THIS PLAN HAS BEEN AMENDED.
SEE INSIDE COVER.

COMMERCIAL CONDOMINIUM OFFERING PLAN

100 Vandam
100 Vandam Street
(a/k/a 96-100 Vandam Street and 527-531 Greenwich Street)
New York, NY 10013
County of New York

The Condominium will comprise 5 office units ("**Office Units**"), 1 commercial unit ("**Commercial Unit**") and 1 roof terrace unit ("**Roof Terrace Unit**"). All Office Units, the Commercial Unit and the Roof Terrace Unit are being offered for sale pursuant to this Offering Plan.

Total Amount of Offering[(1)]:	5 Office Units:	$ 35,155,700
	1 Commercial Unit:	$ 7,275,600
	1 Roof Terrace Unit:	$ 1,059,600
	Total:	$ 43,490,900

(1) Offering prices are negotiable and may be changed (see "Section G. Changes in Prices and Units").

SPONSOR: *100 Vandam, LLC*
c/o Beck Street Capital LLC
100 Vandam Street, 4th Floor
New York, NY 10013

SELLING AGENT:
Grubb & Ellis New York, Inc.
1177 Avenue of the Americas
New York, NY 10036

Date of Acceptance for Filing: February 5, 2009

The term of the initial offer is twelve (12) months commencing on the foregoing date of acceptance for filing of the Plan by the Department of Law. The term may be extended by an Amendment to the Plan.

SEE "SECTION A" FOR SPECIAL RISKS TO PURCHASERS.

THIS OFFERING PLAN IS THE ENTIRE OFFER TO SELL THESE 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.

© 2008 Alan L. Kazlow, Esq.
Seyfarth Shaw LLP
All rights reserved.

TABLE OF CONTENTS

PART I

Caption		Page
SECTION A.	SPECIAL RISKS	A-1
A-1.	Unused Development Rights	A-1
A-2.	Commercial and Roof Terrace Units	A-2
A-3.	FDIC Deposit Insurance	A-6
A-4.	Contract Deposit; Liquidated Damages	A-6
A-5.	Special Work Payment	A-7
A-6.	"Time of the Essence" Provisions under Purchase and Sale Agreement and Plan	A-7
A-7.	Sponsor Voting Control of Condominium Board	A-7
A-8.	No Mortgage Financing Contingency	A-8
A-9.	Financing Risks	A-8
A-10.	Office Units Sold Subject to Leases	A-8
A-11.	Certain Closing Costs	A-9
A-12.	Suspension of Voting Rights	A-10
A-13.	Cancellation of Interim Lease	A-10
A-14.	Alterations and Decorations of Windows	A-10
A-15.	Sponsor's Financial Resources for Carrying Costs of Unsold Units	A-11
A-16.	Prohibition Against Advertising	A-11
A-17.	Risk of Loss	A-11
A-18.	"AS IS" Sale	A-11
A-19.	Building Conditions	A-12
A-20.	Insurance	A-16
A-21.	Square Footage in SCHEDULE A and Floor Plans Exceed Usable Floor Area	A-17
A-22.	Amendments to Condominium Documents	A-17
A-23.	Sponsor's Right to Grant Easements, Licenses and Leases	A-17
A-24.	Board Right of First Refusal on Sale or Lease of Sold Unit	A-17
A-25.	Business Judgment Rule	A-18
A-26.	Offensive Office Uses	A-18
A-27.	Real Estate Tax Projection	A-18
A-28.	Limited Period to Send Notice of Claim	A-19
A-29.	Floor Designations	A-19
A-30.	Construction Easements, Hours, Disruptions and Inconveniences	A-20
A-31.	Common Expenses	A-20
A-32.	Arbitration	A-21
A-33.	Conversion with Fewer than 15% of Units	A-21
SECTION B.	INTRODUCTION	B-1
B-1.	Purpose of Plan	B-1
B-2.	New York Condominium Act	B-1
B-3.	Sponsor	B-1
B-4.	The Units	B-1

Caption		Page
B-5.	Basic Aspects of Condominium Ownership	B-2
B-6.	Equipment and Fixtures Included in Sale	B-15
B-7.	Prices Set By Sponsor Without Governmental Approval	B-15
B-8.	All Material Terms Disclosed	B-15
B-9.	Who May Purchase	B-16
B-10.	CAVEAT	B-16
B-11.	Glossary	B-16
SECTION C.	DESCRIPTION OF THE PROPERTY AND IMPROVEMENTS	C-1
C-1.	The Property	C-1
C-2.	"AS IS" Sale	C-2
C-3.	Services and Amenities	C-3
SECTION D.	OFFERING PRICES AND RELATED INFORMATION	D-1
D-1.	SCHEDULE A	D-1
SECTION E.	BUDGET FOR FIRST YEAR OF CONDOMINIUM OPERATION SCHEDULE B	E-1
E-1.	Projected First Year	E-1
E-2.	Revised Budget; Rescission	E-1
E-3.	Allocation and Apportionment of Expenses	E-1
E-4.	Budget Procedure	E-2
E-5.	Budget Certification	E-2
E-6.	Schedule B	E-3
E-7.	Schedule B-1: Unit Utility Projections	E-15
SECTION F.	OPINION ON COMPLIANCE WITH REAL PROPERTY LAW SECTION 339-i	F-1
SECTION G.	CHANGES IN PRICES AND UNITS	G-1
G-1.	Changes in Offering Prices	G-1
G-2.	Changes in Units	G-2
SECTION H.	ACCOUNTANT'S CERTIFIED STATEMENT OF OPERATION	H-1
SECTION I.	EXISTING TENANTS	I-1
I-1.	Sale Subject to Then Existing Leases	I-1
I-2.	Schedule of Existing Leases	I-1
I-3.	Sponsor's Right to Modify and Terminate Leases and to Lease Vacancies	I-1
SECTION J.	INTERIM LEASES	J-1
J-1.	Sponsor's Exclusive Option to Rent	J-1
J-2.	No Rent Laws Applicable to Interim Lease	J-1
J-3.	Cross-Default and Cancellation Provisions	J-1
J-4.	30 Days to Vacate	J-2

Caption		Page
SECTION K.	PROCEDURE TO PURCHASE	K-1
K-1.	Procedure to Purchase	K-1
K-2.	Statutory Requirement	K-2
K-3.	Escrow; Trust Fund	K-2
K-4.	Special Risks	K-6
K-5.	"Time is of the Essence" Provisions	K-7
K-6.	Closing Date	K-7
K-7.	Projected Date of First Closing	K-7
K-8.	Purchaser's 30 Day Grace Period	K-8
K-9.	Unit Owner's Power of Attorney	K-8
K-10.	Period to Review Plan and Amendments	K-8
K-11.	Risk of Loss	K-8
K-12.	Purchase and Sale Agreement	K-8
K-13.	No Mortgage Financing Contingency	K-9
K-14.	Plan Governs	K-9
K-15.	Sponsor's Period to Accept or Reject Purchase and Sale Agreement	K-9
K-16.	No Waiver or Abrogation of Article 23-A of GBL	K-9
K-17.	Restriction Against Assignment	K-9
K-18.	Events of Default	K-9
K-19.	Sponsor's Remedies on Purchaser's Default	K-10
K-20.	Purchaser's Remedies on Sponsor's Default or Inability to Perform.	K-10
K-21.	Release of Claim	K-11
K-22.	Purchaser's Closing Costs and Apportionments	K-11
K-23.	Closing Payments and Documents	K-11
K-24.	Possession	K-12
K-25.	State of Title	K-12
K-26.	Sale Subject to Leases	K-12
K-27.	Unit and Contents Sold "AS IS"	K-13
K-28.	Personal Property Included in Sale	K-13
K-29.	Pre-Closing Inspection of the Unit By Purchaser.	K-14
K-30.	Prices and Price-Related Terms are Negotiable	K-14
K-31.	Broker	K-14
K-32.	Abandonment of Plan	K-14
K-33.	Sponsor's Representations	K-15
K-34.	Purchaser's Representations	K-15
K-35.	Purchaser's Due Diligence	K-15
K-36.	Lawsuits	K-15
K-37.	Purchase and Sale Agreement Is Not a Lien	K-16
K-38.	Prohibition Against Advertising	K-16
SECTION L.	EFFECTIVE DATE	L-1
L-1.	Requirement of Effectiveness	L-1
L-2.	Procedure to Declare Plan Effective	L-1
L-3.	Minimum Percentage of Sales	L-1
L-4.	Purchase and Sale Agreements Excluded from Effectiveness	L-1
L-5.	Effective When 80% Sold	L-2

Caption		Page
L-6.	Abandonment Prior to Effectiveness	L-2
L-7.	Abandonment After Effectiveness	L-2
SECTION M.	TERMS OF SALE	M-1
M-1.	Deed	M-1
M-2.	Risk of Loss	M-1
M-3.	Certificate of Occupancy	M-1
M-4.	Title Exceptions	M-1
M-5.	Personal Property	M-7
M-6.	Condominium Documents	M-7
M-7.	Existing Mortgages	M-7
SECTION N.	UNIT CLOSING COSTS AND APPORTIONMENTS	N-1
N-1.	Closing Costs and Apportionments	N-1
N-2.	Mortgage Tax Credit	N-5
N-3.	Fees of Sponsor's Attorney and Lender's Attorney	N-6
N-4.	Real Estate Taxes	N-6
SECTION O.	RIGHTS AND OBLIGATIONS OF THE SPONSOR	O-1
O-1.	Rights of Sponsor	O-1
O-2.	Obligations of Sponsor	O-11
SECTION P.	CONTROL BY THE SPONSOR	P-1
P-1.	Sponsor's Voting Control.	P-1
P-2.	Sponsor Veto Control.	P-2
SECTION Q.	BOARD OF MANAGERS	Q-1
Q-1.	Condominium Board; Elections; Term; Unit Owner's Meetings	Q-1
Q-2.	Initial Board Member and Officers	Q-3
Q-3.	Indemnification and Personal Liability	Q-3
Q-4.	Compensation	Q-4
Q-5.	Election and Removal of Officers; Removal of Board Members	Q-4
Q-6.	Computation of Votes	Q-6
Q-7.	Amendments to Declaration or By-Laws	Q-6
Q-8.	Board Meetings	Q-8
Q-9.	Quorum	Q-8
Q-10.	Requirements for Board Decisions	Q-8
Q-11.	Requirements for Unit Owners' Decisions	Q-9
SECTION R.	RIGHTS AND OBLIGATIONS OF THE UNIT OWNERS AND THE BOARD OF MANAGERS	R-1
R-1.	Sale or Lease of Units by Unit Owners	R-1
R-2.	Mortgaging of Units by Unit Owners	R-4
R-3.	Common Charges and Additional Common Charges	R-5
R-4.	Repairs	R-8
R-5.	Additions, Alterations and Improvements	R-12
R-6.	Insurance	R-15
R-7.	Restrictions on Occupancy and Use	R-18
R-8.	Remedies	R-21

