giving of notice other than such Unit Owner's address at the Property by giving written notice thereof to the Secretary of the Condominium not less than ten (10) days prior to the giving of notice of the applicable meeting.

(B) If the business to be conducted at any meeting of the Unit Owners shall include the consideration of a proposed amendment to the Declaration or to these By-Laws, the notice of such meeting shall be mailed to all Unit Owners at least thirty (30) days prior to the day fixed for such meeting and shall be accompanied by a copy of the text of such proposed amendment.

**Section 4.5 Quorum of the Unit Owners.** Except as otherwise provided in these By-Laws, the presence, in person or by proxy, of Unit Owners owning Units to which fifty (50%) percent or more of the aggregate Common Interests appertain shall constitute a quorum at all meetings of the Unit Owners. If, at any meeting of the Unit Owners, there shall be less than a quorum present, a majority of the Unit Owners present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time fixed for the original meeting.

**Section 4.6 Conduct of Meetings.** The President shall preside at all meetings of the Unit Owners, and the Secretary shall faithfully record the minutes thereof, which minutes shall include the full text of all resolutions duly adopted by the Unit Owners and a record of all transactions and proceedings occurring thereat. The then current edition of Robert's Rules of Order, or any other rules of procedure acceptable to a majority of the Unit Owners present at any meeting, in person or by proxy, shall govern the conduct of the meetings of the Unit Owners, unless the same shall be in conflict with the terms of the Declaration, these By-Laws or the Condominium Act. All votes of the Unit Owners shall be tallied by the persons appointed by the presiding officer of the meeting.

**Section 4.7 Order of Business.** The order of business at all meetings of the Unit Owners shall be as follows:

- (i) Roll call;
- (ii) Proof of notice of meeting;

- (iii) Reading of the minutes of the preceding meeting (unless waived);
- (iv) Reports of officers of the Condominium;
- (v) Reports of members of the Condominium Board;
- (vi) Reports of committees;
- (vii) Election of inspectors of election (when so required);
- (viii) Election of members of the Condominium Board (when so required);
- (ix) Unfinished business; and
- (x) New business.

**Section 4.8 Voting.** (A) Subject to the terms of Section 4.9 hereof, each Unit Owner shall be entitled to cast one vote at all meetings of the Unit Owners for each 0.01% of Common Interest attributable to his Unit(s).

(B) Notwithstanding the terms contained in paragraph (A) hereof, no Unit Owner may vote at any meeting of the Unit Owners if the condominium Board has perfected a lien against such Unit Owner's Unit and the amount necessary to release such lien has not been paid at the time of such meeting. In addition, neither the Condominium Board nor any designee thereof shall be entitled to vote the Common Interest appurtenant to any Unit owned by the Condominium Board or such designee. The Common Interests of all Units whose owners are precluded from voting pursuant to the terms of this paragraph (b) will be excluded when computing the aggregate Common Interests of all Unit Owners for voting purposes.

(C) A fiduciary shall be the voting member with respect to a Unit owned in a fiduciary capacity. In addition, if two or more Persons own a Unit, they shall designate one Person amongst them to vote the Common Interest appurtenant to their Unit in a writing given to the Secretary of the Condominium, and the vote of such designee shall be binding upon all of such Persons. Failing such a designation, all of such Persons shall mutually vote such Common Interest under one ballot without division, and the concurrence of all such Persons shall be conclusively presumed if any one of them purports to vote such Common Interest without protest being contemporaneously made to the individual presiding over the meeting at which such vote is taken. If protest is made, the Common Interest appurtenant to such Unit shall be counted solely for the purpose of determining whether a quorum is present for such voting.

(D) The owner(s) of any Unit may designate any Person to act as a proxy on his behalf. The designation of any such proxy shall be made in a writing both signed and dated by the designer and



delivered to the Secretary of the Condominium at or before the appointed time for the meeting(s) during which the same is to be effective. Any such designation shall be revocable at any time upon written notice given to the Secretary of the Condominium; however, no revocation of such a designation shall be effective with respect to any votes cast by such proxy prior to the receipt of such revocation notice by the Secretary of the Condominium or, if such revocation is made at a meeting of the Unit Owners during which the Secretary of the Condominium is not in attendance, by the individual acting as the Secretary of such meeting. Except with respect to the designation of a Permitted Mortgagee to act as the proxy of its mortgagor(s), no designation to act as proxy shall be effective for a period in excess of six (6) months after the date thereof.

(E) Except when otherwise required by law or otherwise provided in the Declaration or in these By-Laws, the affirmative vote of a Majority of Unit Owners shall be binding upon all Unit Owners for all purposes.

**Section 4.9 Election of Members of the Condominium Board.**

(A) When voting for members of the Condominium Board, each Unit Owner shall be entitled to cast one vote for each .001% of Common Interest attributable to his Unit(s) per member to be elected. However, nothing contained herein shall be deemed either to permit any Unit Owner to cumulate the votes attributable to the ownership of any one Unit in favor of any one for more members to be elected. In addition, the terms of paragraphs (B), (C) and (D) of Section 4.8 hereof shall apply to all elections of members of the Condominium Board.

(B) All elections of members of the Condominium Board shall be by written ballot, and each ballot cast shall state: (i) the name of the voting Unit owner and, if such ballot is cast by proxy, the name of the proxy; (ii) the designation number(s) of the Unit(s) owned by the voting Unit Owner; (iii) the amount of the Common Interest(s) appurtenant to such Unit(s); and (iv) the names of the candidates for whom such ballot is cast (the number of which names shall not exceed the number of members to be elected). Any ballot that is not cast in conformity with this paragraph (B) shall be discounted. All election ballots shall be retained in the records of the Condominium, appropriately segregated by election.

(C) Subject to the terms of paragraph (D) of this Section 4.9, all elections of members of the Condominium Board shall be determined by plurality vote.

(D) Not more than three (3) members of the Condominium Board shall serve by reason of the votes cast by Declarant or its designee at any election held during the Initial Control Period, and not more than two (2) members of the Condominium Board shall serve by reason of the votes cast by Declarant its designee at any election held after the expiration of the Initial Control Period.

However, after the Initial Control Period, Declarant or its designee shall have the right to designate the following minimum number of members of the Condominium Board: (a) two (2) members, for so long as the Common Interests attributable to any Units owned by Declarant or its designee equals, in the aggregate, 25% or more of the Common Interests of all Units; (b) one (1) member, for so long as the Common Interests attributable to any Units owned by Declarant or its designee equals, in the aggregate, 25% or less but more than 5% of the Common Interests of all Units.

**Section 4.10 Action Without a Meeting.** Any action required or permitted to be taken by the Unit Owners at a duly constituted meeting may be taken without such a meeting if the number of Unit Owners sufficient (both in absolute number and in aggregate Common Interests) to approve such an action at a duly constituted meeting of the Unit Owners pursuant to the Declaration or to these By-Laws consent in writing to the adoption of a resolution approving such action. All written consents given by Unit Owners pursuant to this Section 4.10 shall be retained in the records of the Condominium together with a true copy of the resolution to which they relate.

**Section 4.11 Title to Units.** Title to any Unit may be taken by any Person or by any two or more Persons as joint tenants, tenants in common, or tenants by the entirety, as may be appropriate, but not as owners in severalty.

**Section 4.12 Contractual Liability of Unit Owners.** Every contract made by the Condominium Board, by any officer of the Condominium, or by any superintendent or Managing Agent of the Building shall state (if obtainable and in addition to the limitation of liability of the members of the Condominium Board and the officers of the Condominium pursuant to the terms of Section 2.20 and 3.10 hereof, respectively) that the liability of any Unit owner with respect thereto shall be limited to: (i) such proportionate share of the total liability thereunder as the Common Interest of such Unit Owner bears to the aggregate Common Interests of all Unit Owners and (ii) such Unit Owner's interest in his Unit and its Appurtenant Interests, unless otherwise provided by Law.

## ARTICLE 5

### OPERATION OF THE PROPERTY

**Section 5.1 Maintenance and Repairs.** (A) Except as otherwise provided in the Declaration or in these By-Laws, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary:

- (i) in or to any Unit and all portions thereof (including, but not limited to, the interior walls, ceilings



and floors in the unit, kitchen and bathroom fixtures and appliances, all doors (entrance and terrace, if any) and their frames and saddles, exposed plumbing, gas and heating fixtures and equipment, air conditioning units, lighting and electrical fixtures and any General Common Elements incorporated therein pursuant to paragraph (B) of Section 5.8 hereof, but excluding any other General Common Elements contained therein) shall be performed by the owner of such Unit at such Unit Owner's cost and expense.

(ii) in or to the General Common Elements (other than any General Common Elements incorporated into one or more Units pursuant to the terms of paragraph (B) of Section 5.8 hereof) shall be performed by the Condominium Board as a Common Expense; and

(iii) in or to the Limited Common Elements shall be performed (a) by the Condominium Board as a Common Expense, if involving structural or extraordinary maintenance, repairs, or replacements (including, but not limited to, the repair of any leaks that are not caused by the acts or omissions of the Unit Owner having direct and exclusive access thereto), or (b) by the Unit Owner having direct and exclusive access thereto at his sole cost and expense, if involving non-structural ordinary maintenance, repairs, or replacements.

Promptly upon obtaining knowledge thereof, each Unit Owner shall report to the Condominium Board or the Managing Agent any defect or need for repairs for which the Condominium Board is responsible pursuant to the terms hereof. All painting, decorating, maintenance, repairs and replacements performed hereunder or otherwise, whether by or at the behest of a Unit Owner or the Condominium Board, shall be performed in such manner as shall not unreasonably disturb or interfere with any Unit Owners or the tenants and occupants of any Units.

(B) Notwithstanding anything to the contrary provided in paragraph (A) of this Section 5.1, however, the exterior glass surfaces of all windows of each Unit are to be washed and cleaned by the Owner of such Unit at such Unit Owner's sole cost and expense. In addition, if any painting, decorating, maintenance, repairs, or replacements to the Property or any part thereof, whether structural or non-structural, ordinary or extraordinary, is necessitated by the negligence, misuses or abuse of any Unit Owner, the entire cost and expense thereof shall be borne by such Unit Owner, and, if necessitated by the negligence, misuse or abuse of the Condominium Board as a Common Expense, except, in all events, to the extent that such cost and expense is covered by the proceeds of any insurance maintained pursuant to the terms of these By-Laws. Similarly, each Unit Owner shall be responsible for any and all damage to any Unit or to the Common Elements resulting from such Unit Owner's failure to maintain, repair, or replace his Unit or any portion thereof as required herein.

(C) Each Unit and all portions of the Common Elements shall be kept in first-class condition, order and repair (and free of snow, ice and accumulation of water with respect to any terrace, roof or other part of the property exposed to the elements) by the Unit Owner or the Condominium Board, whichever is responsible for the maintenance thereof as set forth herein, and such Unit Owner or the Condominium Board, as the case may be, shall promptly make or perform, or cause to be made or performed, all maintenance work (including, without limitation, painting, repairs and replacements) that is necessary in connection therewith. In addition, the public areas of the Building and those areas exposed to public view shall be kept in good appearance, in conformity with the dignity and character of the Building, by (i) the Condominium Board, with respect to such parts of the Building required to be maintained by it, and (ii) each Unit Owner, with respect to the interior and exterior surfaces of terraces, windows and shades, venetian or other blinds, drapes, curtains or other window decorations in or appurtenant to his Unit.

**Section 5.2 Alterations, Additions, Improvements, or Repairs in and to Units and Limited Common Elements.** (A) Subject to the terms of Article 12 of the Declaration no Unit Owner shall make any structural alteration, addition, improvement or repair in or to his Unit or its appurtenant Limited Common Elements without the prior written approval of the Condominium Board. In the event, however, that the Condominium Board shall fail to answer any written, reasonably detailed request for such approval within thirty (30) days after such request is received, such failure to respond shall constitute the Condominium Board's consent thereto. Prior to, and as a condition of, the granting of any such approval, the Condominium Board may, at its sole option require the Unit Owner to procure and agree to maintain during the course of such work such insurance as the Condominium Board may reasonably prescribe and to execute an agreement, in form and substance satisfactory to the Condominium Board, setting forth the terms and conditions under which such alteration, addition, improvement or repair may be made, including, without limitation the indemnity referred to in paragraph (D) hereof and the days and hours during which any such work may be done.

(B) All alterations, additions, improvements and repairs by Unit Owners shall be made in compliance with law. In connection therewith, the Condominium Board shall execute applications to any departments of the City of New York, or to any other governmental agencies having jurisdiction thereof, for any and all permits required in connection with the making of alterations, additions, improvements or repairs in or to a Unit or its appurtenant Limited Common Elements, provided that, with respect to all such work of a structural nature (except as provided in Article 12 of the Declaration), the same was approved by the Condominium Board pursuant to the terms of paragraph (A) hereof.

(C) Neither the Condominium Board nor any Unit Owner (other than the Unit Owner(s) making any alterations, improvements,

additions or repairs, or causing any of the same to be made, in or to his Unit(s) and appurtenant Limited Common Elements) shall incur any liability, cost or expense either (i) in connection with the preparation, execution or submission of the applications referred to in paragraph (B) hereof; (ii) to any contractor, subcontractor, materialman, architect or engineer on account of any alterations, improvements, additions or repairs made or caused to be made by any Unit Owner; or (iii) to any Person asserting any claim for personal injury or property damage arising therefrom. Any Unit Owner(s) making any alterations, improvements, additions or repairs, or causing any of the same to be made, in or to Unit(s) and appurtenant Limited Common Elements shall agree (in a writing executed and delivered to the Condominium Board, if the Condominium Board shall so request), and shall be deemed to agree (in the absence of such writing), to indemnify and hold the Condominium Board, the members of the Condominium Board, the officers of the Condominium, the Managing Agent and all other Unit Owners harmless from and against any such liability, cost or expense.

**Section 5.3 Alterations, Additions, or Improvements to the General Common Elements.** Except as otherwise provided in the Declaration or in these By-Laws, all necessary or desirable alterations, additions or improvements in or to any of the General Common Elements shall be made by the Condominium Board, and the cost and expense thereof shall constitute a Common Expense. Notwithstanding the foregoing, however, whenever the cost of any such alterations, additions or improvements would, in the judgment of the Condominium Board, exceed \$25,000 in the aggregate in any calendar year, such proposed alterations, additions or improvements shall not be made unless first approved by the Unit Owners owning a majority of the Common Interests at a duly constituted meeting of the Unit Owners and by the Mortgage Representatives, if any. Except as otherwise provided in the Declaration and in these By-Laws, all such alterations, additions or improvements costing \$25,000 or less in the aggregate in any calendar year may be made as aforesaid without the approval of either the Unit Owners or any Mortgage Representatives.

**Section 5.4 Insurance.** (A) The Condominium Board shall obtain, and shall maintain in full force and effect, fire insurance policies with all risk extended coverage, vandalism and malicious mischief endorsements, insuring the Building (including all Units, bathroom and kitchen fixtures, but not including appliances or any furniture, furnishing, decorations, belongings, or other personal property supplied or installed by Unit Owners or the tenants of Unit Owners) and covering the interests of the Condominium, the Condominium Board, all of the Unit Owners and all Permitted Mortgagees, as their interests may appear. Each of the said policies shall contain to the extent obtainable:

- (i) waivers of (a) subrogation against Unit Owners,
- (b) any defense based upon co-insurance or other insurance,
- and (c) invalidity arising out of any acts of the insured;

(ii) a provision that any adjustment of loss will be made by the Condominium Board and that all proceeds thereof shall be paid to either the Condominium Board or the Insurance Trustee, as provided in Section 5.5 hereof;

(iii) a New York standard mortgagee clause in favor of each Permitted Mortgagee, which shall provide that the proceeds thereof shall be paid to such Permitted Mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Condominium Board and the Insurance Trustee set forth in subparagraph (ii) above and in Section 5.5 hereof; and

(iv) a provision that such policy may not be either cancelled or materially modified except upon at least thirty (30) days' prior written notice to all of the insureds, including all Permitted Mortgagees.

Duplicate originals or certificates of all such policies shall be given to all Unit Owners upon request and duplicate originals or certificates of all renewal policies, together with proof of payment of premiums, shall be sent to all Unit Owners and upon request by Permitted Mortgagees at least ten (10) days prior to the expiration of the then current policies.

(B) The Condominium Board shall also obtain and maintain, to the extent practicable:

(i) comprehensive general liability insurance, covering all claims for personal injury or property damage arising out of any occurrence on the Property and listing as co-insureds (a) the Condominium Board and each member thereof, (b) the Managing Agent or manager (if any), (c) each officer and employee of the Condominium and (d) each Unit Owner (except, however, that such insurance shall not cover any liability of a Unit Owner arising from occurrences within his own Unit or its Limited Common Elements);

(ii) rent insurance;

(iii) workers' compensation and New York State disability benefits insurance;

(iv) boiler and machinery insurance;

(v) water damage legal liability insurance;

(vi) elevator liability and collision insurance; and

(vii) such other insurance as the Condominium Board shall from time to time determine.



Each of the aforementioned policies of insurance shall also cover cross-liability claims of one insured against another.