Caption		Page
R-9.	Arbitration	R-22
R-10.	Rules and Regulations	R-22
R-11.	Successors and Assigns	R-22
R-12.	Termination of Condominium	R-23
R-13.	Incurring Debt	R-23
SECTION S.	REAL ESTATE TAXES	S-1
S-1.	Separate Assessment of Units	S-1
S-2.	Present and Projected Real Estate Taxes	S-2
S-3.	Changes in Assessed Valuation	S-3
S-4.	Tax Certiorari Proceedings	S-4
S-5.	By-Law Provision on Review of Assessment	S-4
S-6.	Berger Opinion	S-5
SECTION T.	OPINIONS OF COUNSEL	T-1
T-1.	Tax Deductions to Unit Owners	T-1
T-2.	Tax Status of Condominium	T-1
T-3.	DISCLAIMER	T-2
T-4.	RPL Section 339-i Opinion	T-2
T-5.	Opinion on Tax Status of the Condominium	T-3
T-6.	Opinion Regarding Compliance with Real Property Law Section 339-i	T-7
SECTION U.	RESERVE FUND	U-1
U-1.	No Reserve Fund	U-1
U-2.	Budget Reserves for Contingencies and Capital Items	U-1
U-3.	Sources to Finance Capital Items	U-1
SECTION V.	WORKING CAPITAL FUND	V-1
V-1.	Amount of Working Capital Fund	V-1
V-2.	Funding of Total Amount of Working Capital Fund	V-1
V-3.	Use of Working Capital Fund	V-1
V-4.	Sources to Finance Capital Items	V-2
V-5.	Adequacy of Working Capital Fund	V-2
SECTION W.	MANAGEMENT AGREEMENT, CONTRACTS AND LEASES	W-1
W-1.	Management Agreement	W-1
W-2.	Other Contracts and Leases	W-4
W-3.	Sponsor's Limited Right to Bind Condominium Board	W-4
SECTION X.	IDENTITY OF PARTIES	X-1
X-1.	Sponsor	X-1
X-2.	Sponsor's Attorneys	X-2
X-3.	Managing Agent	X-2
X-4.	Selling Agent	X-3
X-5.	Architect and Asbestos Investigator	X-3
X-6.	Real Estate Broker Expert	X-3
X-7.	Relationship to Sponsor or Sponsor's Principals	X-3
X-8.	Designation of Secretary of State	X-4

Caption		Page
SECTION Y.	REPORTS TO UNIT OWNERS	Y-1
Y-1.	Annual Financial Statements, Meetings and Budgets	Y-1
SECTION Z.	DOCUMENTS ON FILE	Z-1
Z-1.	Plan, Amendments and Condominium Documents	Z-1
SECTION AA.	GENERAL	AA-1
AA-1.	Litigation	AA-1
AA-2.	No Prior Cooperative or Condominium Offering of Property	AA-1
AA-3.	Compliance with Civil Rights Laws	AA-1
AA-4.	Amendments	AA-1
AA-5.	Use or Enjoyment of Property	AA-1
AA-6.	Contents of Plan	AA-1
SECTION BB.	RESERVATION OF AIR AND DEVELOPMENT RIGHTS	BB-1
BB-1.	Ownership	BB-1
BB-2.	Current Amount of Unused Development Rights	BB-1
BB-3.	Potential Uses of Unused Development Rights	BB-1
BB-4.	Impact of Transfer of Unused Development Rights to Adjacent Property	BB-2
SECTION CC.	SPONSOR'S STATEMENT OF BUILDING CONDITION	CC-1
CC-1.	Report On Description of Property and Building Condition	CC-1
CC-2.	Property and Units Offered "AS IS"	CC-1
CC-3.	Certificate of Occupancy	CC-1
CC-4.	Official Inspection Reports	CC-2

PART II

	Document	Page
1.	PURCHASE AND SALE AGREEMENT	DOC 1-1
1A.	FORM W-9 REQUEST FOR TAXPAYER IDENTIFICATION NUMBER	DOC 1A-1
1B.	FORM W-8 CERTIFICATE OF FOREIGN STATUS	DOC 1B-1
1C.	ESCROW AGREEMENT	DOC 1C-1
1D.	DISPUTE RESOLUTION APPLICATION	DOC 1D-1
2.	UNIT OWNER'S POWER OF ATTORNEY	DOC 2-1
3.	FORM OF UNIT DEED	DOC 3-1
4.	DESCRIPTION OF PROPERTY AND SPECIFICATIONS OR BUILDING CONDITION	DOC 4-1
4A.	ASBESTOS REPORT	DOC 4A-1
5.	FLOOR PLANS	DOC 5-1
5A.	MARKETING FLOOR PLANS OF OFFICE UNITS 400 AND 500	DOC 5A-1
6.	DECLARATION OF CONDOMINIUM	DOC 6-1
7.	CONDOMINIUM BY-LAWS	DOC 7-1
8.	CERTIFICATIONS:	
	A. SPONSOR AND SPONSOR'S PRINCIPAL	DOC 8A-1
	B. SPONSOR'S ARCHITECT	DOC 8B-1
	C. SPONSOR'S EXPERT CONCERNING ADEQUACY OF BUDGET	DOC 8C-1
	D. SPONSOR'S EXPERT CONCERNING ADEQUACY OF COMMON CHARGES PAYABLE BY THE COMMERCIAL UNIT OWNER	DOC 8D-1
9.	OPINION ON MARKET RATE MANAGEMENT FEE	DOC 9-1

This Page Intentionally Left Blank

SECTION A. SPECIAL RISKS

The special risks summarized below are explained more fully in other sections of this Offering Plan ("**Plan**"). The entire Plan must be read to completely understand these and other material aspects of this offering. See Section B, subsection "B-11. Glossary" below for the frequently used words not expressly defined in this or other Sections of this Plan (whether initial uppercase or lowercase), as well as for the full meanings of the words defined in this and other sections of this Plan.

A-1. Unused Development Rights.

A-1.1. Ownership. All unused development rights ("**Unused Development Rights**") of the Property associated with its unused floor area or unimproved air space, whether now existing or hereafter acquired or available, shall be owned exclusively by Sponsor and shall be part of any Unit owned by Sponsor from time to time, but only while such Unit is owned by Sponsor, and shall continue to be owned exclusively by Sponsor after it no longer owns any Unit.

A-1.2. Current Amount of Unused Development Rights. Sponsor's architect, Marc Kemeny of K Square Designs, Inc., estimates the Unused Development Rights under current zoning at approximately from 32,826 square feet to 45,694 square feet, depending upon certain assumptions and contingencies. See paragraph "(ab) Further Development" of "Description of Property and Specifications or Building Condition" ("**Architect's Report**") in DOCUMENT 4 of Part II for calculation of the Unused Development Rights.

A-1.3. Potential Uses of Unused Development Rights. Sponsor shall have the exclusive right, Freely and Without Consent, Payment or Restriction, except as herein expressly limited, to make any use or Disposition of the Unused Development Rights as it determines, including selling, assigning, transferring and conveying all or a portion of the Unused Development Rights to a Unit Owner or to an adjacent or nearby property owner under a so-called "zoning lot merger agreement", and/or granting a so-called "easement of light and air" to an adjacent property owner, and/or otherwise, but may not use the Unused Development Rights to add new Units to the Building or elsewhere on the Property.

Pursuant to the Declaration, each and every Unit Owner shall appoint Sponsor as the Owner's attorney-in-fact, "coupled with an interest", for valuable consideration, to make any use or Disposition of the Unused Development Rights as Sponsor shall see fit, but Sponsor may not use the Unused Development Rights to add new Units to the Building or elsewhere on the Property (see Article 17 of the Declaration included as DOCUMENT 6 in Part II of this Plan). In addition, the Condominium Board shall fully cooperate with Sponsor with respect to any such use or Disposition of the Unused Development Rights, including the execution in recordable form of such instruments and documents as Sponsor may request in connection with said use or Disposition of the Unused Development Rights (see Article 20 of the Declaration).

Any proceeds realized by Sponsor from the use, sale, assignment, transfer or other Disposition of the Unused Development Rights of the Property shall belong entirely to Sponsor. The Condominium Board and the other Unit Owners shall have no interest in the Unused Development Rights, shall have no control over the Disposition of the Unused Development Rights, and shall not

share in any proceeds realized from any use, sale, assignment, transfer or other Disposition of the Unused Development Rights, and shall not be regarded as a "party in interest", as such quoted term is defined under the definition of "Zoning Lot" in Section 12-10 of the Zoning Resolution of The City of New York. No Disposition of the Unused Development Rights is being planned by Sponsor at the date of this Plan. See Section O, subsection O-1.16 and Section BB below for further discussion.

A-1.4. Impact of Transfer of Unused Development Rights to Adjacent Property. The Unused Development Rights may be transferred to an adjacent property by Sponsor or an owner of another nearby property also may transfer its Unused Development Right (if any) to said adjacent property. A transfer of Unused Development Rights from Sponsor to the property adjacent directly to the south of the Building potentially could result in approximately a 20-story building being constructed on such adjacent site.

A transfer of Development Rights from this and/or other nearby properties to a property adjacent to the Building potentially could result in a building taller than the Building and adversely affect the views, light and air of windows of Units facing such adjacent parcel. If such development were to occur adjacent to the south façade of the Building, the lot line windows of Office Units 200 (one (1) window), 400 (three (3) windows) and 500 (six (6) windows) would have to be sealed or closed (see subsection A-19.5 below for additional discussion). Occupants of the Building might also be disturbed by construction noise and dust resulting from such construction. At the date of this Plan, Sponsor is not aware of any planned development or construction at sites near the Building.

A-2. Commercial and Roof Terrace Units.

A-2.1. Current Use: The Building is initially planned to contain one (1) Commercial Unit at the cellar level with its own primary street entrance from Greenwich Street and a secondary street entrance from Vandam Street. The Commercial Unit is not listed on the current Certificate of Occupancy. Sponsor undertakes to obtain a new or amended Certificate of Occupancy to authorize the Commercial Unit to be used for permitted retail and office purposes in accordance with the existing zoning Law applicable to the Property, other than "Prohibited Uses" (see subsection A-2.2 below) and applicable "Offensive Office Uses" (see Section B, subsection B-5.5.2 below). The Commercial Unit is not yet leased as at this writing.