(C) All policies of insurance to be maintained by the Condominium Board shall contain such limits as the Condominium Board shall from time to time determine, provided, however, that:

(i) with respect to insurance policies maintained by the Condominium Board pursuant to paragraph (A) hereof, the coverage shall be in an amount equal to not less than eighty (80%) percent of the full replacement cost of the Building, exclusive of excavation and foundations, without deduction for depreciation, as approved by the fire insurance company issuing the policy or a qualified appraiser (and, until the first regular meeting of the first seven-member Condominium Board elected by the Unit Owners, such coverage shall be at least in the amount of \$1,800,000.00;

(ii) with respect to insurance policies maintained by the Condominium Board pursuant to subparagraph (i) of paragraph (B) hereof, such policies shall contain single limits of not less than \$1,000,000.00 in the aggregate until the first regular meeting of the first seven-member Condominium Board elected by the Unit Owners; and

(iii) with respect to insurance policies maintained by the Condominium Board pursuant to subparagraph (ii) of paragraph (B) hereof, the coverage shall be in an amount equal to not less than the aggregate of all of the Unit Owners' Common Charges for one year.

Any insurance policies maintained by the Condominium Board may also provide for such deductible amounts as the Condominium Board shall determine. The Condominium Board shall review the limits of each insurance policy, as well as the amount of any deductible sum thereunder, at least once each year.

(D) The cost of all insurance maintained by the Condominium Board pursuant to this Section 5.4 together with the fees and disbursements of any Insurance Trustee appointed by the Condominium Board pursuant to the terms of these By-Laws, shall be borne by the Unit Owners as a Common Expense.

(E) Unit Owners shall not be prohibited from carrying other insurance for their own benefit, provided that all such policies shall contain waivers of subrogation against the other Unit Owners and the Condominium Board and further provided that the liability of the carriers issuing the insurance maintained by the Condominium Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

**Section 5.5 Casualty or Condemnation.** (A) In the event that either (i) the Building or any part thereof is damaged or destroyed by fire or other casualty (hereinafter referred to as a

"Casualty Loss" or (ii) the General Common Elements are or any part thereof is taken in condemnation or by eminent domain (hereinafter referred to as a "Taking"), the net insurance proceeds payable under the insurance policies maintained by the Condominium Board pursuant to the terms of Section 5.4 hereof by reason of such Casualty Loss or the net condemnation awards receivable by reason of such Taking, as the case may be, shall be payable either to the Condominium Board, if the same shall be \$100,000.00 or less in the aggregate, or to the Insurance Trustee, if the same shall exceed \$100,000.00 in the aggregate. In either instance, all such monies actually received (hereinafter referred to as the "Trust Funds") shall be held in trust for the benefit of all Unit Owners and their Permitted Mortgagees and shall be disbursed pursuant to the terms of this Section 5.5. Notwithstanding anything to the contrary contained either in this paragraph (A) or elsewhere in this Section 5.5, however, no Unit Owner whose Unit, its appurtenant Limited Common Elements, or any portion thereof are taken in condemnation or by eminent domain (whether or not all or a part of the General Common Elements are contemporaneously taken) shall be deemed to have waived whatever rights he may have to pursue a separate claim against the condemning authority by reason thereof.

(B) Subject to the terms of paragraph (D) hereof, the Condominium Board shall arrange for the prompt repair or restoration (hereinafter referred to as the "Work") of: (i) in the event of a Casualty Loss, the portion(s) of the Building (including all Units and the bathroom and kitchen fixtures installed therein on the date of recording the Declaration and all service machinery contained therein, but not including appliances or any furniture, furnishings, decorations, belongings, or other personal property supplied or installed by either Unit Owners or the tenants of Unit Owners) affected by such Casualty Loss or (ii) in the event of a Taking, the portion(s) of the General Common Elements affected by such Taking. If, pursuant to the immediately preceding sentence, Work is to be performed in or to Units, Common Elements that service or enclose Units and other Common Elements, or any combination of the foregoing, the Work shall be performed, to the extent practicable, first in or to the Units, next in or to the Common Elements that service or enclose Units and then in or to the balance of the Common Elements.

(C) In the event that Work shall be performed pursuant to the terms of paragraphs (B) and (D) of this Section 5.5, the Condominium Board or the Insurance Trustee, as the case may be, shall disburse the Trust Funds to the contractors engaged in the Work in appropriate progress payments. In the Trust Funds shall be less than sufficient to discharge the cost and expense of performing the Work, the Condominium Board shall levy a Special Assessment against all Unit Owners for the amount of such deficiency in proportion to their respective Common Interests, and all proceeds of such Special Assessment shall become part of the Trust Funds. If, conversely, the Trust Funds shall prove to be more than sufficient to discharge the cost and expense of



performing the Work, such excess shall be paid to all Unit Owners in proportion to their respective Common Interests, except that no payment shall be made to a Unit Owner until there shall have first been paid, out of such Unit Owner's share of such excess, such amounts as may be necessary to reduce unpaid liens on the Unit Owner's Unit (other than mortgages that are not Permitted Mortgages) in the order of their priority. Notwithstanding the foregoing, if the Unit Owners are assessed pursuant to the terms of the second sentence of this paragraph (C) for any projected deficiency in the amount of the Trust Funds and after the payment of all costs and expenses of performing the Work, a portion of the Trust Funds remains unspent, such excess shall, but only to the extent that it does not exceed such Special Assessment, be paid to the Unit Owners so assessed in proportion to their respective Common Interests, free of any claim of any lienor (including, without limitation, any Permitted Mortgage).

(D) If either 50% or more of the Building is destroyed or substantially damaged by fire or other casualty of 50% or more of the General Common Elements are taken in a Taking, the Work shall not be performed unless 75% or more of all Unit Owners, both in number and in aggregate Common Interests shall pass a resolution to proceed with the same. If such resolution is duly adopted, the Work shall be performed pursuant to the terms of paragraphs (B) and (C) hereof. Conversely, if such resolution is not duly adopted the Work shall not be performed and the Property may be subjected to an action for partition by any Unit Owner or lienor as if it were owned in common, in which event the net proceeds of the resulting sale, together with any Trust Funds, shall be paid to all Unit Owners in proportion to their respective Common Interests, except that no payment shall be made to a Unit Owner until there shall first have been paid out of such Unit Owner's share of such funds, such amounts as may be necessary to reduce unpaid liens on the Unit Owner's Unit (other than mortgages that are not Permitted Mortgages) in the order of their priority.

(E) If the damage resulting from a Casualty Loss shall (i) render one or more Units wholly or partially unusable for the purposes permitted herein and in the Declaration or (ii) destroy the means of access to one or more Units, the installments of Common Charges otherwise payable by the owner of any Unit so affected thereby shall proportionately abate until such Unit shall again be rendered usable for such purposes and/or until the means of access thereto shall be restored, as the case may be. Notwithstanding the foregoing, if such Casualty Loss is caused by the negligent act or omission or the owner of a Unit so affected thereby, by a Family Member of such Unit Owner, or by a tenant or other occupant of such Unit, such installments of Common Charges shall abate only to the extent of any proceeds of rent insurance actually collected by the Condominium Board attributable to such Unit and there shall be no abatement if such Casualty Loss is caused by the willful act of the Owner of such Unit, Family Member of such Unit Owner or by a tenant or other occupant of such Unit.

(F) If (i) a portion of any Unit shall be taken in condemnation or by eminent domain and (ii) the Condominium shall not be terminated by reason of a simultaneous Taking pursuant to the terms of paragraph (D) hereof, the Common Interest appurtenant to such Unit shall be adjusted in the proportion that the total floor area of such Unit and its appurtenant Limited Common Elements after such Taking bears to the total floor area of such Unit and its appurtenant Limited Common Elements prior to such Taking. The Condominium Board shall promptly prepare and record an amendment to the Declaration reflecting the new Common Interest appurtenant to such Unit, which amendment shall be executed or consented to by the owner of such Unit together with the holders of record of any liens thereon in recordable form. Following the recording of the aforementioned amendment to the Declaration, the votes appurtenant to such Unit shall be based upon the new Common Interest of such Unit, and, in the event of a Taking of an entire Unit, the vote appurtenant to such Unit shall wholly terminate. In either event, the Common Interests of the other or remaining Units shall be adjusted accordingly and reflected in an amendment to the Declaration duly executed and acknowledged by the Condominium Board and the owners of, together with the holders of record of all liens upon, all of the other or remaining Units.

(G) As used in this Section 5.5:

(i) "prompt repair or restoration" shall mean that the Work is to be commenced not later than either: (a) sixty (60) days after the date upon which the Insurance Trustee notifies the condominium Board and the Unit Owners that it has received Trust Funds sufficient to discharge the estimated cost and expense of the Work or (b) ninety (90) days after the date upon which the Insurance Trustee notifies the Condominium Board and the Unit Owners that it has not received Trust Funds sufficient to discharge the estimated cost and expense of the Work or (c) in the event that the Trust Funds are payable to the Condominium Board pursuant to the terms of paragraph (A) of this Section 5.5, sixty (60) days after the date upon which the Condominium Board notifies the Unit Owners that it has received the Trust Funds, whether or not the same are sufficient to discharge the cost and expense of the Work; and

(ii) a resolution shall not be deemed duly adopted unless it is adopted by 75% of the Unit Owners in number and aggregate Common Interest not more than sixty (60) days after the Condominium Board or the Insurance Trustee, notifies the Unit Owners that it has received Trust Funds irrespective of whether such funds are sufficient to discharge the estimated cost and expense of the Work.

(H) Any dispute concerning or that may arise under this Section 5.5 between Unit Owners or between any Unit Owner(s) and the Condominium Board shall be resolved by arbitration pursuant to the terms of Article 10 hereof. The provisions of this paragraph

(H) shall not be construed to extend time periods prescribed in paragraph (G) of this Section 5.5.

**Section 5.6 Use of the Property.** (A) No nuisance shall be allowed on the Property, nor shall any use or practice be allowed that either is a source of unreasonable annoyance to its residents or interferes with the peaceful possession or proper use of the property by its residents or occupants. No immoral, improper, offensive or unlawful use shall be made of the Property or any portion thereof.

(B) Nothing shall be done or kept in any Unit or in any of the Common Elements that would increase the rate of insurance for the Property, except upon the prior written consent of the Condominium Board. No Unit Owner shall permit anything to be done or kept in a Unit or in the Common Elements that will result in the cancellation of insurance on the Property or the contents thereof, or that would be in violation of any Law. No waste shall be committed in the Common Elements.

(C) Nothing shall be done in any Unit or in, on, or to the Common Elements that will impair the structural integrity of the Property or that will structurally change the Building, except as is otherwise provided in the Declaration or in these By-Laws.

**Section 5.7 Use of the Units.** (A) In order to provide for congenial occupancy of the Property and for the protection of the value of the Units, the use of Units shall be restricted to, and shall be in accordance with, the terms contained in the balance of this Section 5.7.

(B) Each Residential Unit shall be used only as a residence, and not more than one natural person and his Family Members plus one additional occupant and the dependent children of such additional occupant may reside a Residential Unit at any one time. Notwithstanding the foregoing, however, Declarant or its designee (or, when there are no longer any Unsold Units, the Condominium Board) may, in its sole discretion, consent to the use of a Residential Unit as a professional or business office or for any purpose other than that set forth in this paragraph (B), provided that the nature and manner of such use complies with Law and does not violate the then existing Certificate of Occupancy covering such Residential Unit. Any such consent shall be in writing and shall be personal to such Residential Unit Owner. Any lessee of, or successor in title to, such Residential Unit Owner shall be required to obtain the prior written consent of Declarant or its designee or the Condominium Board (as the case may be) before using such Residential Unit for any purpose other than that set forth in the first sentence of this paragraph (B).

(C) A Residential or Professional Unit owned or leased by an individual, corporation, partnership, fiduciary, or any other entity may be occupied only by said individual, or by an officer, director, stockholder, or employee of such corporation, or by a



partner or employee of such partnership, or by said fiduciary (including a director, officer, stockholder, or employee of a corporate fiduciary and a partner or employee of a partnership fiduciary), or by the beneficiary of said fiduciary, or by a principal or employee of such other entity, respectively, or by Family Members or guests of any of the foregoing. Additionally, in no event shall a portion of a Residential Unit (as opposed to the entire Residential Unit) be sold, conveyed, leased, or subleased, and no transient occupant (other than a guest permitted under this paragraph (D)) may be accommodated therein.

(D) Notwithstanding anything to the contrary contained in this Section 5.7, Declarant may, without the consent of either the Condominium Board or the Unit Owners use any one or more Unsold Units as model units and offices for the sales, promotions, rental, management and operation of the Unsold Units or for any other purpose, subject only to compliance with Law.

**Section 5.8 Use of the Common Elements.** (A) Subject to the terms of paragraphs (B) and (C) of this Section 5.8, the Common Elements (including, without limitation, the electrical, heating, gas, plumbing and other mechanical systems and equipment of the Building and the Facilities) may be used only for the furnishing of the services and facilities, and for the other uses, for which they are reasonably suited and capable. The lobbies, vestibules, public halls, stairways and public elevators shall be used only for normal passage through them. Accordingly, all Unit Owners shall require their tradesmen to utilize exclusively the elevator and entrance designated by the Condominium Board for transporting packages, merchandise, or other objects.

(B) The owner or owners of any two or more Residential Units, if such Units are the only Units serviced or benefitted by any General Common Element adjacent or appurtenant to such Units (for example, that portion at the end of any residential hallway that is directly adjacent to any such Units located on opposite sides of such hallway) shall, with the consent of the Condominium Board (which consent shall not be unreasonably withheld or delayed), have the right to use such General Common Elements exclusively, as if it were a part of such Units (including the right, in the above example of a portion of a hallway, to enclose such portion), and no amendment to the Declaration or reallocation of Common Interests shall be made by reason thereof. In such an event, however, such owner or owners shall, at his sole cost and expense, both (i) operate, maintain and repair such General Common Element for so long as such owner(s) exercise such exclusive right of use and (b) restore such General Common Element to its original condition, reasonable wear and tear excepted, after such owner(s) cease to exercise such exclusive right of use.

**Section 5.9 Rights of Access.** (A) Subject to the right of existing tenants and other occupants of Unsold Units, each Unit Owner shall grant to the Condominium Board, to the Managing Agent or manager (if any), to the superintendent and/or to any other

Person authorized by any of the foregoing a right of access to his Unit and its appurtenant Limited Common Elements for the purposes of:

(i) making inspections of, or removing violations noted or issued by any governmental authority against, the Common Elements or any other part of the property;

(ii) curing defaults hereunder or under the Declaration or violations of the Rules and Regulations committed by such Unit Owner or correcting any conditions originating in his Unit and threatening another Unit or all or a portion of the Common Elements;

(iii) performing maintenance, installations, alterations, repairs, or replacements to the mechanical or electrical services, or other portions of the Common Elements located within his Unit or elsewhere in the Building;

(iv) reading, maintaining, or replacing utility meters relating to the Common Elements, to his Unit, or to any other Unit; or

(v) correcting any condition that violates the provisions of any Permitted Mortgage encumbering another Unit.

Except in cases of emergency (e.g., a condition requiring repairs or replacements immediately necessary for the preservation or safety of the Building or for the safety of the occupants of the Building or other individual, or required to avoid the suspension or any necessary service in the Building), the foregoing rights of access shall be exercised only upon not less than one (1) days advance notice and only in such a manner as will not unreasonably interfere with the use of the Residential Units and their appurtenant Limited Common Elements for their permitted purposes. In cases of emergency, however, such rights of access may be exercised immediately, without advance notice and whether or not the Unit Owner is present.

(B) Each Unit Owner shall grant a right of access to his Unit and its appurtenant Limited Common Elements, and the Condominium Board shall grant rights of access to the General Common Elements, to Declarant and its contractors, subcontractors, agents and employees for the purpose of fulfilling Declarant's obligations as set forth in the Plan or in any amendment thereto, provided that access thereto shall not be exercised, with respect to any Unit and its appurtenant Limited Common Elements, in such a manner as will unreasonably interfere with the use of such Unit and Limited Common Elements for their permitted purposes.

**Section 5.10** Modification of the Rules and Regulations. The Condominium Board shall have the right to amend, modify, add to, or delete any of the Rules and Regulations from time to time,

provided, however, (i) that any such amendment, modification, addition, or deletion may be overruled by a vote of Majority of Unit Owners and (ii) no rule or regulation may be amended to increase the obligation or abridge the rights or limit the benefits to Declarant or its designee without the consent of the affected party. Copies of the text of any amendments, modifications, additions, or deletions to the Rules and Regulations shall be furnished to all Unit Owners not less than thirty (3) days prior to the effective date thereof.

**Section 5.11 Real Estate Taxes, Water Charges and Sewer Rents.** Water for the Building is supplied by the City of New York. Unless and until real estate taxes, water charges and sewer rents are billed directly to Unit Owners by the City Collector, the Condominium Board shall promptly pay such taxes, charges and rents as a Common Expense. In the event of a proposed sale of any Unit, the Condominium Board (for so long as the Condominium Board is still paying such real estate taxes, water charges and sewer rents) shall, upon the written request of the selling Unit Owner, execute and deliver to the purchaser of such Unit or to such purchaser's title company, a letter agreeing promptly to pay all such taxes, charges and rents affecting such owner's Unit to the date of the closing of title to such Unit.

**Section 5.12** Hot water for heating the building is supplied by one gas-fired boiler, as manufactured by Slant/Fin, Model GGHT-170 or an equivalent. The boiler has an input of 750,000 BTUs and an output of 608,000 BTUs. Domestic hot water shall be supplied by a gas-fired hot water heater. The hot water heater as manufactured by Teledyne Laars, model number PW 325, with a 250 gallon storage tank or an equivalent. The charges for any steam consumed or used in the Building (including in the Units) shall be paid by the Condominium Board as a Common Expense.