The Building also is planned to contain one (1) Roof Terrace Unit on a specified portion of the main Roof, which currently is not improved with decking, pavers or other protective flooring, supporting pedestals or required guard railings, all of which will comprise the Roof Terrace Unit. The Roof Terrace Unit is being offered and sold in its current "AS IS" state as unimproved Roof space. In order to use the Roof as a Roof Terrace Unit, the Purchaser of the Roof Terrace Unit, at its sole Cost and Expense, will be responsible to first install the said material comprising the Roof Terrace Unit (see subsection A-19.11 below for additional discussion). No new or amended Certificate of Occupancy will be required to authorize the use of the Roof Terrace Unit, although an alteration application to the New York City Department of Buildings and compliance with the Condominium Board's alteration requirements (see subsection A-19.11 below) will be required in order to construct and install the Roof Terrace Unit. The Roof Terrace Unit may be used for any lawful purpose, other than Prohibited Uses and applicable Offensive Office Uses.

A-2.2. Changes in Use. The Commercial Unit and Roof Terrace Unit will not be not restricted to any particular use and may be used and changed to be used by the Owner of each such Unit (including Sponsor) from time to time, Freely and Without Consent, Payment or Restriction, except as herein expressly otherwise provided. The Commercial Unit may be used or changed to be used as a restaurant, tavern, bar, food store, clothing store, art gallery, bank, office, gym, spa or any lawful purpose (whether or not similar to the foregoing), but may not be used for applicable Prohibited Uses or Offensive Office Uses. The Commercial Unit Owner shall have the right, Freely and Without Consent, Payment or Restriction, to obtain a new or amended Certificate of Occupancy, a special permit or a zoning variance to change the use of the Commercial Unit. The permitted uses of the Commercial Unit and the Roof Terrace Unit may be noisy, emit odors, involve heavy traffic and cause other effects that need not be compatible with the primary use of the Building for office purposes. See Section R, subsection R-7 below for discussion.

The following uses, however, shall be prohibited (collectively, "**Prohibited Uses**") and apply to all or certain Units (as indicated): (a) no Unit may be used for: (a-1) any use that impairs or threatens the structural integrity of the Building or the life, health, safety, security or protection of Owners, tenants or occupants of Units; (a-2) any use that violates applicable Laws; or (a-3) any use that results in the cancellation or a notice of cancellation of insurance maintained by the Condominium Board; and (b) no Sold Office Unit and no portion of the Common Elements or the Immediately Adjacent Sidewalks to the Property may be used in a manner that is an unreasonable nuisance to other Unit Owners or an unreasonable interference with the peaceful possession or proper use or operation of the Units or the Common Elements for their intended or permitted purposes as stated in this Plan and the Condominium Documents (this Prohibited Use does not apply to Unsold Office Units, the Commercial Unit or the Roof Terrace Unit).

In addition, the Offensive Office Uses listed in Section B, in subsection B-5.5.2 below shall be prohibited and apply to all Units or only Office Units (as indicated).

A-2.3. Control of Work on Building Walls. All Work to be undertaken that affects the Building Walls shall be determined by the Condominium Board, although Sponsor, while it owns the Commercial Unit, shall control and determine the timing, duration, specifications and manner of performance of such Work, including the erection, removal, design and fabrication of any "Sidewalk Structure" to be erected in connection therewith (see Section O, subsection O-1.16 below for definition of quoted term and discussion).

A-2.4. Commercial Signage Easement Area. The Commercial Unit will have the right, Freely and Without Consent, Payment or Restriction, to install, affix, hang, erect, Maintain, Repair, Alter and otherwise Operate all manner of Signs on the portions of the Building Walls that are parallel to the boundary walls of the Commercial Unit on Greenwich Street and extend from the sidewalk immediately adjacent to the entire frontage of the Commercial Unit on Greenwich Street to a horizontal plane running on, along and immediately below the exterior window sills or (if none) windows of floor 1 (i.e., the construction floor above ground level), and on or immediately adjacent to the Greenwich Street and Vandam Street entrances to the Commercial Unit and on the interior sides of the windows of the Commercial Unit ("**Commercial Signage Easement Area**"). See Section R, subsection R-5.4 below.

A-2.5. Certificate of Occupancy. The Commercial Unit is not listed on the Building's Certificate of Occupancy. Sponsor undertakes to obtain a new or amended Certificate of Occupancy to allow the Commercial Unit to be used for permitted retail and office uses under the current zoning Law applicable to the Property. The closing of title to the Commercial Unit will be contingent upon the issuance of a temporary or permanent new or amended Certificate of Occupancy authorizing the retail or office use of the Commercial Unit in accordance with the current zoning Law for the Property. If at closing of title only said temporary new or amended Certificate of Occupancy is issued, Sponsor's obligation to obtain a permanent Certificate of Occupancy for the Commercial Unit will survive title closing and will be secured by Sponsor escrowing with Seyfarth Shaw LLP or other attorney designated by Sponsor an amount equal to the estimated cost to obtain a permanent Certificate of Occupancy, as projected by Sponsor's architect, Marc Kemeny of K Square Designs, Inc. See Section O, subsection O-2.7 below. The Roof Terrace Unit is not listed on the current Certificate of Occupancy and will not be listed on such proposed new or amended Certificate of Occupancy since it is not required to be authorized for use on the Certificate of Occupancy.

A-2.6. Easements, Rights and Licenses.

A-2.6.1. Condominium Board. The Condominium Board and its Agents, Employees and Contractors shall have an easement and right of reasonable access to, from, through, across and on the Commercial Unit or, to the extent possible and economically practical, only the non-public portions of the Commercial Unit, to inspect, Maintain, Repair, Alter and otherwise Operate any and all Equipment and Installations (including replacements of then existing Equipment and Installations, if any, with new Equipment and Installations) substantially within the confines of their then current spaces and locations in the meter and equipment rooms comprising the Common Elements on the cellar level. In addition, if The City of New York revokes the right or license to use a Vault, the Condominium Board shall have an easement and right to relocate the Equipment, Facilities and Installations then housed therein to other portions of the Common Elements or, if and to the extent economically impractical, to an area of the Commercial Unit as shall reasonably be determined by the Commercial Unit Owner. Such easements and rights shall be subject to certain reasonable requirements and restrictions, including an obligation by the Board to indemnify the Commercial Unit Owner, and such Owner's agents and employees, from and against all Claims and Liabilities and Expenses arising in connection with the exercise and performance of such easement and right. See Section R, subsection R-4.4.2 below and Article 12 of the Declaration.

A-2.6.2. Roof Terrace Unit. The skylights of Office Unit 500 are part of the Roof Terrace Unit and provide light to Office Unit 500 under a revocable license (see subsection A-19.12 below for the right of the Owner of the Roof Terrace Unit, at any time, to remove, seal and deck over said skylights). Until the Owner of the Roof Terrace Unit revokes said license, the Owner of Office Unit 500 shall have the obligation, at its sole Cost and Expense, to Maintain and Repair said skylights and the right for reasonable access by such Owner and its Agents, Employees and Contractors to, from, over, across and on the Roof Terrace Unit to inspect, Maintain, Repair, Alter and otherwise Operate said skylights.

In addition, the air-conditioning Equipment and related Installations serving, and part of, each of Office Units 400 and 500 are located on portions of the area of the main Roof reserved for

installation of the Roof Terrace Unit (see subsection A-19.13 below for the right of the Owner of the Roof Terrace Unit, at its sole Cost and Expense, at any time, to relocate said air-conditioning Equipment and related Installations to another area of the Roof Terrace Unit or the common area of the Roof chosen by the Roof Terrace Unit Owner). In connection therewith, the Roof Terrace Unit Owner shall have the right to re-route within the affected Unit and behind its boundary walls, floors and ceilings the electric, refrigerant and plumbing lines that connect the rooftop air-conditioning equipment (i.e., compressors) to the Unit's air handlers. In the event the Roof Terrace Unit Owner exercises such right, it will be obligated to patch, repair and finish the affected areas of the Unit so as to match the areas adjacent thereto to as near as reasonable and economically practical.

Until the air-conditioning Equipment and related Installations are so relocated, the respective Owners of Office Units 400 and 500 shall each have a revocable license for the existence of its air-conditioning Equipment and related Installations in their present locations on the Roof Terrace Unit and a right of reasonable access by each such Owner and its Agents, Employees and Contractors to, from, over, across and on the Roof Terrace Unit to inspect, Maintain, Repair, Alter and otherwise Operate said air-conditioning Equipment and related Installations.

The foregoing right of access by the respective Owners of Office Units 400 and 500 shall be subject to strict compliance with the following requirements, restrictions and obligations (collectively, "**Access Requirements**"):

(a) the requirement to comply with the Installation Requirements and Work Requirements contained in the Declaration;

(b) the restriction and limitation to not unreasonably interrupt or interfere with the permitted Operation, business Use or Enjoyment of the of the Roof Terrace Unit by the Owner, tenants or occupants of the Roof Terrace Unit;

(c) the obligation, at the sole Cost and Expense of the Owner of Office Unit 400 or 500 (as applicable), to Repair any damage to the Roof Terrace Unit caused by the exercise and performance of such right of access so as to restore the damaged area and any Installations thereon to as near as reasonable and economically practical to the condition existing immediately prior to such exercise and performance;

(d) the further obligation of the Owner of Office Unit 400 or 500 (as applicable), at its sole Cost and Expense, to indemnify the Roof Terrace Unit Owner, and such Owner's agents and employees, from and against all Claims and Liabilities and Expenses arising in connection with the exercise and performance of such right of access;

(e) the requirement to access the Roof Terrace Unit at such times as shall be reasonably convenient and on giving reasonable prior written notice to the Owner of the Roof Terrace Unit, who shall have the right to have a representative present at all times during such access; and

(f) such access shall comply with any security and protection procedures and requirements as may be reasonably required by the Roof Terrace Unit Owner, or an affected

tenant or occupant of the Roof Terrace Unit, provided such procedures and requirements shall not preclude such access.

In event of any breach or violation of the foregoing Access Requirements, the Roof Terrace Unit Owner shall all rights and remedies at law and in equity, including the right to enjoin a continuing or future violation of said Access Requirements.

A-2.7. Office Unit 500 Private Stair Bulkhead. If the Office Unit 500 and Roof Terrace Unit are owned by the same Owner, then such Owner (including Sponsor while it owns both Units) shall have the right to build a new private stairway and its enclosing bulkhead to connect the two Units, as well as rooftop and bulkhead lighting and electric service. In the event said private stairway and bulkhead are to be erected by: (a) Sponsor, such alteration may be performed Freely and Without Consent, Payment or Restriction (other than the requirement to comply with the applicable Work Requirements contained in Section 15.2 of the Declaration); or (b) the Purchaser of both Units or a succeeding Owner of both Units (collectively, "**Sold Unit Owner**"), the plans and specifications for the alteration shall be subject to obtaining the prior written Reasonable Approval or Consent of both the Condominium Board and (during the Sponsor Veto Control Period and until issuance of the permanent Certificate of Occupancy changing the caretaker's apartment on Office Unit 500 for use as an office and authorizing the use of the Commercial Unit for permitted retail or office purposes) Sponsor. In addition, said Sold Unit Owner shall be required to enter into the Condominium Board's standard form alteration agreement with such modifications thereto as the Board may require, in its sole judgment. See Section R, subsection R-5.2.2 below for full discussion of all requirements to be met by said Sold Unit Owner with respect to such alteration. No Unused Development Rights of the Property may be utilized by said Sold Unit Owner in connection with the erection of said private stair and bulkhead or otherwise without obtaining the prior written Discretionary Approval or Consent of Sponsor.