**Section 5.13** Electricity is supplied to each Unit through a separate meter for such Unit, and each Unit Owner shall be required to pay all charges for electricity consumed or used in his Unit directly to the utility company servicing the Building.

**Section 5.14 Utilities Serving the General Common Elements.** The Cost and expense of water, steam, electricity and gas serving or benefiting any General Common Element shall be (i) considered part of the expense of maintaining such General Common Element and (ii) charged to the Unit Owners as a Common Expense.

**Section 5.15 Vault Charges.** All license fees, and all periodic taxes and charges, for vaults or other protrusions beyond the building line shall be paid by the Condominium Board as a Common Expense.

**Section 5.16 Records and Audits.** (A) The Treasurer of the Condominium, or the Managing Agent under the supervision of such Treasurer, shall keep full, detailed and accurate records and books of account with respect to the financial affairs of the



Condominium, which records and books of account shall include, without limitation, (i) a listing of all receipts of and expenditures by the Condominium Board and the Managing Agent and (ii) a separate listing for each Unit, setting forth, among other things, the amount of each assessment of Common Charges and Special Assessments levied against such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid.

(B) Within three months after the end of each fiscal year of the Condominium, the Condominium Board shall submit to each Unit Owner, and, if so requested, to any Permitted Mortgagee, an annual report of the receipts and expenditures of the Condominium prepared and certified by an independent certified public accountant. The cost of preparing and distributing each such report shall be borne by the Unit Owners as a Common Expense.

## ARTICLE 6

### Common Charges

**Section 6.1** Determination of Common Expenses and Fixing of Common Charges. (A) From time to time, but not less frequently than once a year, the Condominium Board shall: (i) prepare and adopt a budget for the Condominium, subject to, in all respects, to the strictures set forth in Section 2.5 hereof; (ii) determine the aggregate amount of Common Charges necessary to be charged to the Unit Owners in order to meet the Common Expenses; and (iii) allocate and assess such Common Charges amongst the Unit owners pro-rata, in accordance with their respective Common Interests (except as otherwise provided in the Declaration or in these By-Laws). The Condominium Board shall advise all Unit Owners promptly thereafter in writing of the amount of Common Charges payable by each of them and, not later than ten (10) days next preceding the date upon which the first installment of newly-determined Common Charges is due, shall furnish copies of the budget (in a reasonably itemized form) upon which such Common Charges are based to all Unit Owners and to their respective Permitted Mortgagees. The Condominium Board may, at its sole discretion, from time to time increase or decrease the amount of Common Charges allocated to the Units and payable by the Unit Owners and may modify its prior determination of the Common Expenses for any fiscal year so as to increase or decrease the amount of Common Charges payable for such fiscal year or portion thereof; however, no such revised determination of Common Expenses shall have a retroactive effect on the amount of Common Charges payable by Unit Owners for any period prior to the date of such new determination. Notwithstanding the foregoing, however, the Condominium Board shall not reduce the Common Charges payable during any year occurring within the Initial Control Period solely as a result of either reducing the number of employees of the Condominium below the number employed for the Property on the date of recording the Declaration, or eliminating or reducing any

service or reducing the insurance coverage below that provided for the Property on such date, except with the concurrence of a majority of the members of the Condominium Board elected by Unit Owners other than Declarant or its designee. During the period, if any, the Condominium Board is paying the real estate taxes as a Common Expense, that portion of the Common Charges billed which is allocable to such tax, shall be separately stated on a bill for Common Charges rendered to the Unit Owners and the funds so collected shall be held in a separate account by the Managing Agent and shall be used solely for the purpose of paying said real estate tax.

(B) The failure or delay of the Condominium Board to prepare or adopt a budget or to determine the Common Expenses for any fiscal year or portion thereof shall not be deemed a waiver or modification in any respect of the covenants and provisions hereof or a release of any Unit Owner from the obligation to pay Common Charges. In such event, the Common Charges that were computed on the basis of the Common Expenses last determined for any fiscal year or portion thereof shall continue thereafter to be the Common Charges payable by the Unit Owners until a new determination of the Common Expenses shall be made.

(C) In addition to the foregoing duty to determine the amount of and assess Common Charges, the Condominium Board shall have the right, subject in all respects, to the strictures contained in Section 2.5 hereof, to levy Special Assessments to meet the Common Expenses. All Special Assessments shall be levied against all Unit Owners in proportion to their respective Common Interests and may be payable either in one lump sum or in installments, as the Condominium Board shall determine, provided, however that the Condominium Board shall give each Unit Owner not less than fifteen (15) days' written notice prior to the date upon which such Special Assessment, or the first installment thereof shall be due and payable, which notice shall set forth, in reasonable detail, the nature and purpose thereof. The Condominium Board shall have all rights and remedies for the collection of Special Assessments as are provided herein for the collection of Common Charges (including, without limitation, the provisions of Section 6.4 hereof).

(D) The excess of all rents, profits and revenues derived from the rental or use of any space forming a part of, or included in, any General Common Element or rent from the subleasing of a Unit leased pursuant to Section 7.3 hereof or rent from the leasing or proceeds from the sale of a Unit to which title was acquired pursuant to Section 7.3 hereof remaining after deduction of all expenses incurred in connection with generating the same shall constitute income of the Unit Owners, and shall be collected on behalf of the Unit Owners by the Condominium Board and applied against the Common Expenses for the year in which collected. In the event that such net rents, profits and revenues, together with the Common Charges and any Special Assessments collected from the Unit Owners, for any year of operation shall exceed the Common

Expenses for such year, then such excess shall be applied by the Condominium Board against the Common Expenses for the next succeeding year(s) of operation, and no Unit Owner shall be entitled to a distribution of any portion of such excess unless the Condominium Board shall determine to distribute all or part of such excess to all Unit Owners pro-rata, in proportion to their respective Common Interests. Notwithstanding any provision contained in these By-Laws or in the Declaration to the contrary, however, in no event shall any rent, profit, or revenue derived from the rental or use of any space in the Building be deemed to be derived from the rental or use of any floor slabs, ceilings, or walls delineating or enclosing such space or the incidental use of any portion of any Common Elements appurtenant to such space.

(E) If the Condominium Board shall specifically so elect, the determination of Common Expenses may include sums to be collected as Common Charges for the improvement or replacement of the Common Elements, but the Condominium Board need not designate specifically which Common Elements are to be replaced or improved. All such sums shall be collected as Common Charges, shall be separately stated on bills for Common Charges to be rendered for the period during which such determination is in effect, and must be deposited by the Condominium Board or the Managing Agent in a separate bank account. All such Common Charges payable pursuant to such a determination shall be deemed to be contributions to the capital of the Condominium. The Condominium Board may discontinue, modify or increase any determination theretofore made without prejudice to any future determination in that regard.

**Section 6.2 Payment of Common Charges.** (A) All Unit Owners shall be obligated to pay Common Charges and Special Assessments assessed by the Condominium Board pursuant to the terms of Section 6.1 hereof at such time or times (but not less than annually) as the Condominium Board shall determine. Unless otherwise determined by the Condominium Board. Common Charges shall be payable in installments on the first day of every month in advance. To the extent permitted by Law, the Condominium Board shall have a lien on each Unit, on behalf of all Unit Owners, for unpaid Common Charges and Special Assessments assessed against such Unit. Such lien, however, shall be subordinate, to the extent required by Law, to any liens for real estate taxes assessed against such Unit.

(B) No Unit Owner shall be liable for the payment of any part of the Common Charges and any Special Assessments assessed against his Unit subsequent to a sale, transfer, or other conveyance by him of such Unit, together with its Appurtenant Interests, made in compliance with the terms of Article 7 hereof. A purchaser or other successor-in-title to the owner of a Unit shall be liable for the payment of all Common Charges and any Special Assessments accrued and unpaid against such Unit prior to his acquisition thereof, except that, to the extent permitted by Law, a Permitted First Mortgagee acquiring title to a mortgaged Unit or a purchaser at a mortgage foreclosure sale held with



respect to a Permitted First Mortgage shall not be liable, and such mortgaged Unit shall not be subject to a lien, for the payment of any Common Charges and Special Assessments assessed subsequent to the recording of such Permitted First Mortgage and prior to the acquisition of title to such Unit by the Permitted First Mortgagee or by such purchaser. However, in the event of a foreclosure of a Permitted First Mortgage (whether by sale, deed in lieu of foreclosure, or otherwise), the defaulting Unit Owner shall remain fully liable for the payment of all unpaid Common Charges and Special Assessments that accrued prior to such foreclosure. Any unpaid Common Charges and Special Assessments that are not collected from such defaulting Unit Owner shall be deemed a Common Expense, collectible from all those who are Unit Owners at the time that the same is levied.

(C) Subject to the terms and conditions contained in these By-Laws, any Unit Owner may convey his Unit, together with its Appurtenant Interests, to the Condominium Board or to its designee, corporate or otherwise, on behalf of all Unit Owners, without being compensated therefor, and, in such event, be exempt from the payment of Common Charges and Special Assessments thereafter accruing, provided, however, that: (i) all Common Charges and any Special Assessments then due and payable with respect to such Unit have been paid; (ii) such Unit is free and clear of all liens and encumbrances other than a Permitted First Mortgage and the statutory lien for unpaid Common Charges and Special Assessments; and (iii) no violation of any provision of the Condominium Documents then exists with respect to such Unit.

(D) No Unit Owner shall be exempted from liability for the payment of Common Charges or Special Assessments by waiving the use or enjoyment of any or all of the Common Elements or by abandoning his Unit (except with respect to a conveyance of the same to the Condominium Board, without compensation, pursuant to the terms of paragraph (C) hereof. Except as expressly provided to the contrary in paragraph (E) of Section 5.5 hereof, no Unit Owner shall be entitled to a diminution or abatement in the Common Charges or Special Assessments payable thereby for any inconvenience or discomfort arising from: (i) the failure or interruption of any utility or other services; (ii) the making of repairs or improvements to the Common Elements or any Unit (including, without limitation, such Unit Owner's Unit) pursuant to the terms of Section 5.1, 5.2, or 5.3 hereof, or (iii) any action taken by the Condominium Board or the officers of the Condominium to comply with Law.

**Section 6.3 Statement of Common Charges.** The Condominium Board shall promptly provide a written statement of all unpaid Common Charges due from any Unit Owner upon its receipt of a written request therefore from such Unit Owner. In addition, each Unit Owner shall be permitted to examine the books of account of the Condominium at reasonable times on business days, but not more frequently than once a month.

**Section 6.4 Default in Payment of Common Charges.** (A) The Condominium Board shall take prompt action to collect any Common Charges due to the Condominium Board that remain unpaid for more than thirty (30) days after the due date for the payment thereof. In connection therewith, the Condominium Board shall have the right and obligation to cause liens for all sums due and owing to the Condominium Board to be filed in the Register's Office pursuant to the terms of Section 399-z of the Condominium Act, to cause such liens to be foreclosed in the manner provided in Section 399-aa of the Condominium Act and/or to institute all other proceedings deemed necessary or desirable by the Condominium Board to recover all such unpaid Common Charges, together with all additional sums of money collectible by the Condominium Board by reason of such nonpayment pursuant to the terms of paragraph (B) hereof. A suit to recover a money judgment for unpaid Common Charges, however, shall be maintainable without foreclosing or waiving the lien securing such charges.

(B) In the event that any Unit Owner shall fail to make prompt payment of Common Charges, such Unit Owner shall be obligated to pay interest thereon at the highest rate chargeable to individuals pursuant to Law, to be computed from the due date thereof until paid in full, together with all costs and expenses paid or incurred by the Condominium Board, the Managing Agent, or the manager (if any) in connection with collecting such unpaid Common Charges with interest as aforesaid and/or in foreclosing the aforementioned lien, including, without limitation, reasonable attorneys' fees and disbursements and court costs. In addition, if the Condominium Board shall bring an action to foreclose the aforementioned lien, the defaulting Unit Owner will be required to pay a reasonable rental for the use of his Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. All such interest, costs and expenses and rentals shall be added to and shall constitute Common Charges payable by such Unit Owner.

(C) In any action brought by the Condominium Board to foreclose a lien on a Unit because of unpaid Common Charges, the Condominium Board shall have, on behalf of all Unit Owners, the power to purchase such Unit at the foreclosure sale thereof and to acquire, hold, lease, mortgage, convey, or otherwise deal with such Unit (but not to vote the votes appurtenant to the same). In the event that the net proceeds received on such foreclosure (after deduction of all legal fees and disbursements, advertising costs, brokerage commissions, court costs and other costs and expenses paid or incurred in connection therewith) shall be insufficient to satisfy the defaulting Unit Owner's obligations to the Condominium, such Unit Owner shall remain liable for the deficit. Any surplus on such foreclosure sale shall be paid to the defaulting Unit Owner after first paying all liens on such Unit Owner's Unit in the order of priority of such liens.

## ARTICLE 7

Selling and Leasing of Units

**Section 7.1 General.** Subject to the terms of Section 7.5 hereof, no Residential Unit Owner may sell or lease his Residential Unit except in compliance with the applicable provisions of this Article 7. Any purported sale or lease consummated in default of the applicable terms hereof shall be voidable at the sole election of the Condominium Board, and, if the Condominium Board shall so elect, the selling or leasing Unit Owner shall be deemed to have authorized and empowered the Condominium Board to institute legal proceedings to eject the purported purchaser (in the event of an unauthorized sale) or to evict the purported tenant (in the event of an unauthorized leasing) in the name of the said Unit Owner as the owner or landlord, as the case may be. The said Unit Owner shall reimburse the Condominium Board for all costs and expenses paid or incurred in connection with such proceedings, including, without limitation, reasonable attorneys' fees and disbursements and court costs.

**Section 7.2 Right of First Refusal.** (A) Subject to the terms of Sections 7.5 and 7.9 hereof, any contract to sell a Residential Unit together with its Appurtenant Interests and any lease of a Residential Unit (hereinafter collectively referred to as a "Sale or Lease Agreement") shall contain the following language: "THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER ARE HEREBY MADE EXPRESSLY SUBJECT TO THE RIGHTS, IF ANY, OF THE CONDOMINIUM BOARD OF THE BEEKMAN LANDING CONDOMINIUM WITH RESPECT TO THE TRANSACTION EMBODIED HEREIN PURSUANT TO THE TERMS OF SECTIONS 7.2 AND 7.3 OF THE BY-LAWS OF THE SAID CONDOMINIUM, AS THE SAME MAY HAVE BEEN AMENDED". Promptly after any Sale or Lease Agreement shall be fully executed, the Residential Unit Owner executing the same (hereinafter referred to as the "Offeree Unit Owner") shall send written notice thereof to the Condominium Board by certified or registered mail, return receipt requested, which notice shall be accompanied by a fully executed, original counterpart of the contract of sale or the lease, as the case may be, containing all of the terms offered in good faith by the prospective purchaser or tenant (hereinafter referred to as the "Outside Offeror").

(B) The sending of the notice referred to in paragraph (A) of this Section 7.2 shall constitute an offer by the Offeree Unit Owner to sell his Residential Unit, together with its Appurtenant Interests, or to lease his Residential Unit, as the case may be, to the Condominium Board or to its designee, corporate or otherwise, on behalf of all Unit Owners, upon the same terms and conditions as are contained in such Sale or Lease Agreement, subject, however, to any variance therefrom provided in Section 7.3 hereof. The giving of such notice shall further constitute a representation and warranty by the Offeree Unit Owner to the Condominium Board, on behalf of all Unit Owners, that such Offeree



Unit Owner believes the Sale or Lease Agreement to be bona fide in all respects. Thereafter, upon the written demand of the Condominium Board, the Offeree Unit Owner shall submit to the Condominium Board, in writing, such further information with respect to the Outside Offeror and the Sale or Lease Agreement as the Condominium Board may reasonably request.

(C) The Condominium Board may elect, by sending written notice thereof to the Offeree Unit Owner by certified or registered mail not later than thirty (30) business days (in the event of a proposed sale) and twenty (20) business days (in the event of a proposed lease) after receipt of the notice referred to in paragraph (A) hereof together with such further information as may have been requested pursuant to the terms of paragraph (B) hereof, to purchase such Residential Unit together with its Appurtenant Interests or to lease such Residential Unit together with its Appurtenant Interests, as the case may be (or to cause the same to be purchased or leased by its designee, corporate or otherwise) on behalf of all Unit Owners upon substantially the same terms and conditions as were contained in the Sale or Lease Agreement and stated in the response(s) by the Offeree Unit Owner to any requests for additional information pursuant to the terms of paragraph (B) hereof except as otherwise set forth in this Article 7. Notwithstanding anything to the contrary contained herein, however, the Condominium Board shall not exercise any option set forth in this Section 7.2 to purchase or lease any Residential Unit without the prior approval of a Majority of Unit Owners.

**Section 7.3 Acceptance of Offer.** (A) In the event that the Condominium Board shall elect, within the time and in the manner provided in Section 7.2 hereof, to purchase a Residential Unit together with its Appurtenant Interests, to lease such Residential Unit, or to cause the same to be purchased or leased by its designee, title shall close or a lease shall be executed, in either event in accordance with the terms of the Sale or Lease Agreement, at the office of the attorneys for the Condominium within forty-five (45) days after the day upon which the Condominium Board shall give notice of its election to accept such offer.

(B) If such Residential Unit and its Appurtenant Interests are to be purchased by the Condominium Board or its designee on behalf of all Unit Owners, such purchase may be made from the funds deposited in the capital and/or expense accounts of the Condominium. If the funds in such accounts are insufficient to effectuate such purchase, the Condominium Board may levy a Special Assessment against each Unit Owner (other than the Offeree Unit Owner) in accordance with the terms of paragraph (C) of Section 6.1 hereof and/or the Condominium Board may, in its discretion, finance the acquisition of such Residential Unit; provided however, that no such financing may be secured by an encumbrance on or a hypothecation of any portion of the Property other than the Unit to be purchased together with its Appurtenant Interests.

At the closing of title, the Offeree Unit Owner shall convey the Unit, together with its Appurtenant Interests, to the Condominium Board or to its designee, on behalf of all Unit Owners, by deed in the form required by Section 399-0 of the Condominium Act with all tax and/or documentary stamps affixed at the expense of the Offeree Unit Owner, who shall also pay all other transfer taxes arising out of such sale notwithstanding any terms of the Sale or Lease Agreement to the contrary. Real estate taxes (including water charges and sewer rents, if separately assessed), mortgage interest (if applicable) and Common Charges shall be apportioned between the Offeree Unit Owner and the Condominium Board or its designee as of the closing date, notwithstanding any terms of the Sale or Lease Agreement to the contrary. Thereafter, such Residential Unit shall be held, so long as the same is owned by the Condominium Board or its designee, on behalf of all Unit Owners, as tenants-in-common, and all such Unit Owners shall be deemed to have waived all rights of partition with respect to such Residential Unit.

(C) In the event that such Residential Unit is to be leased by the Condominium Board or its designee on behalf of all Unit Owners, the Offeree Unit Owner shall execute and deliver to the Condominium Board or such designee a lease covering such Unit by and between the Offeree Unit Owner, as landlord, and the Condominium Board or such designee, as tenant. Such lease shall be in the then current form of apartment lease recommended by the Real Estate Board of New York, Inc., and shall contain all of the terms and conditions of the Sale or Lease Agreement not in conflict with such form of lease, including, without limitation, the rental and term provided for therein. Notwithstanding anything to the contrary set forth hereinabove or in the Sale or Lease Agreement, such lease shall expressly provide that the Condominium Board or such designee may enter into a sublease of the premises demised thereunder without consent of the landlord.

**Section 7.4 Failure to Accept Offer.** (A) in the event that the Condominium Board shall fail to accept an offer made pursuant to the terms of Section 7.2 hereof within the respective times set forth in paragraph (C) thereof, the Offeree Unit Owner shall be free to consummate the transaction embodied in the Sale or Lease Agreement within one hundred twenty (120) days after (i) notice of refusal is sent to the Offeree Unit Owner by the Condominium Board or (ii) the expiration of the period within which the Condominium Board or its designee might have accepted such offer, as the case may be whichever is earlier. If the Offeree Unit Owner shall fail to consummate the transaction embodied in the Sale or Lease Agreement within such one hundred twenty (120) day period, then, should the Offeree Unit Owner thereafter elect to sell such Unit together with its Appurtenant Interests or to lease such Unit, the Offeree Unit Owner shall be required again to comply with all of the terms and provisions of Sections 7.2, 7.3 and 7.4 hereof.

(B) Any deed of a Residential Unit and its Appurtenant Interests to an Outside Offeror shall expressly provide that the

acceptance thereof by the grantee shall constitute an assumption of all of the terms of the Condominium Documents, and, in the absence of such express language, the same shall be conclusively deemed to have been included therein.

(C) Each lease of a Residential Unit to an Outside Offeror shall be in the then current form of apartment lease recommended by the Real Estate Board of New York, Inc., subject to such modifications as may be approved in writing by the Condominium Board. Notwithstanding the foregoing however, each such lease shall be consistent with the Condominium Documents and shall expressly provide that:

(i) such lease may not be amended, modified or extended without the prior written consent of the Condominium Board in each instance;

(ii) the tenant thereunder shall not assign his interest in such lease or sublet the premises demised thereunder or any part thereof without the prior written consent of the Condominium Board in each instance; and

(iii) the Condominium Board shall have the power to terminate such lease and/or to bring summary proceedings to evict the tenant in the name of the landlord thereunder in the event of (a) a default by the tenant in the performance of its obligations under such lease or (b) a foreclosure of the lien granted by Section 339-z of the Condominium Act.

**Section 7.5 Termination of, and Exceptions to the Right of First Refusal.** (A) A certificate executed and acknowledged by the Secretary of the Condominium or the Managing Agent, stating that the provisions of Section 7.2 hereof have been met by a Residential Unit Owner or that the right of first refusal provided for therein has been duly released or waived by the Condominium Board and that, as a result thereof, the rights of the Condominium Board thereunder have terminated, shall be conclusive upon the Condominium Board and all Unit Owners in favor of all persons who rely upon such certificate in good faith. After the due issuance of such a certificate, the Unit to which the same shall relate, together with its Appurtenant Interests, may be sold, conveyed, or leased free and clear of the terms and conditions contained in Section 7.2 hereof. The Condominium Board shall furnish or cause the Managing Agent to furnish, without charge, upon written request such certificate to any Residential Unit Owner in respect to whom the provisions of Section 7.2 hereof have, in fact, been terminated. In no event, however, shall the right of first refusal described in Section 7.2 hereof be deemed released or waived by the Condominium Board (as opposed to satisfied pursuant to the express terms of Sections 7.2, 7.3 and 7.4 hereof) in the absence of a certificate that has been duly executed, acknowledged and issued by the Condominium Board or the Managing Agent as aforesaid.

(B) The terms and conditions contained in Section 7.2, 7.3 and 7.4 hereof shall not apply with respect to any sale, lease or conveyance of a Residential Unit, together with its Appurtenant Interests, by:

(i) the owner of such Unit to any of his adult Family Members, to any combination of the same, or to a trust for the benefit of any of them or, with respect to a Unit Owner that is not an individual, to any entity or individual that owns more than fifty (50%) percent of the legal and beneficial interest of such Unit Owner or to any entity with respect to which such Unit Owner (individual or otherwise) owns more than fifty (50%) percent of the legal and beneficial interest thereof;

(ii) Declarant or its designee, with respect to the Unsold Units;

(iii) the Condominium Board;

(iv) any proper officer conducting the sale of a Residential Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of such foreclosure, or

(v) any Permitted Mortgagee or his nominee, who has acquired title to any Residential Unit at any foreclosure sale of his Permitted Mortgage or by deed in lieu thereof delivered in a bona fide transaction,

provided, however, that each succeeding Residential Unit Owner shall be bound by, and his Unit shall continue to be subject to, all of the terms and conditions of this Article 7.

**Section 7.6 No Severance of Ownership.** No Unit Owner shall execute any deed or any other instrument conveying title to his Unit without including therein its Appurtenant Interests, it being the intention to prevent any severance of such combined ownership. Any deed or other instrument purporting to affect one or more such interests shall be taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any Unit may be sold, conveyed or otherwise disposed of, except as part of a sale, conveyance or other disposition of the Unit to which such interests are appurtenant or as part of a sale, conveyance or other disposition of such part of the Appurtenant Interests of all Units. Nothing contained in this Section 7.6, however, shall prohibit the lease of any Unit without the simultaneous lease of its Appurtenant Interests.

**Section 7.7 Payment of Common Charges.** No Residential Unit Owner shall be permitted to convey or lease his Unit unless he shall have paid in full to the Condominium Board all unpaid Common Charges and Special Assessments theretofore assessed against such



Unit and shall have satisfied all unpaid liens, other than that of Permitted Mortgages, levied against such Unit.

**Section 7.8 Power of Attorney.** At the time of acquiring title to a Unit and as a condition thereof, the new Unit Owner shall duly execute, acknowledge and deliver to the representative of his title insurance company (or, if no such representative is present, to Declarant or its designee, or, if Declarant or its designee is not then the owner of any Unsold Unit, to the Condominium Board) for recording in the Register's Office (or the Office of the Clerk of the County of New York), the Unit Owner's Power of Attorney required in Article 14 of the Declaration, in the form set forth as Exhibit E to the Declaration.

**Section 7.9 Gifts and Devises, Etc.** Any Unit Owner shall be free to convey or transfer his Unit, together with its Appurtenant Interests, by gift, or to devise the same by will or to have the same pass by intestacy, without restriction, provided, however, that each succeeding Unit Owner shall be bound by, and his Unit shall be subject to, the provisions of this Article 7.

## ARTICLE 8

### Mortgaging of Units

**Section 8.1 General.** Each Unit Owner shall have the right to mortgage his Unit, subject only to the terms and conditions contained in Section 8.2 hereof. Any Unit Owner who mortgages his Unit, or the holder of such mortgage, shall supply the Condominium Board with the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Condominium Board. Any Unit Owner who satisfies a mortgage covering his Unit shall so notify the Condominium Board and shall file a conformed copy of the satisfaction of mortgage with the Condominium Board. The Secretary of the Condominium shall maintain such information in a book entitled "Mortgages of Units".

**Section 8.2 Restrictions on Mortgaging.** (A) No Unit Owner shall be permitted to mortgage, pledge, or hypothecate his Unit unless and until he shall have paid in full to the Condominium Board all unpaid Common Charges and Special Assessments theretofore assessed against such Unit and shall have satisfied all unpaid liens, except the liens of Permitted Mortgages levied against such Unit.

(B) No Unit Owner shall execute any mortgage or other document mortgaging, pledging or hypothecating title to his Unit without including therein its Appurtenant Interests, it being the intention to prevent any severance of such combined ownership. Any mortgage or other instrument purporting to affect one or more of such interests without including all such interests shall be deemed and taken to include the interest or interests so omitted,

even though the latter shall not be expressly mentioned or described therein.

(C) Any mortgage covering a Unit shall be substantially in the form of the New York statutory form of mortgage, except for such changes or additions thereto as may be required in order to permit a particular bank, trust company, insurance company, savings and loan association, or other institutional or non-institutional lender to make the mortgage loan.

**Section 8.3** Notice of Unpaid Common Charges and Default. Whenever requested in writing by a Permitted Mortgagee, the Condominium Board shall promptly report to such Permitted Mortgagee any default by his mortgagor(s) in the payment of Common Charges or Special Assessments or in the observance or performance of any of the provisions of the Condominium Documents as to which the Condominium Board has knowledge then exists. The Condominium Board shall, when giving notice to a Unit Owner of any such default, also send a copy of such notice to his Permitted Mortgagee, if so requested. However, the Condominium Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Mortgagee of any default by his mortgagor under the Condominium Documents, provided that (i) the Condominium Board shall advise such Permitted Mortgagee of the default promptly after discovering such failure and (ii) if the Condominium Board shall foreclose a lien on such mortgagor's Unit pursuant to the terms of Section 6.4 hereof by reason of such default, the Condominium Board shall pay to such Permitted Mortgagee any net proceeds of any foreclosure sale of such Unit or such lesser sum as shall be due and owing to such permitted Mortgagee.

**Section 8.4** Performance by Permitted Mortgagees. Any sum of money to be paid or any act to be performed by a Unit Owner pursuant to the terms of the Condominium Documents may be paid or performed by his Permitted Mortgagee, and the Condominium Board shall accept such Permitted Mortgagee's payment or performance with the same force and effect as if the same were paid or performed by such Unit Owner.

**Section 8.5** Examination of Books. Each Permitted Mortgagee shall be permitted to examine the books of account of the Condominium at reasonable times on business days, but not more frequently than once a month.

**Section 8.6** Consent of Mortgagees; Designation of Mortgage Representatives. (A) Except as otherwise expressly provided for herein or in the Declaration, no consent or approval by any mortgagee shall be required with respect to any determination or act of the Condominium Board or any Unit Owner, provided, however, that nothing contained herein shall be deemed to limit or affect the rights of any mortgagee against his mortgagor. In the event that any such consent or approval shall be expressly required pursuant to the terms of the Declaration or these By-Laws, the



decision of a majority of the Mortgage Representatives, if any are designated pursuant to the terms of paragraph (B) of this Section 8.6, shall be deemed binding upon the holders of all mortgages encumbering Units.

(B) The holders of Institutional Mortgages constituting a majority in principal amount of all Institutional Mortgages may, if they so effect, designate not more than three (3) Mortgage Representatives by giving written notice thereof to the Condominium Board, which Mortgage Representatives shall thereby be empowered to act as the representatives of the holders of all mortgages encumbering Units with respect to any matter requiring the consent or approval of mortgagees under the Declaration or these By-Laws. Any designation of a Mortgage Representative pursuant to the terms of this paragraph (B) shall be effective until any successor Mortgage Representative is designated pursuant to the terms hereof and written notice thereof is given to the Condominium Board. Unless otherwise required by Law, no holders of mortgages encumbering Units other than Permitted Mortgagees who hold Institutional Mortgages shall be entitled to participate in the designation of Mortgage Representatives, but all holders of mortgages encumbering Units shall be subject to all determinations made by the Mortgage Representatives pursuant to the terms of the Declaration or these By-Laws.

## ARTICLE 9

### Certain Remedies

**Section 9.1 Self Help.** If any Unit Owner shall violate or breach any of the provisions of the Condominium Documents on his part to be observed or performed, including, without limitation, any breach of his obligation to paint, decorate, maintain, repair or replace his Unit or its appurtenant Limited Common Elements pursuant to the terms of Article 5 hereof, and shall fail to cure such violation or breach within five (5) days after receipt of written notice of the same from the Condominium Board, the Managing Agent, or any manager (or, with respect to any violation or breach of the same not reasonably susceptible to cure within such period, to commence such cure within such five (5) day period and, thereafter, to prosecute such cure with due diligence to completion), the Condominium Board shall have the right to enter such Unit Owner's Unit and/or its appurtenant Limited Common Elements and summarily to abate, remove or cure such violation or breach without thereby being deemed guilty or liable in any manner of trespass. In addition, if the Condominium Board shall determine that the abatement, removal or cure of any such violation or breach is immediately necessary for the preservation or safety of the Building or for the suspension of any necessary service in the Building, the Condominium Board may take such action immediately, without prior notice and without allowing the said Unit owner any period of time within which to cure or to commence to cure such violation or breach.

**Section 9.2 Abatement and Enjoinment.** (A) If any Unit Owner shall violate or breach any of the provisions of the Condominium Documents on his part to be observed or performed, the Condominium Board shall have the right to enjoin, abate or remedy the continuance or repetition of any such violation or breach by appropriate proceedings brought either at law or in equity.

(B) The violation or breach of any of the terms of the Condominium Documents with respect to any rights, easements, privileges or licenses granted to Declarant or its designee shall give to Declaration or such designee the right to enjoin, abate or remedy the continuation or repetition of any such violation or breach by appropriate proceedings brought either at law or in equity.

**Section 9.3 Remedies Cumulative.** The remedies specifically granted to the Condominium Board or to Declarant or its designee in this Article 9 or elsewhere in the Condominium Documents shall be cumulative, shall be in addition to all other remedies obtainable at law or in equity and may be exercised at one time or at different times, concurrently or in any order, in the sole discretion of the Condominium Board or Declarant or such designee, as the case may be. Further, the exercise of any remedy shall not operate as a waiver, or preclude the exercise, of any other remedy.

**Section 9.4 Costs and Expenses.** All sums of money expended, and all costs and expenses incurred, by (i) the Condominium Board in connection with the abatement, enjoinder, removal or cure of any violation, breach, or default committed by a Unit Owner pursuant to the terms of Section 9.1 or paragraph (A) of Section 9.2 hereof or (ii) Declarant in connection with any abatement, enjoinder or remedy of any violation or breach of the Condominium Documents pursuant to the terms of paragraph (B) of Section 9.2 hereof, shall be immediately payable by (a) in the event set forth in subparagraph (i) hereof, such Unit Owner to the Condominium Board or (b) in the event set forth in subparagraph (ii) hereof, the offending party (i.e., the Condominium Board or the Unit Owner) to Declarant, which amount shall, in either event, bear interest (to be computed from the date expended) at the rate of two (2%) percent per month (but in no event in excess of the maximum rate chargeable to such Unit Owner pursuant to Law). All sums payable by a Unit Owner to the Condominium Board pursuant to the terms of this Section 9.3 shall, for all purposes hereunder, constitute Common Charges payable by such Unit Owner.

## ARTICLE 10

### Arbitration

**Section 10.1 Procedure.** Any matter required or permitted to be determined by arbitration pursuant to the terms of the Condominium Documents shall be submitted for resolution by a

single arbitrator in a proceeding held in the City of New York in accordance with the then existing rules of the American Arbitration Association or any successor organization thereto. In the event that the American Arbitration Association shall not then be in existence and has no successor organization, any such arbitration shall be held in the City of New York before one arbitrator appointed, upon the application of any party, by any Justice of the highest court of appellate jurisdiction then located in the City of New York. The decision of the arbitrator so chosen shall be given within ten (10) days after the hearing on the matter is complete. Any arbitrator appointed or selected in connection with any arbitration to be conducted hereunder shall be a member of a law firm having at least five (5) members whose principal office is located in the City of New York.

**Section 10.2 Variation by Agreement.** The parties to any dispute required or permitted to be resolved by arbitration pursuant to the terms of the Condominium Documents may, by written agreement, vary any of the terms of Section 10.1 hereof with respect to the arbitration of such dispute or may agree to resolve their dispute in any manner.

**Section 10.3 Binding Effect.** The decision in any arbitration conducted pursuant to the terms of Sections 10.1 and 10.2 hereof shall be binding upon all of the parties thereto and may be entered in any court of appropriate jurisdiction. Notwithstanding the foregoing, however, any arbitration held pursuant to the terms of the Condominium Documents with respect to a matter that arose prior to the first annual meeting of all Unit Owners held pursuant to the terms of Section 4.1 hereof shall be non-binding.