A-3. FDIC Deposit Insurance. Deposits of Purchasers will be kept in a segregated attorneys special escrow account at Valley National Bank ("**Depository**"), which is covered by FDIC deposit insurance in the maximum amount of $250,000 (temporarily) through December 31, 2009 and (unless the law increasing the FDIC insurance is extended) $100,000 thereafter. To the extent a Purchaser's Deposit exceeds said insured amount (i.e., $250,000 (temporarily) until December 31, 2009 and (unless said law is extended) $100,000 thereafter), the excess will not be federally insured and Purchaser will bear the entire risk of any loss resulting from the failure of the Depository. Sponsor, Selling Agent and the escrow attorney for contract Deposits do not represent, assure or guarantee the solvency of the Depository and will not be responsible or liable for any loss due to the failure of the Depository. See Section K, subsection K-3.1 below for discussion.

A-4. Contract Deposit; Liquidated Damages. If a Purchase and Sale Agreement is cancelled based on a default by Purchaser that is not cured within 30 days after written notice of the default is given to Purchaser and the Plan is consummated with the First Unit Closing to a bona fide Purchaser, Sponsor's sole remedy shall be: (a) to retain as "liquidated" (i.e., agreed upon) damages, Purchaser's Deposit (but not to exceed 10% of the Purchase Price) together with the interest earned thereon, plus any payment given for alterations, upgraded equipment or fixtures, or other work (collectively "**special work**") ordered by Purchaser (but not to exceed the actual costs thereof); and (b) to recover the actual Costs and Expenses incurred by Sponsor: (b-1) for such special work (to

the extent the payment given therefor, if any, is insufficient), (b-2) to restore the Unit to the condition existing prior to undertaking the special work, and (b-3) to enforce this provision and collect such amounts. Sponsor, however, may not seek specific performance of the Purchase and Sale Agreement. See Section K, subsections K-5(a) and K-20 below for discussion.

The "liquidated damages" provision limits Purchaser's liability and avoids Purchaser potentially paying Sponsor higher actual damages caused by Purchaser's default (e.g., due to a sale at a price lower than Purchaser's price and added carrying costs, among others) and is an agreement by the parties that the foregoing amounts are fair, reasonable and just compensation under the circumstances. The provision nonetheless is subject to review by a court or other authority having jurisdiction as to whether the liquidated amount is an unenforceable penalty designed to coerce performance of a Purchaser. See Section K, subsection K-3.8 below for discussion of Attorney General's dispute resolution procedure.

A-5. **Special Work Payment**. If the Purchase and Sale Agreement is cancelled following Purchaser's exercise of a right to rescind or to cancel and the Deposit is returned to Purchaser, any payment given by Purchaser for special work will be refunded to Purchaser if, and only to the extent, such payment exceeds the actual Costs and Expenses paid or incurred to perform said special work and to restore the Unit to its condition existing before undertaking the special work ("**Net Refundable Special Work Payment**"). See subsections E-2, K-1.6, K-8, K-21, K-31 and M-2 below for discussion.

A-6. **"Time of the Essence" Provisions under Purchase and Sale Agreement and Plan**. All time periods in the Purchase and Sale Agreement or this Plan expressly stated to be a "TIME OF THE ESSENCE" period or similar words mean that the specified period in which Purchaser must pay or perform an obligation or act or give a notice is an absolute deadline and cannot be extended by Purchaser, regardless of any inability or other excuse for the delay. For example, under the Purchase and Sale Agreement, if Purchaser defaults, Purchaser will be afforded a grace period of 30 calendar days from giving Purchaser notice of the default within which Purchaser must cure the default. The 30 day grace period is an absolute deadline or "TIME OF THE ESSENCE" period. This means that if the default is not timely cured by Purchaser within the 30 calendar day period (regardless of inability or other excuse for not timely curing the default), the Purchase and Sale Agreement can be cancelled and Purchaser can lose Purchaser's Deposit. See Section K, subsection K-5 below for discussion.

A-7. **Sponsor Voting Control of Condominium Board**. Sponsor shall have the exclusive right to designate and appoint a majority of the Condominium Board and thereby have "voting control" of the Condominium Board for five (5) years from the First Unit Closing or whenever the Unsold Commercial, Office and Roof Terrace Units constitute less than fifty-percent (50%) in number and Common Interest of all Commercial, Office and Roof Terrace Units (excluding a Unit, if any, purchased by Sponsor or a Sponsor-Related Party from the count and the base number of Units), whichever is sooner ("**Sponsor Board Control Period**"). After the end of the Sponsor Board Period, Sponsor will no longer have the right to nominate candidates to serve as the Independent Board Members (who will then constitute a majority of the Board Members) and thus Sponsor shall not thereafter exercise voting control of the Board. Nonetheless, Sponsor will continue to have the right, as Owner of one or more Unsold Commercial, Office and Roof Terrace

Units, to vote for the Independent Board Members and to exclusively designate and appoint one (1) Sponsor Board Member. Prospective Purchasers should be aware of the potential inherent conflict of interest as to the management and operation of the Property while Sponsor exercises voting control of the Board as Sponsor will own the Unsold Units as an investment and not for its personal use or occupancy. See Section B, subsection B-5.6 and Section P, subsection P-1 below for discussion.

A-8. **No Mortgage Financing Contingency**. Purchaser's obligation to purchase a Unit is not contingent upon obtaining financing. As a result, Purchaser will not be excused from its obligation to pay the full Purchase Price of the Unit on the date scheduled by Sponsor for closing title, regardless of Purchaser's ability to obtain mortgage financing and notwithstanding that any loan commitment Purchaser may have obtained expires prior to closing of title.

A-9. **Financing Risks**. If a Purchaser is relying upon financing from an Institutional Lender or other source, Purchaser assumes the risks of meeting all conditions and requirements of the lender to obtain and fund the loan on the date set by Sponsor for closing of title under the Purchase and Sale Agreement, including conditions and requirements that may be beyond Purchaser's control. These risks include the following: (a) meeting all requirements concerning Purchaser (for example, Purchaser's income and financial condition) and any adverse changes in meeting these requirements that may occur between the issuance and funding of the loan commitment; (b) losing a "lock-in" interest rate because the closing of title under Purchaser's Purchase and Sale Agreement fails to occur before the expiration of the period within which the loan must close to obtain the locked-in rate; and (c) failing to meet lender's requirements (if any) to fund the loan as to the number of Units under contract or sold (e.g., 35% or 50% of the Units). Many lenders impose said maximum sales requirement both before and after a building is converted to condominium ownership, which would make a re-sale by Purchaser difficult if a prospective buyer is relying on financing and cannot obtain a loan due to the number of Units in the Building sold at that time not meeting a lender's minimum sales requirement (if any).

Purchaser also assumes the risk of adverse changes in the terms of the loan that may occur before the closing of the loan and paying additional amounts to extend the loan commitment period. By assuming these risks, Purchaser will not be excused from the obligation to purchase without abatement in the Purchase Price and without recourse against Sponsor. Sponsor does not represent, assure or guarantee that a Purchaser will succeed in obtaining mortgage financing from an Institutional Lender or other independent sources, or (if Purchaser succeeds) the terms or costs of such financing, or whether the closing of title will occur before the loan commitment or any lock-in rate expires, or (if it expires) whether the commitment will be extended or the costs to obtain an extension or the terms and conditions thereof, which may be less favorable than the original commitment, or whether a Lender's minimum sales requirement (if any) will be met. See Section L, subsection L-14 below for further discussion.

A-10. **Office Units Sold Subject to Leases**. The Office Units are being offered and sold subject and subordinate to the existing lease or leases of the office space comprising each Office Unit at the time of entering into a Purchase and Sale Agreement and the rights of the tenant or tenants thereunder as tenant, as such lease may expire or sooner terminate in accordance with its terms (see Section I, subsection I-2 below for schedule of present leases and related information).

A Purchaser shall not be excused from Purchaser's obligation to consummate the closing of title, without abatement in the Purchase Price, set-off or recourse of any kind against Sponsor, in the event an existing lease expires or is sooner terminated pursuant to its terms. Sponsor reserves the right to modify, amend and terminate or cancel present leases and to enter into a new lease for vacant office space comprising an Office Unit prior to entering into a Purchase and Sale Agreement for such Unit, but will amend the Plan to disclose a material modification to a present lease or the material terms of any new lease (as applicable). After a Purchase and Sale Agreement is in effect, Sponsor will not modify or amend an office space lease, or terminate or cancel such lease by mutual agreement with the tenant, without obtaining the prior written consent of the Purchaser of the affected Unit, but Sponsor reserves the exclusive right to terminate or cancel a lease in accordance with its terms (e.g., based on non-payment of rent or otherwise) without Purchaser's consent and to lease an office space then vacant or thereafter becoming vacant on the following terms. If Sponsor elects to lease a vacant Office Unit, Sponsor shall first offer in writing to lease such vacant space to said Purchaser at such rent and other terms as they may mutually agree upon for the interim period prior to closing of title. If the parties fail to reach a mutual agreement within 30 calendar days after the offer to lease is given to Purchaser or Purchaser declines to enter into said interim lease, Sponsor shall have the unfettered right to lease such vacant space at not less than the rent and other material terms last offered by Sponsor to Purchaser. See Section I, subsection I-3 and Section K, subsection K-26 below for discussion.

A-11. Certain Closing Costs.

A-11.1. Delinquency, Sponsor's Attorney's Fee and Travel Closing Costs. If a Purchaser fails to close title on the date set by Sponsor in accordance with this Plan and the Purchase and Sale Agreement, or Purchaser is at fault for causing Sponsor to postpone the date scheduled by Sponsor for closing (e.g., Sponsor postpones the closing to remove a title condition because Purchaser fails to timely send Sponsor's attorney written notice of an objection to title at least 10 days prior to the date set by Sponsor for closing, see Section K, subsection K-25 below), Purchaser will reimburse Sponsor at closing for the Unit's Common Charges and real estate taxes (less any rent for the Unit collected by Sponsor) for the period the closing is delayed, plus per diem interest on the Purchase Price at the rate of 12% per annum, prorated for each day during such period of delay, to compensate Sponsor for loss of potential earnings on the Purchase Price. Purchaser also will pay Sponsor's designated attorney $250 for each default notice and $250 for each time the closing is rescheduled through no fault of Sponsor. Purchaser will pay the closing fee of Sponsor's attorney of $3,500 (if Purchaser closes without financing) or $4,000 (if Purchaser closes with financing). If any additional services are required to clear title, other than to omit a lien caused by the acts or omission of Sponsor, Purchaser also will pay Sponsor's designated attorney $500 for legal services in connection therewith. If Purchaser's Institutional Lender or attorney refuses to close title at the office of Sponsor's attorney, Purchaser will pay a travel fee to Sponsor's attorney of $350 (if the closing is held in Manhattan) or $500 (if the closing is held elsewhere in New York City). See Section N, subsection N-1 below.