**Section 10.4 Costs and Expenses.** (A) The fees, costs and expenses of the arbitrator shall be borne by the losing party in the arbitration or, if the position of neither party to the dispute be substantially upheld by the arbitrator, such fees, costs and expenses shall be borne equally by the disputants. Each disputant shall also bear the fees and expenses of his counsel and expert witnesses.

(B) All costs and expenses paid or incurred by the Condominium Board in connection with any arbitration held hereunder, including, without limitation, the fees and expenses of counsel and expert witnesses, shall constitute Common Expenses.

## ARTICLE 11

### Notices

**Section 11.1 General.** All notices required or desired to be given hereunder shall be sent by registered or certified mail, return receipt requested, postage prepaid addressed:

(i) if to the Condominium Board, to the Condominium Board at its principal office as set forth in Section 1.5 hereof, with a photocopy sent to the Managing Agent (if any) at its principal office address as aforesaid;

(ii) if to a Unit Owner other than Declarant or its designee, to such Unit Owner at his address at the Property;

(iii) if to Declarant or its designee, to Declarant or such designee c/o Philips International, 417 Fifth Avenue, New York, N.Y. 10016; or

(iv) if to a Permitted Mortgagee, to such Permitted Mortgagee at its latest address designated in writing to the Condominium Board.

Any of the foregoing parties may change the address to which notices and/or copies of notices are to be sent, or may designate additional addresses for the giving of notice, by sending written notice to the other parties as aforesaid. All notices sent pursuant to the terms of this Section 11.1 shall be deemed given when deposited in a United States Postal Service depository located in the State of New York enclosed a sealed, postage prepaid wrapper, provided, however, that notices of change of address, notices designating additional addresses and notices deposited in a United States Postal Service depository located outside of the State of New York shall be deemed to have been given when received.

**Section 11.2** Waiver of Service of Notice. Whenever any notice is required to be given by Law pursuant to the terms of the Condominium Documents, a waiver thereof in writing, signed by the Person or Persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

## ARTICLE 12

### Amendments to By-Laws

**Section 12.1** General. (A) Subject to the terms of paragraph (B) hereof and subject, further, to any provisions contained in the Declaration or these By-Laws with respect to any amendments (affecting or in favor of Sponsor or its designee, any Unsold Unit(s), and/or any Permitted Mortgagee, any provision of these By-Laws may be amended, modified, added to, or deleted by the affirmative vote of not less than 66 2/3% in number and aggregate Common Interests of all Unit Owners either taken at a duly constituted meeting thereof or given in without a meeting as provided in Section 4.10 hereof. Each duly adopted amendment, modification, addition or deletion hereof or hereto shall be effectuated in an instrument executed and recorded in the Register's Office (or the Office of the Clerk of the County of New



York) by or on behalf of the Condominium Board as attorney-in-fact of all Unit Owners, which power-of-attorney shall be deemed irrevocable and coupled with an interest. Attached to each such instrument shall be an original, executed Secretary's Certification, certifying that the requisite number and percentage of Unit Owners approved the amendment, modification, addition or deletion set forth therein either at a duly constituted meeting of Unit Owners or in writing without a meeting pursuant to the terms of Section 4.10 hereof, in which Secretary's Certification there shall be described the number and percentage of Unit Owners approving the same and, if voted at a meeting, the date, time and place of such meeting. No such amendment, modification, addition or deletion shall be effective unless and until such an instrument shall be duly recorded in the Register's Office (or the Office of the Clerk of the County of New York).

(B) Notwithstanding anything to the contrary contained in paragraph (A) hereof, but still subject to any provision contained in the Declaration or these By-Laws with respect to any amendment affecting or in favor of Declarant or its designee, any Unsold Unit, and/or any Permitted Mortgagee:

(i) the Common Interest appurtenant to any Unit, as set forth in the Declaration, shall not be altered without the consent of the Unit Owner thereof, except as otherwise provided in paragraph (E) of Section 5.5 hereof;

(ii) no amendment, modification, addition or deletion agreed to pursuant to the terms of paragraph (A) hereof shall be effective without the prior written consent of the Mortgage Representatives, if any, provided, however, that no such consent shall be unreasonably withheld or delayed; and

(iii) the terms of Section 5.7 hereof may not be amended, modified, added to, or deleted unless (in addition to the consent, if required, of the Mortgage Representatives as provided above) not less than eighty (80%) percent in number and in aggregate Common Interests of all Unit Owners affected thereby shall approve such amendment, modification, addition or deletion in writing.

**Section 12.2 Special Amendments.** (A) Any amendment, modification, addition, or deletion of or to any of the provisions of these By-Laws that, pursuant to the terms of the Declaration or these By-Laws that may be effected by Declarant or its designee without the consent of the Condominium Board or the Unit Owners shall be embodied in an instrument executed and recorded in the Register's Office by Declarant or such designee as attorney-in-fact of both the Condominium Board and all Unit Owners, which power-of-attorney shall be deemed to be irrevocable and coupled with an interest. Attached to each such instrument shall be an original, executed Certification by Declarant or such designee, certifying that the amendment, modification, addition or deletion



set forth therein was effectuated by Declarant or such designee pursuant to the terms of the Declaration and/or these By-Laws, in which Certification there shall be set forth the Article and/or Section of the Declaration or these By-Laws pursuant to which the same was effectuated. No such amendment, modification, addition or deletion shall be effective unless and until such an instrument shall be duly recorded in the Register's Office.

(B) Notwithstanding any provision contained in the By-Laws to the contrary, no amendment, modification, addition or deletion of or to these By-Laws shall be effective in any respect against Declarant or its designee, any Unsold Unit, or the holder of any present or future mortgage, pledge lien, or security agreement covering any Unsold Unit unless and until the Declarant, such designee, and/or such holder (as the case may be) shall consent to the same in writing.

(C) Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition, or deletion of or to Section 5.4 or 5.5, paragraph (B) of Section 6.2, subparagraph (iv) or (v) of paragraph (B) of Section 7.5 or Article 8 hereof shall be effective with respect to the holder of any Permitted Mortgage theretofore made unless and until such Permitted Mortgagee shall have given its written consent thereto.

(D) Whenever, pursuant to any provision of these By-Laws, the consent, approval, satisfaction or permission of Declarant or its designee is required, the granting of such consent, approval, permission or acknowledgment of satisfaction shall be solely in the discretion of the party whose consent, approval, satisfaction or permission is required and no standard of reasonableness shall be imposed on such party.

## ARTICLE 13

### Further Assurances

**Section 13.1 General.** Any Person that is subject to the terms of these By-Laws, whether such Person is a Unit Owner, a lessee or sublessee of a Unit Owner, an occupant of a Unit, a member of the Condominium Board, an officer of the Condominium, or otherwise, shall, at the expense of any Person requesting the same, execute, acknowledge and deliver to such other Person such instruments, in addition to those specifically provided for herein, and take such other action as such other Person may reasonably request in order either to effectuate the provisions of these By-Laws or any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

**Section 13.2 Failure to Deliver or Act.** (A) If any Unit Owner or other Person that is subject to the terms of these By-Laws fails to execute, acknowledge or deliver any instrument, or

fails or refuses, within ten (10) days after request therefor, to take any action that such Unit Owner or Person is required to execute, acknowledge and deliver or to take pursuant to these By-Laws, then the Condominium Board is hereby authorized, as attorney-in-fact for such Unit Owner or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Unit Owner or other Person, and such document or action shall be binding on such Unit Owner or other Person.

(B) If the Condominium Board, any Unit Owner, or other Person that is subject to the terms of these By-Laws fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after request therefor, to take any action that the Condominium Board, such Unit Owner, or Person is required to execute, acknowledge and deliver or to take pursuant to these By-Laws at the request of Declarant or its designee, then Declarant or its designee is hereby authorized, as attorney-in-fact for the Condominium Board, such Unit Owner, or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of the Condominium Board, such Unit Owner, or other Person, and such document or action shall be binding on the Condominium Board, such Unit Owner or other Person.

## ARTICLE 14

### Miscellaneous

**Section 14.1** Inspection of Documents. Copies of the Declaration, these By-Laws, the Rules and Regulations and the Floor Plans, as the same may be amended from time to time, shall be maintained at the office of the Condominium Board and shall be available for inspection by Unit Owners and their authorized agents during reasonable business hours.

**Section 14.2** Waiver. No provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches that may occur.

**Section 14.3** Conflicts. In the event that any provision of these By-Laws or of the Rules and Regulations shall be construed to be inconsistent with any provision of the Declaration or of the Condominium Act, the provision contained in the Declaration or in the Condominium Act shall control.

**Section 14.4** Severability. If any provision of these By-Laws is invalid or unenforceable as against any Person or under certain circumstances, the remainder of these By-Laws and the applicability of such provision to other Persons or circumstances shall not be affected thereby. Each provision of these By-Laws

shall, except as otherwise provided herein, be valid and enforced to the fullest extent provided by Law.

**Section 14.5** Successors and Assigns. The rights and/or obligations of Declarant as set forth herein shall inure to the benefit of, and shall be binding upon, any successor or assignee of Declarant or, with the consent of Declarant, any transferee of an Unsold Unit.

**Section 14.6** Gender. A reference in these By-Laws to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural, and vice-versa, unless the context otherwise requires.

**Section 14.7** Captions. The index hereof and the captions herein inserted are included only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provision hereof.

Addendum to the By-Laws of  
THE BEEKMAN LANDING CONDOMINIUM

RULES AND REGULATIONS  
OF  
THE BEEKMAN LANDING CONDOMINIUM

1. The sidewalks, entrances, passages, public halls, elevators, vestibules, corridors and stairways of or appurtenant to the Building shall not be obstructed or used for any purpose other than ingress to and egress from the Units. No vehicle belonging to a Unit Owner, to a Family Member of a Unit Owner, or to a guest, tenant, subtenant, licensee, invitee, employee or agent of a Unit Owner shall be parked in such a manner as to impede or prevent ready access to any entrance to, or exit from, the Building by another vehicle.

2. No tricycles, bicycles, scooters, or similar vehicles shall be taken into or from the Building through the main entrance or shall be allowed in any of the elevators of the Building other than the elevator designated by the Condominium Board or the Managing Agent for such purpose, and no baby carriages or any of the above-mentioned vehicles shall be allowed to stand in the public halls, passageways or other public areas of the Building.

3. All service and delivery persons will be required to use the service entrance or such other entrance of the Building designated by the Condominium Board. In addition, all messengers and tradespeople visiting the Building shall use the elevator designated by the Condominium Board or the Managing Agent for the purposes of ingress and egress, and shall not use any of the other elevators for any purpose.

4. Trunks and heavy baggage shall be taken in or out of the Building only by the elevator designated by the Condominium Board or the Managing Agent for that purpose and only through the service entrance.

5. No article (including, but not limited to, garbage cans, bottles or mats) shall be placed or stored in any of the halls or on any of the staircases or fire tower landings of the Building, nor shall any fire exit thereof be obstructed in any manner.

6. The storage rooms of the Building shall be used by all Unit Owners, in common, only for the storage of trunks, bags, suitcases and packing cases, all of which shall be empty, and for the storage of such other articles as the Condominium Board, in its sole discretion, may determine. Supervision, management and control of the storing in and removal of a Unit Owner's property from the storage rooms is vested in the Condominium Board. The use of the storage rooms shall be at the sole risk of the Unit Owner or other person using the same, and the Condominium Board,

its agents or the Managing Agent shall not be liable for any injury to person, loss by theft or otherwise, or damage to property, whether due to the negligence of the Condominium Board, its agents, the Managing Agent or otherwise.

7. The laundry and drying apparatus in the laundry room of the Building shall be used in such manner and at such times as the Condominium Board or the Managing Agent may direct. No clothes, sheets, blankets, laundry or other articles of any kind shall be hung on or out of a Unit or its appurtenant Limited Common Elements or shall be dried or aired on any open terrace.

8. No refuse from the Units shall be sent to the cellar of the Building, except at such times and in such manner as the Condominium Board or the Managing Agent may direct. Nothing shall be hung or shaken from any doors, windows or open terraces, or placed upon the window sills of the Building, and no Unit Owner shall sweep or throw, or permit to be swept or thrown, any dirt, debris or other substance therefrom.

9. There shall be no playing or lounging in the entrances, passages, public halls, elevators, vestibules, corridors, stairways or fire towers of the Building, except in recreational areas or other areas designated as such in the Declaration or by the Condominium Board.

10. The Condominium Board or the Managing Agent may, from time to time, curtail or relocate any portion of the General Common Elements devoted to storage, recreation, or service purposes in the Building.

11. Nothing shall be done or be kept in any Unit or in the Common Elements that will increase the rate of insurance of the Building, or the contents thereof, without the prior written consent of the Condominium Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements that will result in the cancellation of insurance on the Building, or the contents thereof, or that would be in violation of any Law. No Unit Owner or any of his Family Members, agents, servants, employees, licensees or visitors shall, at any time, bring into or keep in his Unit or Limited Common Elements any inflammable, combustible, or explosive fluid, material, chemical, or substance, except as shall be necessary and appropriate for the permitted uses of such Unit or Limited Common Elements.

12. There shall be no barbecuing in the Units, in their appurtenant Limited Common Elements, or in the General Common Elements, except for those areas (if any) specifically designated for barbecuing by the Condominium Board.

13. No Unit Owner shall make, cause, or permit any unusual, disturbing, or objectionable noises or odors to be produced upon or to emanate from his Unit or its appurtenant Limited Common Elements or permit anything to be done therein that will interfere



with the rights, comforts, or conveniences of the other Unit Owners. No Unit Owner shall play upon or suffer to be played upon any musical instrument, or shall operate or permit to be operated a phonograph, radio, television set, or other loudspeaker in such Unit Owner's Unit between midnight and the following 8:00 A.M., if the same shall disturb or annoy other occupants of the Building, and in no event shall any Unit Owner practice or suffer to be practiced either vocal or instrumental music between the hours of 10:00 P.M. and the following 9:00 A.M. No construction, repair work, or other installation involving noise shall be conducted in any Unit except on weekdays (not including legal holidays) and only between the hours of 8:00 A.M. and 5:00 P.M., unless such construction or repair work is necessitated by an emergency.

14. No Residential Unit Owner shall install any plantings on any terrace without the prior written approval of the Condominium Board. Plantings shall be contained in boxes of wood, lined with metal or other materials impervious to dampness and standing on supports at least two inches from the terrace surface, and, if adjoining a wall, at least three inches from such wall. Suitable weep holes shall be provided in the boxes to draw off water. In special locations, such as a corner abutting a parapet wall, plantings may be contained in masonry or hollow tile walls which shall be at least three inches from the parapet and flashing, with a floor of drainage tiles and suitable weep holes at the sides to draw off water. Such masonry planting beds shall not, however, rest directly upon the surface of such terrace, but shall stand, on supports at least two inches above such surface. It shall be the responsibility of the Residential Unit Owner to maintain the containers in good condition, and the drainage tiles and weep holes in operating condition. Such Residential Unit Owner shall pay the cost of any repairs rendered necessary, or damage caused, by such plantings.

15. No group tour or exhibition of any Residential Unit or its contents shall be conducted, nor shall any auction sale be held in any Residential Unit, without the consent of the Condominium Board or the Managing Agent in each instance. In the event that any Residential Unit shall be used for home occupation or professional purposes in conformance with the Declaration and the By-Laws, no patients, clients, or other invitees shall be permitted to wait in any lobby, public hallway, or vestibule.

16. No window guards or other window decorations shall be used in or about any Residential Unit, except such as shall have been approved in writing by the Condominium Board or the Managing Agent, which approval shall not be unreasonably withheld or delayed. In no event, however, shall any exterior glass surfaces of any windows at the Property be colored or painted.

17. No ventilator or air-conditioning device shall be installed in any Residential Unit without the prior written approval of the Condominium Board, which approval may be granted or refused in the sole discretion of the Condominium Board.

18. No radio or television aerial shall be attached to or hung from the exterior of the Building, and no sign, notice, advertisement, or illumination (including, without limit "For Sale", "For Lease" or "For Rent" signs) shall be inscribed or exposed on or at any window or other part of the Building, except such as are permitted pursuant to the terms of the Declaration and/or the By-Laws or shall have been approved in writing by the Condominium Board or the Managing Agent. Nothing shall be projected from any window of a Residential Unit without similar approval.

19. All radio, television, or other electrical equipment of any kind or nature installed or used in each Unit shall fully comply with all rules, regulations, requirements, or recommendations of the New York Board of Fire Underwriters and the public authorities having jurisdiction, and the Unit Owner alone shall be liable for any damage or injury caused by any radio, television, or other electrical equipment.

20. Water-closets and other water apparatus in the Building shall not be used for any purpose other than those for which they were designed, and no sweepings, rubbish, rags or any other article shall be thrown into the same. Any damage resulting from misuse of any water-closets or other apparatus in a Unit shall be repaired and paid for by the owner of such Unit.

21. Each Unit Owner shall keep his Unit and its appurtenant Limited Common Elements in a good state of preservation, condition, repair and cleanliness in accordance with the terms of the By-Laws.

22. The agents of the Condominium Board or the Managing Agent, and any contractor or workmen authorized by the Condominium Board or the Managing Agent, may enter any room or Unit at any reasonable hour of the day, on at least one day's prior notice to the Unit Owner, for the purpose of inspecting such Unit for the presence of any vermin, insects, or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects, or other pests; however, such entry, inspection and extermination shall be done in a reasonable manner so as not to unreasonably interfere with the use of such Unit for its permitted purposes.