A-11.2. Transfer Taxes. At closing of title, Purchaser will pay (among other things) the New York City and State transfer taxes, including the portions thereof imposed by statute on Sponsor. When these taxes are paid by Purchaser, the transfer taxes are computed on a sum equal

to the Purchase Price plus the transfer taxes, which essentially is a "tax on a tax". See Section N, subsection N-1.1 below for discussion.

A-11.3. Working Capital Payment. At closing of title, each Purchaser will be required to make a contribution to a Condominium Association's Working Capital Fund in an amount equal to two (2) months' projected Common Charges for each Unit being purchased, as shown in the Offering Price Schedule (SCHEDULE A in Section E below), as such projection may change in an Amendment to this Plan filed prior to the First Unit Closing. Sponsor will advance an initial contribution of $12,000.00 to the Working Capital Fund at the First Unit Closing and will be reimbursed therefor from the first Working Capital Fund contributions made by Purchasers. See Section V, subsection V-3 below , for use of Working Capital Fund.

A-12. Suspension of Voting Rights. Under the By-Laws, if the Condominium Board perfects its lien against a Unit for unpaid Common Charges, then until the lien is paid or discharged by bonding or otherwise, the Owner of such Unit will not have the right to nominate candidates to serve on the Condominium Board or vote for election of the Condominium Board. See Section Q, subsection Q-6 below for full discussion.

A-13. Cancellation of Interim Lease. If an "Interim Lease" is entered into with a Purchaser and the "Interim Lease" is cancelled because of an uncured default or the election by the "Interim Occupant-Purchaser" to rescind pursuant to the terms of the Purchase and Sale Agreement or an offer to rescind in a Plan Amendment, such "Interim Occupant-Purchaser" will have only 30 calendar days thereafter to surrender vacant possession of the Unit. The 30 calendar days is a "TIME OF THE ESSENCE", or deadline, period. If the "Interim Occupant-Purchaser" fails to timely surrender vacant possession of the Unit within such 30 day period (regardless of inability or other excuse for not timely doing so), such Purchaser will be liable to Sponsor for all Costs and Expenses incurred by Sponsor for the delay and to recover vacant possession of the Unit. See Section J, subsections J-3 and J-4 below for discussion and definitions below of the quoted terms.

A-14. Alterations and Decorations of Windows. In order to protect the structural integrity and weather tightness of the Building, and to preserve the architectural and aesthetic harmony of the Building's façade and minimize possible unsightliness, the windows of a Sold Unit may not be Altered or replaced without obtaining the prior written Discretionary Approvals or Consents of both Sponsor (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy changing the caretaker's apartment on Office Unit 500 for use as an office and authorizing the Commercial Unit for the permitted retail and office uses contained in this Plan) and the Condominium Board. For similar aesthetic purposes, the glass surfaces of windows of Sold Units may not be colored, painted or covered, except window shades, blinds, curtains and other treatments which are light colored or have light colored backings facing the outdoors in conformity with the rules established from time to time by Sponsor (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy for Office Unit 500 and the Commercial Unit) and the Condominium Board will be permitted. The foregoing restrictions do not apply to Unsold Units, which may be Altered and Decorated Freely and Without Consent, Payment or Restriction, other than the requirement to comply with the applicable Work Requirements set forth in Article 15 of the Declaration. See Section R, subsection R-7.2 below.

A-15. **Sponsor's Financial Resources for Carrying Costs of Unsold Units**. Sponsor represents that it has the financial resources to pay for all "carrying costs" (namely, Common Charges, Special Assessments (if any) of the Condominium Board and real estate taxes) of Unsold Units. No bond or security is being provided to secure Sponsor's obligations for said carrying costs. Accordingly, Sponsor's ability to meet these obligations will depend on Sponsor's financial resources if and when called upon to perform. See Section O, subsection O-2.3 below for further discussion.

A-16. **Prohibition Against Advertising**. Purchaser is prohibited from advertising or publicizing the availability of Purchaser's Unit(s) for sale or lease prior to closing of title. See Section K, subsection K-35 below for further discussion.

A-17. **Risk of Loss.** If Purchaser is an existing Tenant of the Unit or is given possession of a Unit prior to closing of title pursuant to an Interim Lease, Purchaser shall assume the risk of loss to the Unit, its contents and Purchaser's personal property from fire or other casualty from and after Sponsor's acceptance and delivery of a fully executed Purchase and Sale Agreement to Purchaser and (as to only an Interim Occupant-Purchaser) commencement of the term of the Interim Lease. Such Purchaser should consider obtaining, at Purchaser's expense, insurance to insure Purchaser against such loss. See Section K, subsection K-12 below.

A-18. **"AS IS" Sale**.

A-18.1. Units. Each Unit includes the individual Equipment, Facilities and Installations owned by Sponsor that serve only such Unit (collectively, "**Unit Equipment**"). Each Office and Commercial Unit and its individual Unit Equipment are being offered and sold by Sponsor in the condition disclosed in the architect's report (see DOCUMENT 4 in Part II of this Plan) and in their then existing "AS IS" condition at the time of closing title, subject only to Sponsor's undertaking to obtain a new or amended Certificate of Occupancy of the Building to authorize the Commercial Unit for the use set forth in this Plan and to change the designation "caretaker's apartment" on a portion of Unit 500 so as to allow all of such Unit to be used as offices), and subject further to Sponsor's obligation to Maintain and Repair the Unit and said personal property if and to the extent required by the then existing lease for the office space comprising the Office Unit or applicable Law, but otherwise without any obligation of Sponsor to make any other repairs, corrections, additions or improvements, and without abatement in the Purchase Price, set-off or recourse of any kind against Sponsor based on any defects, faults, damages, violations, required inspections, open applications or other conditions requiring a governmental sign-off, or a correction or repair. The Roof Terrace Unit is being offered and sold in its current "AS IS" state as unimproved Roof space (see said architect's report in DOCUMENT 4 of Part II). The Purchaser of the Roof Terrace Unit shall be responsible, at its sole Cost and Expense, to construct and install the material comprising the Roof Terrace Unit (i.e., decking, pavers or other protective flooring, supporting pedestals and safety rails) on the specified portion of the main Roof reserved for such purpose (see subsections A-19 and O-2.8 below).

A-18.2. Common Elements. The Condominium Board and all Unit Owners shall accept the Common Elements in the condition disclosed in said architect's report (DOCUMENT 4 of Part II) and their then existing "AS IS" condition at the time of First Unit Closing, and the Board shall assume full and sole responsibility for all Maintenance and Repair thereof as a Common Expense,

without any obligation of Sponsor to make any repairs, corrections, additions or improvement (unless otherwise expressly provided in this Plan), and without recourse of any kind against Sponsor based on any defects, faults, damages, violations, required inspections, open applications or other conditions requiring a governmental sign-off or a correction or repair, except Sponsor, at its sole Cost and Expense, will cure the violation issued with respect to the elevator (which was the only outstanding violation with respect to the Common Elements as at the dates indicated in the Architect's Report (DOCUMENT 4 in Part II). There are no express or implied warranties with respect to the sale of a Unit or the condition of the Common Elements. Sponsor shall have no obligation to Maintain or Repair Units, their respective Unit Equipment or the Common Elements, except to the extent expressly contained in this Plan. See Section B, subsection B-6, Section K, subsection K-27, and Section O, subsection O-2.8 below.

A-19. Building Conditions. The following Building conditions are noted as Special Risks in the architect's report entitled "Description of Property and Specifications or Building Condition ("**Report**")," prepared by Sponsor's architect, Marc Kemeny ("**Kemeny**") of K Square Designs, Inc. (see DOCUMENT 4 in Part II of the Plan):

A-19.1. No Undertaking to Repair. The Sponsor has not undertaken to correct or repair any existing conditions noted in the Report, including the "Special Risks" section thereof, unless otherwise expressly provided.

A-19.2. Price Estimates. All price estimates contained in the Report are approximate and are good faith projections of Kemeny at the date of the Report, without an inflation factor, based solely on the experience of Marc Kemeny. They are not based on any specifications or documentation of the work, and are not derived from bids by contractors or vendors. Actual costs may substantially vary from the cost estimates in the Report. There is no guaranty as to the actual costs for any items of work described in the Report and summarized below.

A-19.3. No Warranties. There will be no warranties or guarantees for any of the work, equipment, or materials in the Building, except as may be provided in the Plan. This exclusion includes windows, roof, elevator, electricity, heating, ventilation, brickwork, air-conditioning equipment, structural systems, or any other components or construction defects, except as may be expressly provided in the Plan.

A-19.4. Structural Conditions. The south side of the Building has a façade composed of common brick. The brick is intact and in fair condition, but there are areas where the grout is beginning to gap. This means that the façade will need to be pointed in the 5 to 7 years at a current approximate cost, at the date of the Report, of $20,000, as estimated by Kemeny.

There is an approximately 3 story, octagonal, brick smoke stack on the roof. The smoke stack has metal reinforcement along its vertical edges, and horizontal ties connecting the vertical metal. There is a large vertical crack in the brick, and some corrosion in the metal work. Generally, the smoke stack appears to be stable and intact, but in the next 5 years the brick work should be pointed as required, cracks in the brick should be filled, and the metal should be refurbished. The estimated current cost of this work, at the date of the Report, is estimated by Kemeny at approximately $12,500.

The facades also have stone banding above the basement windows and above the first and forth floors, as well as stone quoin detailing at the corners. Some of the stone surfaces in the banding and at the ground level have slight spalling. The current cost, at the date of the Report, to seal and stabilize the surfaces is estimated by Kemeny at approximately $1,500.

A-19.5. Lot Line Windows and Ventilation. Units 200 (one window), 400 (three windows), and 500 (six (6) windows) have lot line windows located on the south façade of 100 Vandam Street. In the future, a new building could be built on the adjacent lot, blocking all of the windows on the south facade. This could necessitate the removal of the lot line windows and blocking them up. It is estimated by Kemeny that it would currently cost, at the date of the Report, approximately $2,000 to remove each window, fill in the opening, and patch surfaces. If a new building were to be built on the adjacent property, it is possible that all of the windows in Office Units 400 and 500 would be blocked up, making those Units reliant on mechanical ventilation. Office Unit 200 has a supplemental, through-window air-conditioner in its single lot line window, which would need to be removed in the event of new construction on the adjacent lot. The Office Unit 200 window is not required for light and air.

The lot line windows are not fire rated, not having wire glass as is currently required by code. Should it be necessary to replace the existing windows with fire rated units, the current cost, at the date of the Report, is estimated by Kemeny at approximately $2,000 per window. Each Owner of an affected Unit would be responsible, at its sole Cost and Expense, to replace its existing windows with required fire rated windows if a violation with respect thereto is issued or noted.

If a new building were to be built on the adjacent property, it is possible that all of the windows in Office Units 400 and 500 would be blocked up, making those Units reliant on mechanical ventilation, as discussed in the Window Section of the Report as a Special Risk. In such event, the respective Owners of Office Units 400 and 500 shall have the right to extend ventilation, plumbing, and electric lines through those portions of the 4th and 5th floor common areas that are Reasonably Approved by the Board and (in the case of such extension by Office Unit 400), the Owner of Office Unit 500, up to the roof, and to install rooftop equipment as required to satisfy ventilation requirements, excluding the area of the main Roof reserved for installation of the Roof Terrace Unit. The cost of adding ventilation to these Units, at the date of the Report, is estimated by Kemeny at approximately $7,000 per Unit, and would be borne entirely by the respective Owners of these Units.

The removal of an affected lot line window, the closure and sealing of the opening upon such removal, and the covering of the interior side thereof with only the Building standard wall finishing shall be performed by the Condominium Board as a Common Expense and charged to all Unit Owners Pro Rata to their respective Common Interests. The Condominium Board shall not be required to match the finishing on the walls immediately adjacent to the affected lot line window or any finishing that might have been installed by the Owner of the affected Unit, which may be undertaken by said Unit Owner, at its sole Cost and Expense, if desired. Sponsor is not aware of any planned building construction or alteration that would affect the lot line windows, but cannot, and does not, represent, assure or guarantee the continued existence of any lot line windows. See Section R, subsection R-5.5 below for discussion.

A-19.6. Open Applications. As of January 6, 2009, approximately 28 open applications and amendments were listed in the Building Department summary that is appended to the Report. Some of the applications are for work done in individual Units, others are for common area work. The Sponsor states that it will not be obligated to obtain sign-offs for the open applications. The projected cost (at the date of the Report) to have a filing consultant process the sign-offs at the Building Department, as estimated by Kemeny, is approximately $3,000, assuming the work is completed and the responsible parties are available to sign-off their work.

A-19.7. Elevator. There is one elevator. On May 6, 2008 and again on December 2008, Otis Elevator Company advised that the elevator was in fair condition. In its opinion, the existing controller, although functional, is obsolete and will need to be replaced in the next five years. At that time, the motor would be converted from DC to AC power. The total current cost of this work, at the date of the Report, is estimated by Kemeny at approximately $50,000.

A-19.8. Non-Conforming Conditions. 100 Vandam Street is a typical example of older buildings throughout the City that do not completely conform to current New York City Building Code standards. Generally, these non-conforming conditions (such as insufficient bathroom clearances, or entry doors that are not as wide as currently required) are permitted non-conforming conditions if they were in place before the current, specific code requirements were enacted. Changes in law potentially may be made retroactive so as to require non-conforming conditions to be corrected and conform to then current code requirements.

A-19.9. Rooftop doors. Fire-proofing labels were not observed on the Roof doors. If doors with fire labels were to be installed on the Roof, the current cost, at the date of the Report, would be approximately $ 4,000, as estimated by Kemeny.

A-19.10. Roof Terrace Unit. The Roof currently is unimproved and does not contain the material that is to constitute the Roof Terrace Unit, namely: decking, pavers or other protective flooring, supporting pedestals and safety railings (which are required for using the area as a terrace). Under this Plan, in order to use the main Roof as a Roof Terrace Unit, the Purchaser of the Roof Terrace Unit shall be responsible, at such Purchaser's sole Cost and Expense, to install the Roof Terrace Unit. Kemeny projects the current cost, at the date of the Report, to install the Roof Terrace Unit (including: the labor and material of decking, supporting pedestals and safety railings; the fee of a filing consultant; the filing fee of the Department of Buildings ("**DOB**"); and the fee of an asbestos investigator and related costs to test for the presence of asbestos containing material) at approximately an estimated $110,000.

The installation of the Roof Terrace Unit by such Purchaser shall be subject to obtaining the prior written Reasonable Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of a new or amended Certificate of Occupancy changing the caretaker's apartment for use as an office and authorizing the Commercial Unit for permitted retail and office uses) Sponsor. The Board may condition its approval or consent on the Owner of the Sold Roof Terrace Unit entering into the Building's standard form alteration agreement, with such modifications as may be required by, and otherwise in substance satisfactory to, the Condominium Board (in its sole judgment), setting forth the terms and conditions of the installation (including the Board's work rules, insurance requirements, lien waiver, security deposit and an indemnity in favor of the Board, all Unit Owners and Related Parties from and against all

Claims and Liabilities and Expenses arising out of such work). The foregoing requirements are applicable only to a Purchaser or other Owner of the Sold Roof Terrace Unit, but shall not apply to Sponsor while it owns the Roof Terrace Unit. Sponsor reserves the right, Freely and Without Consent, Payment or Restriction, to install the Roof Terrace Unit, i.e., without the approval or consent of the Condominium Board or other Unit Owners, without entering into an alteration agreement with the Board and without compliance with any requirements or restrictions, other than the requirement to comply with the applicable Work Requirements contained in Section 15.2 of the Declaration. See Section C, subsection C-2, Section K, subsection K-27, and Section O, subsection O-2.8 below.

A-19.11. Office Unit 500 Skylights. The area of the Roof to be occupied the Roof Terrace Unit contains skylights, which are part of the Roof Terrace Unit and provide light to Office Unit 500 under a revocable license. The Roof Terrace Unit Owner shall have the right at any time, at its sole Cost and Expense, to remove, seal and deck over the skylights with roofing material, thereby diminishing the interior light level of Unit 500. The legal use of any room in Unit 500, however, would not be affected. In such event, the Roof Terrace Unit Owner shall be obligated, at its sole Cost and Expense, to patch, laminate and finish only the affected area of the Unit 500 ceiling with gypsum board painted to match the adjacent ceiling area as close as reasonably practical and economical. Before undertaking such Work, the Sold Roof Terrace Unit Owner shall be required to enter into said Building's standard form alteration agreement, with such modifications as may be required by, and otherwise is substance satisfactory to the Condominium Board (in its sole judgment). This requirement shall not apply to Sponsor while it owns the Roof Terrace Unit. Sponsor shall have the right, Freely and Without Consent, Payment or Restriction (other than the requirement to comply with said applicable Work Requirements contained in Section 15.2 of the Declaration) to remove, seal, and deck over the skylights, and to patch, laminate and finish the affected ceiling of Office Unit 500.

The current cost, at the date of the Report, to remove, seal and deck over the skylights, and to patch, laminate and finish the affected ceiling area is estimated by Kemeny at approximately $25,000, including the fee of a filing consultant and the filing fee of the DOB. See subsection A-2.6 above for: (a) the revocable license in favor of Office Unit 500 for the existence of said skylights until revoked by the Roof Terrace Unit Owner upon the removal of the skylights; (b) the obligation of Office Unit 500 Owner, at its sole Cost and Expense, to Maintain and Repair said skylights; and (c) the easement in favor of the Office Unit 500 Owner and its Agents, Employees and Contractors for reasonable access to, from, over, across and on the Roof Terrace Unit to inspect, Maintain, Repair, Alter and otherwise Operate said skylights, subject to compliance with the "Access Requirements", as defined and explained in subsection A-2.6.2 above.

A-19.12. Office Unit 400 and 500 Rooftop Air-Conditioning Equipment. Certain rooftop air-conditioning Equipment and related Installations serving, and part of, each of Office Units 400 and 500 are located on the area of the Roof reserved for installation of the Roof Terrace Unit. The existence of said air-conditioning Equipment and related Installations in their current locations will be permitted under a revocable license from the Roof Terrace Unit Owner. The Roof Terrace Unit Owner shall have the right, from time to time, Freely and Without Consent, Payment or Restriction, except as herein expressly provided, at its sole Cost and Expense, to remove and relocate said air-conditioning Equipment and related Installations to a different area of the Roof Terrace Unit or (at

its exclusive option) to a common area of the Roof chosen by said Owner, and in connection therewith, to remove the existing dunnage supporting such Equipment and install new supporting dunnage in and on such new location. In addition, the Roof Terrace Unit Owner shall have the right to re-route within the affected Unit and behind its boundary walls, floors and ceilings the electric, refrigerant and plumbing lines that connect the rooftop air-conditioning equipment (i.e., compressors) to the Unit's air handlers. In the event the Roof Terrace Unit Owner exercises such right, it will be obligated to patch, repair and finish the affected areas of the Unit so as to match the areas adjacent thereto to as near as reasonable and economically practical. The current cost, at the date of the Report, to relocate the air-conditioning Equipment is estimated by Kemeny at approximately $2,000 per compressor. Kemeny projects the affected air-conditioning Equipment will be out of service for a period of approximately one week per compressor. The Owner of the Roof Terrace Unit will give the affected Owner of Office Unit 400 or 500 (as applicable) reasonable advance notice before commencing such removal work and is to endeavor in good faith to minimize to the extent reasonable and economically practical any inconvenience caused by such work and interruption in air-conditioning service. See subsection A-2.6 above for: (a) the revocable license in favor of each of Office Units 400 and 500 for the existence of said air-conditioning Equipment and related Installations until revoked by the Roof Terrace Unit Owner upon their relocation as aforesaid; and (b) the rights of the respective Owners of Office Units 400 and 500 and their respective Agents, Employees and Contractors for reasonable access to, from, over, across and on the Roof Terrace Unit to inspect, Maintain, Repair, Alter and otherwise Operate said air-conditioning Equipment and related Installations, subject to compliance with "Access Requirements", as defined explained in subsection A-2.6.2 above.

A-19.13. Unused Development Rights. The Report disclosed the Unused Development Rights will be owned exclusively by Sponsor, and the potential impact on the Building and Units if the Unused Development Rights of the Property, or of another property, are transferred to an adjacent property (see subsection A-1 above for details).

A-20. Insurance.