23. The Condominium Board or the Managing Agent may retain a pass-key to each Residential Unit. If any lock is altered or a new lock is installed, the Condominium Board or the Managing Agent shall be provided with a key thereto immediately upon such alteration or installation. If the Unit Owner is not personally present to open and permit entry to his Unit at any time when entry therein is necessary or permissible under these Rules and Regulations or under the By-Laws, and has not furnished a key to the Condominium Board or the Managing Agent, then the Condominium Board or Managing Agent or their agents (but, except in an emergency, only when specifically authorized by an officer of the

Condominium or an officer of the Managing Agent) may forcibly enter such Unit without liability for damages or trespass by reason thereof (if, during such entry, reasonable care is given to such Unit Owner's property).

24. If any key or keys are entrusted by a Unit Owner, by any Family Member thereof, or by his agent, servant, employee, licensee, or visitor to an employee of the Condominium or of the Managing Agent, whether for such Unit Owner's Unit or an automobile, trunk, or other item of personal property, the acceptance of the key shall be at the sole risk of such Unit Owner, and neither the Condominium Board nor the Managing Agent shall (except as provided in Rule 23 above) be liable for injury, loss, or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

25. Unit Owners and their respective Family Members, guests, servants, employees, agents, visitors, or licensees shall not at any time or for any reason whatsoever enter upon, or attempt to enter upon, the roof of the Building.

26. No occupant of the Building shall send any employee of the Condominium or of the Managing Agent out of the Building on any private business.

27. Any consent or approval given under these Rules and Regulations may be amended, modified, added to, or repealed at any time by resolution of the Condominium Board. Further, any such consent or approval may, in the discretion of the Condominium Board or the Managing Agent, be conditional in nature.

28. Complaints regarding the service of the Condominium shall be made in writing to the Condominium Board or to the Managing Agent.

TUCHMAN, KATZ, SCHWARTZ, GELLES, KORNGOLD & WEISS, LLP

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ERIC S. WEISS

INCOME TAX OPINION

HOWARD L. SCHWARTZ

AUDREY S. KATZ

COUNSEL

March 8, 2000

Beekman-Water Associates  
417 Fifth Avenue  
New York, New York 10016

Re: 227-229-231 Water Street  
Block 97, Lot 46  
Borough of Manhattan  
City of New York

Gentlemen:

You have requested our opinion concerning the real property assessment levied on the above upon the captioned premises as well as the tax benefits currently provided to the property as a result of the 421-g tax abatement and tax exemption which is currently in effect.

In order to prepare this letter and the opinion set forth herein, you have supplied us with certain information upon which we have relied. This information consists of a detailed layout of the building and units prepared by Architect Design Group P.C. showing the number of square feet and amenities of each unit and the building as well as the estimated construction cost of the completed structure as well as the purchase price of the property. You have also furnished us with a certificate of occupancy for the premises dated March 16, 1999.

Assessments in New York City are made on a fiscal year basis running from July 1 of any one year to the next succeeding June 30. The status of the building on January 5 of any one year is the basis of the assessment for the fiscal year beginning that July 1. The assessment for the upcoming year based on its taxable status on January 5 is released to the public with the publishing of the tentative assessment roll on January 15 of each year.

The history of assessments for the years 1997/98 through the upcoming 2000/2001 tax years are reproduced below:

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Beekman-Water Associates

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| <u>Tax Year</u> | <u>Actual AV<br/>Assessment</u> | <u>Transition<br/>Assessment</u> | <u>Actual<br/>Exemption</u> | <u>Transition<br/>Exemption</u> |
|-----------------|---------------------------------|----------------------------------|-----------------------------|---------------------------------|
| 1997/98         | 472,500                         | 478,000                          | 0                           | 0                               |
| 1998/99         | 472,500                         | 472,500                          | 0                           | 0                               |
| 1998/99         | 472,500                         | 472,500                          | 0                           | 0                               |
| 1999/2000       | 765,000                         | 765,000                          | 292,500                     | 292,500                         |
| 2000/2001       | 765,000                         | 765,000                          | 292,500                     | 292,500                         |

The Real Property Tax Law in effect for New York City provides that when there is an increase in actual assessed valuation since 1981 between one year and the next year, that increase will be phased in over a five year period. However, in the event of an increase due to alteration or new construction, there is no phase-in, and the amount is attributable to such alteration or construction is added in its entirety to the assessment for the next succeeding year. Thus the increase from 1998/99 to 1999/2000 was not phased in over a five year period due to the fact that the increase was a direct result of the alteration to the property.

The standard assessment for residential cooperative and condominium structures is set forth in Real Property Tax Law Section 581. In the case of condominiums, the method of assessment of the individual units is set forth in Real Property Law Section 339-Y. In essence, the standard of assessment prescribed by statute for cooperative and condominium structures is that these buildings are to be assessed in the same manner as are rental buildings. Further, the statutes provide that the sale price of a cooperative apartment building as an entity and the sale of condominium units are not the measure of value for assessment purposes.

In setting forth the assessed values of the property, we are not making a prediction of future assessed values, only reporting the valuations that are currently reflected on the assessment rolls.

On April 29, 1999, the property received a Landmark Certificate of Eligibility for 421-g tax benefits from the New York City Department of Housing Preservation and Development. A copy of this certificate of eligibility is attached to this opinion letter. As a result of receiving this certificate, the property qualified for a tax exemption and tax abatement. The tax exemption that was granted covers the increase in the real estate tax



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assessment resulting from the alteration to the property. Because the property received a notice of compliance from the New York City Landmarks Preservation Commission, the exemption will last for a period of thirteen years. For the first nine years, the law provides that the exemption will be set at 100% of the increase in assessed valuation as a result of the alteration. For the following four years the exemptions will decrease in equal annual increments to an 80% level, then 60%, then 40%, then 20%, and in the fourteenth year the exemption will no longer be in effect.

In addition to the tax exemption, the law provides for a tax abatement equivalent to the total amount of taxes that were imposed against the property for the year prior to the increase in assessed valuation. The abatement because of the landmark designation, lasts a period of fifteen years. For the first eleven years, the abatement is set at 100%. For the following four years the abatement will decrease in equal annual increments to an 80% level, then 60%, then 40%, then 20%, and in the sixteenth year the abatement will no longer be in effect.

It is a condition of the 421-g tax benefit program that during the Benefit Period, the Recipient of the 421-g tax benefit shall file annually with the City of New York a certificate of continuing use. The certificate shall request such information as it deems necessary to determine whether the Recipient has established continuing eligibility for benefits. The failure to file such certificate will result in the revocation of tax benefits.

Although the 421-g tax program provides substantial tax relief, it does not freeze the taxes at any given level. In the event the tax rate is increased, that increase tax rate will result in an increase in taxes. Similarly, the New York City Department of Finance may increase the assessed valuation of the property during the period of the 421-g tax benefit. Such increase will result in an increase in taxes. It is likely that during the period of the 421-g tax benefit the tax rate and the assessed valuation will increase and that there will be some tax burden during the period of the 421-g tax benefit. We believe that it is likely that the total annual real estate taxes at the end of the 421-g tax benefit period will be significantly higher than the taxes which would be imposed against the property today if there had been no 421-g tax benefit, but no higher than comparable buildings which had not received a 421-g tax benefit.

The tax rate for residential structures in Manhattan for the tax year 1999/2000 is \$10.851 per \$100. It is not possible at this time to predict the

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tax rate applicable to tax year 2000/2001, except to note that the trend has been for slightly higher tax rates over the course of the last several years for residential structures. Assuming the tax rate for 2000/2001 remains the same as the current rate, the real estate tax for the residential units if there had been no 421-g tax benefit would be \$83,010.15. Assuming the 421-g tax benefit will remain in place and the tax rate does not change, there will be no real estate taxes for the 2000/2001 tax year.

Our firm has extensive practice in real estate tax review matters, and we currently represent the owners of approximately 4,000 buildings in the City of New York, and file either applications for corrections of assessed valuation or applications for tax abatements or tax exemption on these properties. This firm and its predecessor firms have been engaged in such practice for a period of approximately 50 years. Additionally, the writer currently serves as President of the Real Estate Tax Review Bar Association, is a member of the Certiorari and Condemnation committee of the Bar Association of the City of New York and is the chairman of the Law Committee of the Associated Builders and Owners of Greater New York.

WE MAKE NO REPRESENTATION OF GUARANTIES THAT THE TAXES, THE \$ OR THE ASSESSED VALUE WILL BE FIXED AT ANY AMOUNT. NEITHER WE NOR ANY PERSON CAN GUARANTEE WHAT THE REAL ESTATE TAXES WILL BE AT ANY FUTURE DATE. CHANGES IN LAW OR POLICIES OF GOVERNMENT AGENCIES MAY RADICALLY CHANGE THE OPINIONS EXPRESSED HEREIN. WE ASSUME NO RESPONSIBILITY OR LIABILITY FOR ANY VARIATIONS IN THE ASSESSED VALUES FROM THE PROJECTIONS MADE HEREIN.

The opinion expressed herein is that of the undersigned, and does not purport to express the opinion of the New York City Department of Finance or any city or government agency. The Department's opinion may result in substantially different total taxes and assessments those set forth herein. We consent to the inclusion of this letter in the offering plan.

Very truly yours,

Tuchman, Katz, Schwartz, Gelles, Korngold & Weiss, LLP.

By Paul J. Korngold

THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
Office of the Commissioner/Tax Incentive Programs/420-c  
100 Gold Street, 1st Floor, New York, NY 10038

# 421-g Certificate of Eligibility

|                                                              |                                            |                      |                                              |
|--------------------------------------------------------------|--------------------------------------------|----------------------|----------------------------------------------|
| Docket<br>Number: <u>99/11</u>                               | Borough <u>Manhattan</u>                   | Certificate<br>Type: | Preliminary <input type="checkbox"/>         |
| Block: <u>97</u>                                             | Original Lot(2) <u>46</u>                  |                      | Final <input checked="" type="checkbox"/>    |
|                                                              | New Lot(s): <u>none</u>                    |                      | Partial <input type="checkbox"/>             |
|                                                              |                                            |                      | Supplemental <input type="checkbox"/>        |
|                                                              |                                            |                      | Revised <input type="checkbox"/>             |
|                                                              |                                            |                      | Landmark <input checked="" type="checkbox"/> |
| Number of Residential Units <u>18</u>                        |                                            |                      |                                              |
| Address of Eligible Premises <u>227-31 Water Street</u>      |                                            |                      |                                              |
| Taxpayer <u>Beekman Water Associates, LLC</u>                |                                            |                      |                                              |
| Mailing Address of Taxpayer <u>c/o Philips International</u> | Filing Agent <u>Paul J. Korngold, Esq.</u> |                      |                                              |
| <u>417 Fifth Avenue</u>                                      | Address <u>TUCHMAN, KATZ, SCHWARTZ,</u>    |                      |                                              |
| <u>New York, NY 10016</u>                                    | <u>GELLES &amp; KORNGOLD</u>               |                      |                                              |
|                                                              | <u>6 East 45<sup>th</sup> Street</u>       |                      |                                              |
| Phone Number <u></u>                                         | <u>New York, NY 10017</u>                  |                      |                                              |
| Contact Person <u></u>                                       | Phone <u>(212) 687-3747</u>                |                      |                                              |

Pursuant to Section 421-g of the New York State Real Property Tax Law, the Department of Housing Preservation and Development has determined and hereby certifies that the above-described premises is eligible for tax exemption and tax abatement pursuant to Section 421-g of the Real Property Tax Law.

Effective Date Of  
Final Benefits: July 1, 1999

Percentage of Aggregate Floor  
Area Which is Non-Residential: zero

COMMENTS: Newly created space is less than the permitted 15% of previously existing space and consists of a reconstructed sixth story at 29 Water Street.

DATE OF CERTIFICATE ISSUANCE: April 29, 1999

TAX INCENTIVES SEAL

4.29.99

Approved by:

Jamie A. Smarr  
Jamie A. Smarr, Director  
Tax Incentive Programs

JPS

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**SECTION 352-eeee OF THE GENERAL BUSINESS LAW**

Conversions to cooperative or condominium ownership in the city of New York. 1. As used in this section, the following words and terms shall have the following meanings:

(a) "Plan". Every offering statement or prospectus submitted to the department of law pursuant to section three hundred fifty-two-e of this article for the conversion of a building or group of buildings or development from residential rental status to cooperative or condominium ownership or other form of cooperative interest in realty, other than an offering statement or prospectus for such conversion pursuant to article two, eight or eleven of the private housing finance law.

(b) "Non-eviction plan". A plan which may not be declared effective until written purchase agreements have been executed and delivered for at least fifteen percent of all dwelling units in the building or group of buildings or development by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family intend to occupy the unit when it becomes vacant. As to tenants who were in occupancy on the date a letter was issued by the attorney general accepting the plan for filing, the purchase agreement shall be executed and delivered pursuant to an offering, made in good faith without fraud and discriminatory repurchase agreements or other discriminatory inducements.

(c) "Eviction plan". A plan which, pursuant to the provisions of this section, can result in the eviction of a non-purchasing tenant by reason of the tenant failing to purchase pursuant thereto, and which may not be declared effective until at least fifty-one percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general (excluding, for the purposes of determining the number of bona fide tenants in occupancy on such date, eligible senior citizens and eligible disabled persons) shall have executed and delivered written agreements to purchase under the plan pursuant to an offering made in good faith without fraud and with no discriminatory repurchase agreements or other discriminatory inducements.

(d) "Purchaser under the plan". A person who owns the shares allocated to a dwelling unit or who owns such dwelling unit itself.

(e) "Non-purchasing tenant". A person who has not purchased under the plan and who is a tenant entitled to possession at the time the plan is declared effective or a person to whom a dwelling unit is rented subsequent to the effective date. A person who sublets a dwelling unit from a purchaser under the plan shall not be deemed a non-purchasing tenant.



(f) "Eligible senior citizens". Non-purchasing tenants who are sixty-two years of age or older on the date the attorney general has accepted the plan for filing, and the spouses of any such tenants on such date and who have elected within sixty days of the date the attorney general has accepted the plan for filing, on forms promulgated by the attorney general and presented to such tenants by the offeror to become non-purchasing tenants under the provisions of this section: provided that such election shall not preclude any such tenant from subsequently purchasing the dwelling unit on the terms then offered to tenants in occupancy.

(g) "Eligible disabled persons". Non-purchasing tenants who have an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment on the date the attorney general has accepted the plan for filing, and the spouses of any such tenants on such date, and who have elected, within sixty days of the date the attorney general has accepted the plan for filing, on forms promulgated by the attorney general and presented to such tenants by the offeror, to become non-purchasing tenants under the provisions of this section provided however, that if the disability first occurs after acceptance of the plan for filing, then such election may be made within sixty days following the onset of such disability unless during the period subsequent to sixty days following the acceptance of the plan for filing but prior to such election, the offeror accepts a written agreement to purchase the apartment from a bona fide purchaser and provided further that such election shall not preclude any such tenant from subsequently purchasing the dwelling unit or the shares allocated thereto on the terms then offered to tenants in occupancy.

2. The attorney general shall refuse to issue a letter stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this chapter has been filed whenever it appears that the offering statement or prospectus offers for sale residential cooperative apartments or condominium units pursuant to a plan unless:

(a) The plan provides that it will be deemed abandoned, void and of no effect if it does not become effective within fifteen months from the date of issue of the letter of the attorney general stating that the offering, statement or prospectus has been accepted for filing and, in the event of such abandonment, no new plan for the conversion of such building or group of buildings or development shall be submitted to the attorney general for at least twelve months after such abandonment.

(b) The plan provides either that it is an eviction plan or that it is a non-eviction plan.

(c) The plan provides, if it is a non-eviction plan, as follows:

(i) The plan may not be declared effective until written purchase agreements have been executed and delivered for at least fifteen percent of all dwelling units in the building or group of buildings or development subscribed for by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family occupy the dwelling unit when it becomes vacant. As to tenants who were in occupancy on the date a letter was issued by the attorney general accepting the plan for filing, the purchase agreement shall be executed and delivered pursuant to an offering made without discriminatory repurchase agreements or other discriminatory inducements.

(ii) No eviction proceedings will be commenced at any time against non-purchasing tenants for failure to purchase or any other reason applicable to expiration of tenancy; provided that such proceedings may be commenced for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the non-purchasing tenant of his obligations to the owner of the dwelling unit or the shares allocated thereto; and provided further that an owner of a unit or of the shares allocated thereto may not commence an action to recover possession of a dwelling unit from a non-purchasing tenant on the grounds that he seeks the dwelling unit for the use and occupancy of himself or his family.

(iii) Non-purchasing tenants who reside in dwelling units subject to government regulation as to rentals and continued occupancy prior to the conversion of the building or group of buildings or development to cooperative or condominium ownership shall continue to be subject thereto.

(iv) The rentals of non-purchasing tenants who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and non-purchasing tenants who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing by the attorney general shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy. In determining comparability, consideration shall be given to such factors as building services, level of maintenance and operating expenses.

(v) The plan may not be amended at any time to provide that it shall be an eviction plan.

(vi) The rights granted under the plan to purchasers under the plan and to non-purchasing tenants may not be abrogated or reduced notwithstanding any expiration of, or amendment to his section.