A-20.1. Insurance to be Maintained By Condominium Board. The insurance to be maintained by the Condominium Board will include the cost to replace the Common Elements, including the Building Walls, Unit boundary walls and Base Floors of the Building, following a fire or other casualty based on an "agreed amount replacement cost endorsement". Under this endorsement, the insurance carrier agrees to reimburse the Condominium Association for losses up to the full amount of the policy limit, regardless of the actual cost of replacement. The effect of the endorsement is to waive any claim the insurer might otherwise have for co-insurance whereby the Condominium Association would bear a portion of the cost of replacement. The endorsement, however, does not mean that the Condominium Board would necessarily receive sufficient proceeds to actually fully rebuild or restore the Building in the event of its total or substantial destruction. The Condominium Board will be responsible to periodically review the amount of casualty insurance for the Building's Common Elements to insure that the amount of coverage is sufficient. See Section B, subsection B-5.8.3 below and the Insurance note in SCHEDULE B in Section E below for discussion.

A-20.2. Insurance to be Maintained By Unit Owners. The Condominium Association's insurance will not cover losses to the furniture, furnishings, equipment, personal belongings, trade or business fixtures, cabinets, appliances or other improvements or contents of, or within, a Unit, including wall and floor coverings, window treatments and other Decorations. Each Unit Owner will be responsible to obtain and pay for insurance covering these items, if desired. In addition, the liability insurance to be maintained by the Condominium Board will cover claims for personal injury and property damage arising from occurrences on the Common Elements, but not within the Units. Unit Owners own an undivided interest in the Common Elements and may be jointly and severally liable for occurrences in, on or caused by the Common Elements to the extent the liability insurance maintained by the Condominium Board is inadequate or does not cover the risk. Each Unit Owner will be responsible to obtain and pay for liability insurance to protect against claims for said occurrences with respect to the Common Elements, if available and desired. See Section B, subsection B-5.8.3 below for discussion.

A-21. Square Footage in SCHEDULE A and Floor Plans Exceed Usable Floor Area. In accordance with customary practice in New York City, the approximate overall floor area of each Unit shown on SCHEDULE D (in Section E below) or the Unit's Floor Plan (in DOCUMENT 5 of Part II) includes the width of all Building Walls and all other boundary walls enclosing the Unit, and thus will substantially exceed the Unit's useable floor area. As a result, the actual usable floor area will be substantially less than the square footage shown on SCHEDULE A and the Unit's Floor Plan. See footnote (2) to said SCHEDULE A.

A-22. Amendments to Condominium Documents. Sponsor shall have the right to amend the Condominium Documents without the approval or consent of the Condominium Board or Unit Owners for the purpose (among other things) of reflecting Unit Changes made to Unsold Units or conforming the Condominium Documents to objections from an Institutional Lender, a Governmental Authority or a title insurer, but no Amendment may change a Unit's Common Interest without the consent of the Unit's Owner. In addition, no Amendment to the Condominium Documents may be made that would with reasonable likelihood unreasonably interfere with the Disposition of an Unsold Unit, or adversely affect Sponsor's Rights, or impose fees or charges (whether or not discriminatory) on Sponsor or a Purchaser, tenant or occupant of an Unsold Unit, or change the permitted use or occupancy, or Common Interest, or value of an Unsold Unit without obtaining the prior written Discretionary Approval or Consent of Sponsor in each instance. See Section O, subsection O-1.12 below for full discussion.

A-23. Sponsor's Right to Grant Easements, Licenses and Leases. For so long as Sponsor owns an Unsold Unit, Sponsor shall have the right to grant easements, licenses and leases to the Property for: (a) the proper Operation and Maintenance of the Building; (b) the general health, safety, security, protection or welfare of Unit Owners; (c) compliance with applicable Laws, including governmental requirements; or (d) the erection, Maintenance and Operation of Communications Equipment and Other Installations. See Section O, subsection below O-1.13 below for full discussion.

A-24. Board Right of First Refusal on Sale or Lease of Sold Unit. The sale or lease of a Sold Office or Commercial Unit is subject to the right of the Condominium Board, or its nominee or designee, to purchase or lease such Sold Unit on the same terms offered by a bona fide purchaser or

tenant ("**Right of First Refusal**" or "**Match Offer Right**"). Certain sales and leasing are exempt from the Board's Right of First Refusal (e.g., a sale or lease to an Entity which owns more than fifty percent (50%) of the legal and beneficial interest of the Sold Unit Owner or to an Entity in which such Owner owns more than fifty percent (50%) of the legal and beneficial interest). The Board does not have the right to approve or disapprove of the purchaser or the sales price, or the tenant or the rent (or other lease terms), but may purchase or lease a Sold Unit pursuant to its Right of First Refusal if approved in writing by a majority in Common Interest of all Unit Owners or by vote of a majority in Common Interest of those Unit Owners attending a meeting of Unit Owners at which a quorum is present. A lease of a Sold Unit cannot be assigned or the Unit sublet without obtaining the prior written Discretionary Approval or Consent of the Condominium Board in each instance. The Condominium Board, its Managing Agent and/or attorneys may also collect reasonable fees and expenses in connection with processing a sale or lease that is subject to the Board's Right of First Refusal.

The Board's Right of First Refusal and the other restrictions, requirements and payments do not apply to Unsold Office or Commercial Units, each of which may be sold, transferred and leased Freely and Without Consent, Payment or Restriction (other than the restriction against using a Unit for applicable Prohibited Uses). See Section B, subsection B-5.5.3 and Section R, subsection "R-1. Sale or Lease of Units by Unit Owners" below for full discussion of these provisions.

A-25. **Business Judgment Rule**. The decisions and transactions of the Condominium Board shall have the equivalent status of the decisions and transactions of a cooperative housing corporation as to which the so-called "business judgment rule" articulated in Levandusky v. One Fifth Ave Corp. (75 NY2d 530 [1990]) shall apply, except said "business judgment rule" shall not apply to any decisions or transactions affecting, directly or indirectly, the Sponsor or other Owner of an Unsold Office or Commercial Unit, the Sponsor's Rights or an Unsold Office or Commercial Unit. Instead, the decisions and transactions of the Condominium Board that affect, directly or indirectly, the Sponsor or other Owner of an Unsold Unit, the Sponsor's Rights or an Unsold Unit shall be subject to scrutiny and determined solely on the merits by a court, arbitration panel or other forum having jurisdiction, without any deference, weight or favorable assumption being given to the Condominium Board.

A-26. **Offensive Office Uses**. No Unit shall be used or occupied in violation of the "Offensive Office Uses" applicable to such Unit (as defined and outlined in Section B, subsection B-5.5.2 below). These include, among many others: the sale or display for sale of material determined by the Board to be pornographic or obscene; a gambling or gaming establishment (such as Off-Track Betting); or a pawn shop. The Offensive Office Uses applicable to only an Office or Roof Terrace Unit include: preparation, manufacturing or mixing of anything that emits odors or noises which are or may be objectionable or offensive to the Owners, tenants or occupants of other Units; a tanning, health, exercise or spa, a gymnasium or other athletic, sports or recreational facility, and on and an auditorium or any other place of public assembly, such as a bingo parlor (see said subsection B-5.5.2 below for complete list).

A-27. **Real Estate Tax Projection**. For purposes only of presenting the projected real estate taxes in SCHEDULE A (in Section E below), the Property's projected assessed valuation estimated to be allocated to all Office and Commercial Units has been apportioned to each Unit Pro Rata to its

Common Interest. Sponsor's real estate tax counsel, Lawrence J. Berger, P.C. ("**Berger**"), advised that the methodology used by the taxing authority to apportion the assessed valuation of the Property to each Unit is uncertain. The taxing authority, for example, may use Common Interest, or the initial offering prices of Units in SCHEDULE A or the actual Purchase Prices of Units (which will likely vary from their initial offering prices and are a truer indicator of value, but not necessarily used by the taxing authority), or a Unit's square footage, location, overall size, income potential or other extrinsic factors of value, or some combination of the foregoing. Accordingly, the actual apportionment of the Property's assessed valuation to each Unit will likely vary, perhaps substantially, from the projections used in estimating the real estate taxes of Units in SCHEDULE A. Prospective Purchasers also should be aware that improvements a Purchaser makes to its Unit may increase its assessed valuation, resulting in higher real estate taxes.

While Berger has had considerable experience in real estate tax assessments, Sponsor, Selling Agent and Berger do not assure, represent or guarantee: (a) the accuracy of the real estate tax projections; or (b) the actual assessed valuation of the Property upon conversion of the Property to condominium ownership; or (c) the actual apportionment of the Property's assessed valuation to each Unit; or (d) the actual tax rate, taxable assessed valuation or real estate taxes applicable to a Unit. See footnote (6) to said SCHEDULE A for details of Berger's projections, and Section S, subsection S-6 below, for the full text of Berger's opinion and the assumptions and estimates upon which it is predicated.

A-28. Limited Period to Send Notice of Claim. Sponsor's agreement to indemnify the Condominium Board and Unit Owners from and against suits or proceedings arising out of Sponsor's acts or omissions is conditional upon any Independent Board Member (on behalf of the Board) or an affected Unit Owner (as applicable) promptly notifying Sponsor in writing of any claim, suit or proceeding for which indemnity is sought, but in no event shall Sponsor receive such notice, together with any complaint or petition (as applicable) as to which Sponsor is not directly served with process therein, later than five (5) full business days before an answer is required to be served or filed in such suit or proceeding. Such five (5) business day period is a "TIME OF ESSENCE" or deadline period.

A-29. Floor Designations. The floor designations used in this Plan and the Condominium Documents follow their respective designations on the elevator. The corresponding construction level of each floor is as follows:

Plan Designation	Construction Level
Cellar	Cellar
Lobby or Ground	1
1	2
2	3
3	4
4	5
5	6
Roof	Roof

See Section C, subsection C-1.2 below.

A-30. Construction Easements, Hours, Disruptions and Inconveniences.

Easements: In order to permit Sponsor to complete construction necessary for the issuance of said permanent new or amended Certificate of Occupancy authorizing the Commercial Unit for permitted retail and office uses and to change the caretaker's apartment on a portion of Office Unit 500, and perform other work undertaken under the Plan or a Purchase and Sale Agreement, Sponsor and Sponsor's contractors, subcontractors, construction workers and representatives shall have the following rights and easements, among others, with respect to the Common Elements after the First Unit Closing: (a) a right and easement of access to, and use of, the Common Elements (including preferential and priority use of the elevator); (b) a right and easement to transport on, across and through the Common Elements, and to temporarily store construction equipment, materials, supplies and debris on portions of the Common Elements considered appropriate by Sponsor or Sponsor's contractors; and (c) the right to temporarily interrupt Building services (including water, heating, cooling, electric, gas, ventilation, plumbing and other Building Systems). Sponsor will endeavor to minimize inconveniencing residents of the Building.