(vii) After the issuance of the letter from the attorney general stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this article has been filed, the offeror shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth day after such date and at least once every thirty days until the plan is declared effective or is abandoned, as the case may be, and on the second day before the expiration of any exclusive purchase period provided in a substantial amendment to the plan, (1) file with the attorney general a written statement, under oath, setting forth the percentage of the dwelling units in the building or group of buildings or development subscribed for by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family occupy the dwelling unit when it becomes vacant as of the date of such statement and, (2) before noon on the day such statement is filed post a copy of such statement in a prominent place accessible to all tenants in each building covered by the plan.

(d) The plan provides, if it is an eviction plan, as follows:

(i) The plan may not be declared effective unless at least fifty-one percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general (excluding, for the purposes of determining the number of bona fide tenants in occupancy on such date, eligible senior citizens and eligible disabled persons) shall have executed and delivered written agreements to purchase under the plan pursuant to an offering made in good faith without fraud and with no discriminatory repurchase agreements or other discriminatory inducements,

(ii) No eviction proceedings will be commenced against a non-purchasing tenant for failure to purchase or any other reason applicable to expiration of tenancy until the later to occur of (1) the date which is the expiration date provided in such non-purchasing tenant's lease or rental agreement, and (2) the date which is three years after the date on which the plan is declared effective. Non-purchasing tenants who reside in dwelling units subject to government regulation as to rentals and continued occupancy prior to conversion shall continue to be subject thereto during the period of occupancy provided in this paragraph. Thereafter, if a tenant has not purchased, he may be removed by the owner

of the dwelling unit or the shares allocated to such dwelling unit.

(iii) No eviction proceedings will be commenced, except as hereinafter provided, at any time against either eligible senior citizens or eligible disabled persons. The rentals of eligible senior citizens and eligible disabled persons who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and eligible senior citizens and eligible disabled persons who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy considering, in determining comparability, such factors as building services, level of maintenance and operating expenses; provided that such proceedings may be commenced against such tenants for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the tenant of his obligations to the owner of the dwelling unit or the shares allocated thereto.

(iv) Eligible senior citizens and eligible disabled persons who reside in dwelling units subject to government regulation as to rentals and continued occupancy shall continue to be subject thereto.

(v) The rights granted under the plan to eligible senior citizens and eligible disabled persons may not be abrogated or reduced notwithstanding any expiration of, or amendment to, this section.

(vi) Any offeror who disputes the election by a person to be an eligible senior citizen or an eligible disabled person must apply to the attorney general within thirty days after receipt of the election forms for a determination by the attorney general of such person's eligibility. The attorney general shall, within thirty days thereafter, issue his determination of eligibility. The foregoing shall, in the absence of fraud, be the sole method for determining a dispute as to whether a person is an eligible senior citizen or an eligible disabled person. The determination of the attorney general shall be reviewable only through a proceeding under article seventy-eight of the civil practice law and rules, which proceeding must be commenced within thirty days after such determination by the attorney general becomes final.

(vii) After the issuance of the letter from the attorney general stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this article has been accepted for



filing, the offeror shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth days after such date and at least once every thirty days until the plan is declared effective or abandoned, as the case may be, and on the second day before the expiration of any exclusive purchase period provided in a substantial amendment to the plan, (1) file with the attorney general a written statement, under oath, setting forth the percentage of bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general who have executed and delivered written agreements to purchase under the plan as of the date of such statement, and (2) before noon on the day such statement is filed, post a copy of such statement in a prominent place accessible to all tenants in each building covered by the plan.

(viii) If the plan is amended before it is declared effective to provide that it shall be a non-eviction plan, any person who has agreed to purchase under the plan prior to such amendment shall have a period of thirty days after receiving written notice of such amendment to revoke his agreement to purchase under the plan.

(ix) The tenants in occupancy on the date the attorney general accepts the plan for filing shall have the exclusive right to purchase their dwelling units or the shares allocated thereto for ninety days after the plan is accepted for filing by the attorney general, during which time a tenant's dwelling unit shall not be shown to a third party unless he has, in writing, waived his right to purchase; subsequent to the expiration of such ninety day period, a tenant in occupancy of a dwelling unit who has not purchased shall be given the exclusive right for an additional period of six months from said expiration date to purchase said dwelling unit or the shares allocated thereto on the same terms and conditions as are contained in an executed contract to purchase said dwelling unit or shares entered into by a bona fide purchaser, such exclusive right to be exercisable within fifteen days from the date of mailing by registered mail of notice of the execution of a contract of sale together with a copy of said executed contract to said tenant.

(e) The attorney general finds that an excessive number of long-term vacancies did not exist on the date that the offering statement or prospectus was first submitted to the department of law. "Long-term vacancies" shall mean dwelling units not leased or occupied by bona fide tenants for more than five months prior to the date of such submission to the department of law. "Excessive" shall mean a vacancy rate in excess of the greater of (i) ten percent and (ii) a percentage that is double the normal average vacancy rate for the building or group of buildings or development for two years prior to the January preceding the date



the offering statement or prospectus was first submitted to the department of law.

(f) The attorney general finds that, following the submission of the offering statement or prospectus to the department of law, each tenant in the building or group of buildings or development was provided with a written notice stating that such offering statement or prospectus has been submitted to the department of law for filing. Such notice shall be accompanied by a copy of the offering statement or prospectus and a statement that the statements submitted pursuant to subparagraph (vii) of paragraph (c) or subparagraph (vii) of paragraph (d) of this sub-division, whichever is applicable, will be available for inspection and copying at the office of the department of law where the submission was made and at the office of the offeror or a selling agent of the offeror. Such notice shall also be accompanied by a statement that tenants or their representatives may physically inspect the premises at any time subsequent to the submission of the plan to the department of law, during normal business hours, upon written request made by them to the offeror, provided such representatives are registered architects or professional engineers licensed to practice in the state of New York. Such notice shall be sent to each tenant in occupancy on the date the plan is first submitted to the department of law.

3. All dwelling units occupied by non-purchasing tenants shall be managed by the same managing agent who manages all other dwelling units in the building or group of buildings or development. Such managing agent shall provide to non-purchasing tenants all services and facilities required by law on a non-discriminatory basis. The offeror shall guarantee the obligation of the managing agent to provide all such services and facilities until such time as the offeror surrenders control to the board of directors or board of managers.

4. It shall be unlawful for any person to engage in any course of conduct, including, but not limited to, interruption or discontinuance of essential services, which substantially interferes with or disturbs the comfort, repose, peace or quiet of any tenant in his use or occupancy of his dwelling unit or the facilities related thereto. The attorney general may apply to a court of competent jurisdiction for an order restraining such conduct and, if he deems it appropriate, an order restraining the owner from selling the shares allocated to the dwelling unit or the dwelling unit itself or from proceeding with the plan of conversion; provided that nothing contained herein shall be deemed to preclude the tenant from applying on his own behalf for similar relief.

5. Any local legislative body may adopt local laws and any agency, officer or public body may prescribe rules and regulations with respect to the continued occupancy by tenants of dwelling units which are subject to regulation as to rentals and continued

occupancy pursuant to law, provided that in the event that any such local law, rule or regulation shall be inconsistent with the provisions of this section, the provisions of this section shall control.

6. Any provision of a lease or other rental agreement which purports to waive a tenant's rights under this section or rules and regulations promulgated pursuant hereto shall be void as contrary to public policy.

7. The provisions of this section shall only be applicable in the city of New York.

TITLE YYYY  
COOPERATIVE AND CONDOMINIUM CONVERSIONS

YYYY51-1.0 Application. The provisions of this title shall apply to conversions from rental to cooperative or condominium status of a building or a group of buildings or a development for which a plan must be filed with the state department of law pursuant to section three hundred fifty-two-eeee of the general business law.

YYYY51-2.0 Definitions - As used in this title the following words shall mean:

a. "Building" - any building, group of buildings or development.

b. "Total Price" -

(1) with respect to cooperative conversions the number of all shares in the offering multiplied by the last price per share which was offered to tenants in occupancy prior to the effective date of the plan regardless of number of sales made;

(2) with respect to condominium conversions, the sum of the cost of all units in the offering at the last price which was offered to tenants in occupancy prior to the effective date of the plan regardless of number of sales made.

c. "Capital replacement" - a building-wide replacement of a major component of any of the following systems:

(1) elevator;

(2) heating, ventilation and air conditioning;

(3) plumbing;

(4) wiring;

(5) window or a major structural replacement to the building; provided, however, that replacements made to cure code violations of record shall not be included.

d. "Offeror" - the offeror, his nominees, assignees and successors in interest.

YYYY51-3.0 Establishment of reserve fund. - a. Within thirty days after the closing of a conversion pursuant to an offering plan the offeror shall establish and transfer to the cooperative corporation or condominium board of managers, a reserve fund to be used exclusively for making capital repairs, replacements and improvements necessary for the health and safety of the residents of such building. Such reserve fund shall be

exclusive of any other funds required to be reserved under the plan or applicable law or regulation of the state attorney general, except a fund for capital repairs, replacements and improvements substantially similar in purpose to and in an amount not less than the reserve fund mandated by this section. Such reserve fund also shall be exclusive of any working capital fund and shall not be subject to reduction for closing apportionments.

b. Such fund shall be established in an amount equal to either (i) three per cent of the total price or, (ii) (A) three per cent of the actual sales price of all cooperative shares or condominium units sold by the offeror at the time the plan is declared effective, provided, however, that if such amount is less than one per cent of the total price, then the fund shall be established as a minimum of one per cent of the total price; plus (B) supplemental contributions to be made by the offeror at a rate of three per cent of the actual sales price of cooperative shares or condominium units for each unit or its allocable shares held by the offeror and sold to bona fide purchasers subsequent to the effective date of the plan and within 5 years of the closing of the conversion pursuant to such plan notwithstanding that the total amount contributed may exceed three per cent of the total price; and provided, further, that if five years from thirty days after the closing of the conversion pursuant to such plan the total contributions by the offeror to the fund are less than three per cent of the total price the offeror shall pay the difference between the amount contributed and three per cent of the total price. Supplemental contributions shall be made within 30 days of each sale.

c. The contributions required pursuant to this section may be made earlier or in an amount greater than so provided. An offeror may claim and receive credit against the mandatory initial contribution to the reserve fund for the actual cost of capital replacements which he has begun after the plan is submitted for filing to the state department of law and before the plan is declared effective; provided, however, that any such replacements must be set forth in the plan together with their actual or estimated costs and further provided, that such credit shall not exceed the lesser of the actual cost of the capital replacements or one per cent of the total price.

d. Any building, construction of which was completed within three years prior to the closing of a conversion pursuant to an offering plan, shall be exempt from the requirements of this section.

YYY51-4.0 Report on status of reserve fund. - The cooperative corporation or condominium board of managers shall report to shareholders and unit owners on a semi-annual basis with respect to all deposits into and withdrawals from the reserve fund mandated by section YYY51-3.0.

YYYY51-5.0 Posting of violations. - The offeror, not later than the thirtieth day following the acceptance of a plan for filing by the state department of law pursuant to section three hundred fifty-two-eeee of the general business law and until the closing of the conversion pursuant to such plan, shall post and maintain in a prominent place, accessible to all tenants in each building covered by the plan, a listing of all violations of record against such buildings as determined by the department of buildings and the department of housing preservation and development. All newly issued violations shall be posted within forty-eight hours of their issuance and maintained as described above. The offeror may satisfy the requirements of this section by designating an agent on the premises with whom such listing shall be made available for inspection by the tenants.

YYYY51-6.0 Report on condition of premises. - Where, pursuant to law or regulation of the state attorney general, an offeror is required to file a report with the state department of law describing the condition of the physical aspects of the premises to be converted and the surrounding neighborhood a copy of such report shall be submitted simultaneously to the commissioner of buildings.

YYYY51-7.0 No waiver of rights. - Any provisions purporting to waive the provisions of this title in any contract to purchase or agreement between an offeror and the cooperative corporation or the condominium board of managers pursuant to a conversion plan shall be void as against public policy.

YYYY51-8.0 Criminal and civil penalties; enforcement. - a. Except as otherwise provided in subdivision of this section, any person who knowingly violates or assists in the violation of any section of this title shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than one thousand dollars. Except as otherwise provided in subdivision b of this section, any person who violates or assists in the violation of any section of this title shall be subject to a civil penalty of one hundred dollars per day per unit for each day that a building is not in compliance with the provisions of such sections; provided, however, that such civil penalty shall not exceed one thousand dollars per unit.

b. Any person who knowingly violates or assists in the violation of section YYYY51-3.0 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not more than two times the amount required to be reserved by section YYYY51-3.0 which was not so reserved. Any person who violates or assists in the violation of section YYYY51-3.0 shall also be subject to a civil penalty of one thousand dollars per day for each day that the reserve fund required by section YYYY51-3.0 is not established; provided, however, that such civil penalty shall not exceed the amount required to be reserved pursuant to section YYYY51-3.0.



c. In addition, any other action or proceeding in any court of competent jurisdiction that may be appropriate or necessary for the enforcement of the provisions of this title may be brought in the name of the city, including actions to secure permanent injunctions enjoining any acts or practices which constitute a violation of any provision of this title, mandating compliance with the provisions of this title or for such other relief as may be appropriate. In any such action or proceeding the city may apply to any court of competent jurisdiction, or to a judge or justice thereof, for a temporary restraining order or preliminary injunction enjoining and restraining all persons from violating any provisions of this title, mandating compliance with the provisions of this title, or for such other relief as may be appropriate, under the hearing and determination of such action or proceeding and the entry of final judgment or order therein. The court, or judge or justice thereof, to whom such application is made, is hereby authorized forthwith to make any or all of the orders above specified, as may be required in such application, with or without notice, and to make such other or further orders or directions as may be necessary to render the same effectual. No undertaking shall be required as a condition of the granting or issuing of such order, or by reason thereof.

d. Nothing contained in this section shall impair any rights, remedies or causes of action accrued or accruing to purchasers of cooperative shares or condominium units.

e. The department of housing preservation and development is empowered to enforce the provisions of this title.

§ 3. If any provision of this local law or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this local law and the applicability of such provision to any other person or circumstances shall not be affected thereby.

§ 4. This local law shall take effect February first nineteen hundred eighty-three and shall apply to all plans not yet accepted for filing by the state department of law pursuant to section three hundred fifty-two eeee of the general business law as of that date.

## ESCROW AGREEMENT

AGREEMENT made as of the 4th day of September, 2000, between Beekman - Water Associates, LLC, hereinafter referred to as "SPONSOR" of the Offering Plan and Franklin J. Barr ("ESCROW AGENT") as escrow agent.

WHEREAS, Sponsor is the owner of Condominium Units at the premises located at 130 Beekman Street, 227, 229 and 231 Water Street, New York, N.Y.; and

WHEREAS, Franklin J. Barr is authorized to act as an escrow agent hereunder in accordance with General Business Law ("GBL") Section 352-3(2-b) and the Attorney General's regulations promulgated thereunder; and

WHEREAS, SPONSOR desires that ESCROW AGENT act as escrow agent for deposits and payments by purchasers and subscribers, pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and other good and valuable consideration, the parties hereby agree as follows:

1. ESTABLISHMENT OF THE ESCROW ACCOUNT.
  - (a) SPONSOR and ESCROW AGENT hereby establish an escrow account with ESCROW AGENT for the purpose of holding deposits or payments made by purchasers or subscribers. The escrow account has been opened with the North Fork Bank at its branch located at 1001 Avenue of the Americas, New York, New York. The account number is [REDACTED]. The name of the account is Franklin J. Barr, Esq., Escrow Management Account ("EMA").
  - (b) ESCROW AGENT is the sole signatory on the account.
  - (c) The escrow account is an interest-bearing EMA account as disclosed in the Offering Plan.
2. DEPOSITS INTO THE ESCROW ACCOUNT
  - (a) All funds received from prospective purchasers or subscribers prior to closing, whether in the form of checks, drafts, money orders, wire transfers, or other instruments which identify the payor, shall be deposited in the escrow account. All instruments to be deposited into the escrow account shall be made payable to, or endorsed by the purchaser to the Franklin J. Barr, Esq., EMA Account. Any instrument

payable or endorsed other than as required hereby, and which cannot be deposited into such escrow account, shall be returned to the prospective purchaser or subscriber promptly, but in no event more than five business days following receipt of such instrument by ESCROW AGENT. In the event of such return of funds the installment shall be deemed not to have been delivered to ESCROW AGENT pursuant to the terms of this Agreement.

- (b) Within ten (10) business days after tender of the deposit submitted with the subscription or purchase agreement, ESCROW AGENT shall notify the purchaser of the deposit of such funds in the bank indicated in the offering plan, provide the account number, and disclose the initial interest rate. If the purchaser does not receive notification of such deposit within fifteen (15) business days after tender of the deposit, the purchaser may cancel the purchase and rescind within ninety (90) days after tender of the deposit, or may apply to the Attorney General for relief. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited in accordance with these regulations and requisite notice was timely mailed to the subscriber or purchaser.

### 3. RELEASE OF FUNDS.

- (a) ESCROW AGENT shall not release the escrowed funds of a defaulting purchaser until after consummation of the plan as defined in the Attorney General's regulations. Consummation of the plan shall not relieve SPONSOR of its fiduciary obligations pursuant to GBL Section 352-h.
- (b) ESCROW AGENT shall continue to hold the funds in escrow until otherwise directed in (a) a writing signed by both sponsor and purchaser or (b) a determination of the Attorney General or (c) a judgment or order of a court of competent jurisdiction or (d) until released pursuant to the regulations of the Attorney General pertaining to release of escrowed funds. Escrow Agent shall be entitled to rely upon any judgment, certificate, demand or other writing delivered to it hereunder without being required to determine the authenticity or the correctness of any facts stated therein, the propriety or validity thereof, or the jurisdiction of the Court issuing any

such judgment. ESCROW AGENT may act in reliance upon any instrument or signature believed to be genuine or duly authorized, and advice of counsel in reference to matter or matters connected therewith.

- (c) If there is no written agreement between the parties to release the escrowed funds, ESCROW AGENT shall not pay the funds to SPONSOR until ESCROW AGENT has given the purchaser written notice of not fewer than ten (10) business days. Thereafter, the funds may be paid to SPONSOR unless the purchaser has made application to the Department of Law pursuant to the dispute resolution provisions contained in the Attorney General's regulations and has so notified ESCROW AGENT in accordance with such provisions.
- (d) SPONSOR shall not object to the release of the escrowed funds to (a) a purchaser who timely rescinds in accordance with an offer of rescission contained in the plan or an amendment to the plan or (b) all purchasers after an amendment abandoning the plan is accepted for filing by the Department of Law.

4. RECORD KEEPING.

- (a) ESCROW AGENT shall maintain all records concerning the escrow account for seven years after release of the funds.
- (b) Upon the dissolution of a law firm which was ESCROW AGENT, the former partners or members of the firm shall make appropriate arrangements for the maintenance of these records by one of the partners or members of the firm or by the successor firm and shall notify the Department of Law of such transfer.
- (c) ESCROW AGENT shall make available to the Attorney General, upon his request, all books and records of ESCROW AGENT relating to the funds deposited and disbursed hereunder.

5. GENERAL OBLIGATIONS OF THE ESCROW AGENT.

- (a) ESCROW AGENT shall maintain the accounts called for in this Agreement under the direct supervision and control of ESCROW AGENT.
- (b) A fiduciary relationship shall exist between ESCROW AGENT and purchasers, and ESCROW AGENT acknowledges its fiduciary obligations.

6. RESPONSIBILITIES OF SPONSOR.

- (a) SPONSOR agrees that SPONSOR and its agents, including any selling agents, shall immediately deliver all

- deposits and payments received by them prior to closing of an individual transaction to ESCROW AGENT.
- (b) SPONSOR agrees that it shall not interfere with ESCROW AGENT'S performance of its fiduciary duties and compliance with the Attorney General's regulations
  - (c) The ESCROW AGENT shall not be liable for any error in judgment or for any act done or step taken or omitted in good faith, or for any mistake of fact or law, except for ESCROW AGENT'S own gross negligence or willful misconduct. Upon release of the funds pursuant to the terms of the regulations of the Department of Law, the ESCROW AGENT shall be fully released from all liability and obligations with respect to the funds.
  - (d) Sponsor acknowledges that the ESCROW AGENT is acting solely as a stakeholder at the Sponsor's request and for their convenience, that Escrow Agent shall not be deemed to be the agent of either of the parties, and that ESCROW AGENT shall not be liable to the Sponsor for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of this Agreement or involving gross negligence. Sponsor shall indemnify and hold ESCROW AGENT harmless from and against all costs, claims and expenses, including reasonable attorney's fees, incurred in connection with the performance of escrow agent's duties hereunder, except with respect to actions or omissions taken or suffered by ESCROW AGENT in bad faith, in willful disregard of this Agreement or involving gross negligence on the part of ESCROW AGENT. This indemnity shall survive Closing.

7. TERMINATION OF AGREEMENT.

- (a) This Agreement shall remain in effect unless and until it is cancelled, by either:
  - i. Written notice given by SPONSOR to ESCROW AGENT of cancellation of designation of ESCROW AGENT to act in said capacity, which cancellation shall take effect only upon the filing of an amendment with the Department of Law providing for a successor ESCROW AGENT; or
  - ii. The resignation of ESCROW AGENT upon giving notice to SPONSOR of its desire to so resign, which resignation shall take effect only upon the filing of an amendment with



the Department of Law providing for a successor ESCROW AGENT; or  
iii. All shares or units offered pursuant to the plan have been sold and all sales transactions have been consummated.

- (b) Upon termination of the duties of ESCROW AGENT as described in paragraph 7.1 above, ESCROW AGENT shall deliver any and all funds held by it in escrow and any and all contracts or documents maintained by ESCROW AGENT to the new escrow agent.

8. SUCCESSORS AND ASSIGNS.

This Agreement shall be binding upon SPONSOR AND ESCROW AGENT and their successors and assigns.

9. GOVERNING LAW.

This Agreement shall be construed in accordance with and governed by the laws of the State of New York.

10. ESCROW AGENT'S COMPENSATION.

SPONSOR agrees that ESCROW AGENT's compensation shall not be paid from escrowed principal nor from any interest accruing thereon and that compensation to ESCROW AGENT, if any, shall not be deducted from escrowed funds by any financial institution under any circumstance. SPONSOR shall reimburse the ESCROW AGENT for all disbursements and compensation shall be paid to the ESCROW AGENT at its standard hourly rates for the maintenance and operation of the required escrow account by the SPONSOR.

11. SEVERABILITY.

If any provision of this Agreement or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remaining provisions of this Agreement or the application of such provision to other persons or to other circumstances shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

12. ENTIRE AGREEMENT.

This Agreement, read together with GBL Section 352-e(2-b) and the Attorney General's regulations, constitutes the entire agreement between the parties with respect to the subject matter hereof.

The undersigned consents to the inclusion of a copy of the executed Escrow Agreement in a duly filed amendment to the offering plan.

ESCROW AGENT

/s/  
Franklin J. Barr

SPONSOR  
Beekman - Water Associates, LLC

/s/  
Sheila Levine, Member

APPLICATION TO THE ATTORNEY GENERAL  
FOR A DETERMINATION ON THE  
DISPOSITION OF DOWNPAYMENTS

[Send this application to the reviewing attorney assigned to  
the subject plan.]

Re: \_\_\_\_\_

Address of Building or

Name of Project

File Number: \_\_\_\_\_

Application is made to the Attorney General to  
consider and determine the disposition of down payments held  
pursuant to GBL Sections 352-e(2-b) and 352-h. The following  
information is submitted in support of this application:

1. Name of Applicant: \_\_\_\_\_

2. Address of Applicant: \_\_\_\_\_

\_\_\_\_\_

3. Name, Address, and Telephone Number

of Applicant's Attorney (if any): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. This is an application for

☐ return of downpayment.

☐ forfeiture of downpayment.

☐ other: \_\_\_\_\_

\_\_\_\_\_

5. The project is

☐ a conversion of occupied premises.

☐ newly constructed or rehabilitated.

☐ vacant (as is).

6. The project is structured as

☐ a cooperative.

☐ a condominium.

☐ a homeowners association.

☐ a timeshare.

☐ other: \_\_\_\_\_

7. Name and Address

of Sponsor: \_\_\_\_\_

\_\_\_\_\_

8. Name and Address

of Escrow Agent: \_\_\_\_\_

\_\_\_\_\_

9. If downpayments are maintained in an escrow account:

(a) Name of account: \_\_\_\_\_

(b) Name and address

of bank: \_\_\_\_\_



\_\_\_\_\_

(c) Account number (if known): \_\_\_\_\_

(d) Initial interest rate (if known): \_\_\_\_\_

10. If downpayments have been secured by bonds:

(a) Name and address of  
bond issuer or surety: \_\_\_\_\_

\_\_\_\_\_

(b) Copy of bond included in this application. (DO NOT  
SEND ORIGINAL BOND.) If not included, explain:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. If downpayments have been secured by a letter of credit:

(a) Name and address of bank which

issued the letter of credit: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) Date of expiration of the

letter of credit, if known: \_\_\_\_\_

12. Plan information:

(a) Date of filing of plan: \_\_\_\_\_

(b) Plan

[ ] has been declared effective.

Approximate date: \_\_\_\_\_

[ ] has not been declared effective.

(c) If effective, the plan

☐ has closed or the first unit has closed.

Approximate date: \_\_\_\_\_

☐ has not closed.

☐ don't know.

(d) Downpayments are secured by

☐ escrow account

☐ bonds.

☐ letter of credit.

13. Contract information:

(a) Copy of contract and of all riders or modification letters are attached. (DO NOT SEND ORIGINALS.)

(b) Date on which subscription or purchase agreement was signed: \_\_\_\_\_

(c) Date(s) of downpayment(s): \_\_\_\_\_

(d) Names and addresses of subscribers or purchasers affected by this application:

\_\_\_\_\_

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14. State the basis for your claim. Please be as specific as possible. You may add additional sheets. Attach copies of any relevant documents.

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15. I am contemporaneously sending a copy of this application to the following persons:

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Note: You are required to mail a copy of this Application to all other affected parties.

In filing this application, I understand that the Attorney General is not my private attorney, but represents



the public in enforcing laws designed to protect the public from unlawful business practices. I also understand that if I have any questions concerning my legal rights or responsibilities I may contact a private attorney. The above application is true and accurate to the best of my knowledge. False statements made herein are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Telephone: (Home) \_\_\_\_\_ (Business) \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

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CERTIFICATION OF SPONSOR AND SPONSOR'S  
PRINCIPALS PURSUANT TO PART 23  
OF THE REGULATIONS ISSUED  
PURSUANT TO GENERAL BUSINESS LAW  
ARTICLE 23-A AS AMENDED

September 4, 2000

New York State Department of Law  
120 Broadway  
New York, New York 10271  
Attn: Real Estate Financing Bureau

Re: Beekman Landing Condominium  
130 Beekman Street  
New York, N.Y. 10038

We are the Sponsor and principals of the Sponsor of the offering to convert the subject property to condominium ownership.

We understand that we have primary responsibility for compliance with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Attorney General in Part 23 and such other laws and regulations as may be applicable.

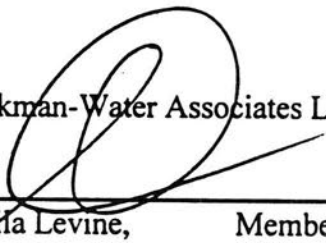
We have read the entire offering plan. We have investigated the facts set forth in the offering plan and the underlying facts. We have exercised due diligence to form a basis for this certification. We jointly and severally certify that the offering plan does, and that the documents submitted hereafter by us which amend or supplement the offering plan will:

1. set forth the detailed terms of the transaction and be complete, current and accurate;
2. afford potential investors, purchasers and participants an adequate basis upon which to found their judgement;
3. not omit any material fact;
4. not contain any untrue statement of a material fact;
5. not contain any fraud, deception, concealment, suppression, false pretence or fictitious or pretended purchase or sale;
6. not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

7. not contain any representation or statement which is false, where we: (i) knew the truth; (ii) with reasonable effort could have known the truth; (iii) made no reasonable effort to ascertain the truth; or (iv) did not have knowledge concerning the representations or statement made.

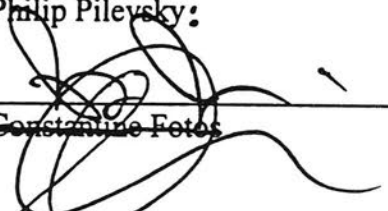
This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and the Penal Law.

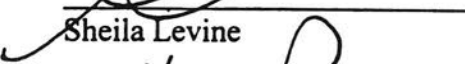
Beekman-Water Associates L.L.C.

By:   
Sheila Levine, Member

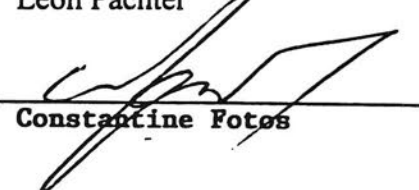
Individual Members:

Philip Pilevsky:

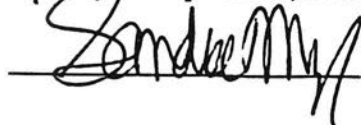
  
~~Constantine Fotes~~

  
Sheila Levine

  
Leon Pachter

  
Constantine Fotes

Sworn to before me this  
7 day of September, 2000



SONDRA BETH MYER  
Notary Public, State of New York  
No. 31-4746609  
Qualified in New York County  
Commission Expires April 30, 2001

CERTIFICATION OF SPONSOR AND SPONSOR'S  
ENGINEER PURSUANT TO PART 23  
OF THE REGULATIONS ISSUED  
PURSUANT TO GENERAL BUSINESS LAW  
ARTICLE- 23-A AS AMENDED

October 23, 2000

New York State Department of Law  
120 Broadway  
New York, New York 10271  
Attn: Real Estate Financing Bureau

Re: Beekman Landing  
Condominium  
130 Beekman Street  
New York, N.Y. 10038

The undersigned, an Engineer registered to practice as a professional Engineer in New York State, certifies as follows:

The Sponsor of the offering plan to convert the captioned property to condominium ownership retained our firm to prepare a report disclosing the condition of the Property (the "Report"). We visually inspected the property on February 15, 2000 and prepared the Report dated February 29, 2000, a copy of which is intended to be incorporated into the offering plan so that prospective purchasers may rely on the Report.

We understand that we are responsible for complying with Article 23-A of the, General Business Law and the regulations promulgated by the Department of Law in Part 23 insofar as they are applicable to this Report.

We have read the entire Report and investigated the facts set forth in the Report and facts underlying it and conducted visual inspection referred to above with due diligence in order to form a basis for this certification. We certify that the report and all documents prepared by us disclose all the material facts that were then discernible from a visual inspection of the property. This certification is made for the benefit of all person to whom this offer is made.

We certify that the Report is based on our visual inspection:

- (i) sets forth in narrative form the physical condition of the entire property and is current and accurate as of the date of inspection;
- (ii) in our professional opinion affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the physical condition the property;

- (iii) does not omit any material fact;
- (iv) does not contain any untrue statement of a material fact;
- (v) does not contain any fraud deception, concealment, or suppression;
- (vi) does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;
- (vii) does not contain any representation or statement which is false, where we:
  - (a) knew the truth;
  - (b) with reasonable effort could have known the truth;
  - (c) made no reasonable effort to ascertain the truth; or
  - (d) did not have knowledge concerning the representation or statement made,

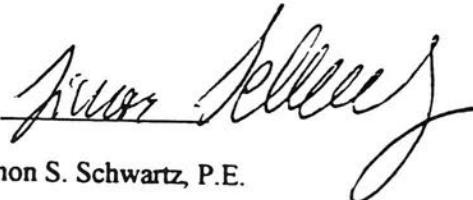
It is to be understood that all aspects of the physical condition of the Property cannot be determined by a visual inspection and that all statements contained in this certification are premises on and limited to such visual inspection.

We further certify that we are not owned or controlled by and have no beneficial interest in the sponsor and that our compensation for preparing this Report is not contingent on the conversion of the property to a condominium or on the profitability or price of the offering. This statement is not intended as a guarantee or warranty of the physical condition of the property.



S. Schwartz Associates

Consulting Engineers

  
Simon S. Schwartz, P.E.

Sworn to before me this

23 Day of October, 2000



130 Beckman Street  
New York City

ANAT MURAD  
Notary Public, State of New York  
No. 0410509598  
Qualified in New York County  
Commission Expires 11/29/2000



CERTIFICATION AS TO ADEQUACY OF BUDGET  
PURSUANT TO PART 23  
OF THE REGULATIONS ISSUED  
PURSUANT TO GENERAL BUSINESS LAW  
ARTICLE 23-A AS AMENDED

October 31, 2000

New York State Department of Law  
120 Broadway  
New York, New York 10271  
Attn: Real Estate Financing Bureau

Re: Beekman Landing Condominium  
130 Beekman Street  
New York, N.Y. 10038

The Sponsor of the offering plan to convert the captioned property to condominium ownership retained our firm to review or prepare Schedule B containing projections of income and expenses for the first year of condominium operation. Our experience in this field includes:

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 23 insofar as they are applicable to Schedule B.

We have reviewed the Schedule and investigated the facts set forth in the Schedule and facts underlying it with due diligence in order to form a basis for this certification. We also have relied on our experience in managing residential buildings.

We certify that the projections on Schedule B appear reasonable and adequate under existing circumstances, and the projected income appears to be sufficient to meet the anticipated operating expenses for the projected first year of condominium operation.

We certify that the Schedule:

- (i) sets forth in detail the projected income and expenses for the first year of condominium operation;
- (ii) affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the first year of condominium operation;
- (iii) does not omit any material fact;
- (iv) does not contain any untrue statement of a material fact;

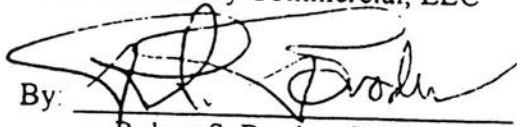
- (iv) does not contain any untrue statement of a material fact;
- (v) does not contain any fraud, deception, concealment or suppression;
- (vi) does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;
- (vii) does not contain any representation or statement which is false, where we:
  - (a) knew the truth;
  - (b) with reasonable effort could have known the truth;
  - (c) made no reasonable effort to ascertain the truth; or
  - (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by the sponsor. We understand that a copy of this certification is intended to be incorporated into the offering plan. This statement is not intended as a guarantee or warranty of the income and expenses for the first year of condominium operation.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

Goodstein Realty Commercial, LLC

By:



Robert S. Broder, CPM  
Executive Managing Director

Sworn to before me this  
31<sup>st</sup> day of OCTOBER, 2000



**FRANKLIN J. BARR**  
Notary Public, State of New York  
No. 02BA4638518  
Qualified in Westchester County  
Commission Expires November 30, 2002