Hours: Sponsor's contractors, subcontractors and construction workers shall have the right to perform Work on Mondays to and including Fridays, from 8:00 a.m. to 5:00 p.m., except that especially noisy Work will not begin before 8:30 a.m., and on Saturdays from 9:00 a.m. to 5:00 p.m., provided, however, Work may be performed at any time and on any day in the case of an emergency or to correct a condition that threatens the life, health, safety or security of Building occupants or to protect property or to provide a required Building service.

Disruptions: The electrical, plumbing, elevator and other HVAC/Mechanical/Utility/Building Systems may be temporarily disrupted from time to time as work is performed or Systems are balanced and adjusted.

Inconveniences: During the course of completing the construction and other work undertaken by Sponsor, Unit Owners in occupancy may experience construction noise, dust, debris, temporary interruptions in service and other inconveniences from time to time. In addition, portions of the Common Elements, including the lobby and elevator cab may be covered with padding or other protections for this interim period.

Commercial Unit: At such time as the Commercial Unit is leased, additional disruptions and inconveniences may be experienced in connection with the alteration and outfitting of the Commercial Unit to meet a tenant's requirements.

See Section O, subsection O-1.6.2 below.

A-31. Common Expenses. The Condominium Association's expenses generally shall be allocated, apportioned and assessed to all Units Pro Rata to their respective Common Interests, other than electricity, which is separately metered for all Office Units, but not the Commercial Unit. Until the Commercial Unit is separately metered or submetered for electricity, the estimated cost of electricity provided to the Commercial Unit shall be specially allocated and assessed to the Commercial Unit based on an electrical consumption survey prepared by a qualified licensed consulting or electrical engineer chosen by the Condominium Board and the applicable utility rates paid by the Board, including sales tax, in accordance with the "Special Allocation and

Apportionment Rule" (as defined in Section B, subsection B-5-3.3 below) and Real Property Law ("**RPL**") §339-m. For the first year of Condominium operation, the projection of electricity consumption by the Commercial Unit prepared by Mottola Rini Engineers P.C. (see SCHEDULE B-1 in Section E below) shall be followed. The Commercial Unit Owner shall have the right, at any time, at its sole Cost and Expense, to separately meter or submeter the consumption of electricity by the Commercial Unit. If submetered, the Board will bill the Commercial Unit for the cost of electricity consumed by the Commercial Unit as measured by said submeter and the applicable utility rates and sales tax paid by the Board. In addition, the First Year's Budget assumes that the use of the Commercial Unit will not increase the projected insurance premiums for the Property. If the actual use of the Commercial Unit increases the cost of insurance for the Property, the Condominium Board shall specially allocate and assess the amount of such increase to the Commercial Unit in accordance with the Special Allocation and Apportionment Rule. See Section B, subsection B-5.3.3 below.

A-32. **Arbitration**. Apart from certain matters expressly stated may not be submitted to arbitration, any other matter required or permitted by the Condominium Documents to be determined by arbitration will be submitted to three (3) arbitrators (in the case of claims aggregating in excess of $100,000) or a single arbitrator (in all other cases) in New York City in accordance with the then existing commercial arbitration rules of the American Arbitration Association (or any successor organization). The decision of a majority of the arbitrators or the arbitrator (as applicable) will be binding on the disputants and may be entered into any court having jurisdiction.

See Section R, subsection R-9 below.

A-33. **Conversion with Fewer than 15% of Units**. Sponsor may declare this Plan effective based on contracts with bona fide Purchasers for not less than 15% of the Units (see Section L, subsection L-3 below). If this Plan is declared effective with such 15% minimum in number of Units under contract, it is possible for Sponsor to convert the Property to condominium ownership and close title with Purchasers even though fewer than said 15% minimum number of sales are consummated should Purchasers counted toward effectiveness ultimately fail to purchase a Unit.

END OF SECTION A

This Page Intentionally Left Blank

SECTION B. INTRODUCTION

B-1. **Purpose of Plan.** The purpose of this Plan is to set forth all the material terms of this offer. This Plan consists of this Part I and the Documents in Part II. The Plan may be amended by Sponsor from time to time when an Amendment is filed with the New York State Department of Law ("**Department of Law**" or "**Attorney General**"). Amendments to this Plan will be served on all "offerees" as defined in Part 20 of Title 13 NYCRR ("**Part 20**"), Section 20.1, which includes Purchasers and (after the First Unit Closing) Unit Owners. Sponsor reserves the right to file Amendments that will substantially change the terms of this Plan and may adversely affect rights of Purchasers to the extent not prohibited by Part 20 (see Section AA, subsection AA-4 for discussion, including the right of Purchasers to rescind the Purchase and Sale Agreement following material adverse Amendments). A prospective Purchaser may be required to deposit one hundred fifty dollars ($150) to obtain the Plan and any Amendments. The deposit will be held by Sponsor and credited to the Unit's Purchase Price or will be refunded if the Plan and any Amendments are returned within thirty (30) days in reasonably good, reusable condition.

B-2. **New York Condominium Act.** The condominium will be subject to and will comply with Article 9-B of the Real Property Law of the State of New York ("**New York Condominium Act**" or "**Condominium Act**"). The condominium will be established by Sponsor duly signing, recording and filing in the Register's Office of the City, County and State of New York, a Declaration of Condominium against the Property (which will be substantially in the form and content contained as DOCUMENT 6 in Part II) and the Exhibits thereto, including the By-Laws and the Rules and Regulations appended thereto (which will be substantially in the form and content contained as DOCUMENT 7 in Part II), and the Floor Plans of the Units and the Building (all of the foregoing are collectively, "**Condominium Documents**").

The "**Property**" consists of the building known as 100 Vandam Street (a/k/a 96-100 Vandam Street and 527-531 Greenwich Street), New York, NY ("**Building**") and the parcel of land thereunder, which is more particularly identified in EXHIBIT A to the Declaration, together with the air space thereover occupied by the Building (collectively, "**Land**"). The term Building includes the existing improvements located on and under said parcel of Land. The term "**Condominium**" under this Plan means the Property submitted to the provisions of the Condominium Act and is to be known as 100 Vandam.

B-3. **Sponsor**. The Sponsor of this Plan is 100 Vandam LLC, having an address at c/o Beck Street Capital LLC, 100 Vandam Street, 4th Floor, New York, NY 10013. Sponsor acquired legal title to the Property by deed dated October 31, 2006.

B-4. **The Units**. The Building contains five (5) Office Units located on portions of floors 1 through 5 (no Office Unit is located on the ground floor), and is to contain one (1) Commercial Unit located mostly on the cellar level with a separate primary street entrance from Greenwich Street and a secondary street entrance from Vandam Street, and one (1) Roof Terrace Unit to be installed on a specified portion of the main Roof reserved for such purpose (see SPECIAL RISKS Section A, subsection A-2.1 and A-19.11 above). Sponsor is offering the Office, Commercial and Roof Terrace Units for sale under this Plan (see SCHEDULE A in Section D below for offering prices and related information). SPECIAL RISK: Each Unit is being offered subject to the then existing lease or leases of the space comprising such Unit (see Section A, subsection A-10, and Section I,

subsection I-2 below for schedule of existing office leases and Sponsor's rights to modify, amend and terminate or cancel existing leases and to lease vacant office space).

Sponsor reserves the right, Freely and Without Consent, Payment or Restriction (other restrictions expressly stated below): (a) to limit a Purchaser from buying more than one Office Unit; (b) to determine the order in which Office Units are sold; (c) to temporarily withdraw a Unit from sale without prior notice while preparing and processing a price increase Amendment; (d) to withhold a Unit for future sale, but Sponsor will amend the Plan to identify the affected Unit being so withheld; and (e) to reject any purchase offer without cause or explanation, except no purchase offer will be rejected based on grounds prohibited by civil rights Laws (see Section AA, subsection AA-3 below).

B-5. Basic Aspects of Condominium Ownership. The basic aspects of condominium ownership are as follows:

B-5.1. Ownership and Possession. The space owned separately and exclusively in a condominium is called a "**Unit**". At closing of title, the Purchaser will be the legal (or "fee title") owner of its Unit like a separate parcel of real property. At the closing under the Purchase and Sale Agreement, the Purchaser will own its Unit outright and will be entitled to exclusive possession of that Unit together with an interest in and right to use the Common Elements in common with other Unit Owners, subject to certain easements and rights in favor of Sponsor and others, as explained below. The Commercial Unit will also be subject to an easement in favor of the Condominium Board for reasonable access to the Building meter and equipment rooms on the cellar level. All references in this Plan and the Condominium Documents to the rights and easements in favor of Sponsor, or similar words, mean the rights and easements of the respective Owners of the Unsold Units, from time to time, including Sponsor while Sponsor owns any one or more Unsold Units.

Each Office and Commercial Unit includes the following individually-owned items (if and to the extent existing):

(a) all entrance and interior doors (including their frames, hinges, levers, pulls, knobs, locks and saddles; and the two street entrances to the Commercial Unit (including the steps leading to the Commercial Unit), which are part of such Unit;

(b) all interior partitions;

(c) all windows (including frames, muntins, panes, glass, latches and mechanisms), and interior sills;

(d) all window blinds, shades and treatments;

(e) all kitchen and bathroom appliances and fixtures;

(f) all plumbing, lighting, trade and business fixtures;

(g) all cabinets and countertops;

(h) all finishes and coverings on the interior side of the Unit's boundary walls (e.g., plaster, paint, tiles, fabric, wood paneling, baseboards and moldings), Base Floors (e.g., wood flooring, tiles and carpeting) and Base Ceilings (e.g., plaster and paint), and any dropped ceilings (including soffits, coves, shelves or the like); and

(i) all individual plumbing, electric, gas, heating, ventilating, air-conditioning, hot water, telephone, television, intercom, lighting, sprinkler and other individual mechanical Systems (e.g., individual radiators, air-conditioning units and related Installations) and the portions of any Building-wide Systems that serve exclusively the Unit, whether exposed to view or concealed behind walls or partitions (including: pipes; electrical wiring, outlets, switches, circuit breakers, meters and submeters; sprinkler heads; jacks; and ventilation fans).

The skylights of Office Unit 500 are part of the Roof Terrace Unit and their existence is subject to a revocable license from the Roof Terrace Unit Owner (see SPECIAL RISKS Section A, subsection A-2.6.2 above for right of Roof Terrace Unit Owner, at any time, to revoke such license and remove, seal and deck over said skylights).

See Section 6.8 of the Declaration (DOCUMENT 6 in Part II) for a complete list of all individually-owned items included in a Unit.

A Unit does not include the following, which are part of the Common Elements: (a) the Building's façade and exterior walls (collectively, "**Building Walls**") and Roof enclosing the Units and the Common Elements; (b) the Party Walls separating a Unit from a portion of the Common Elements; (c) the Building's Base Floors (below a Unit's wood, tile or other flooring) and Base Ceilings (above the Unit's dropped ceilings (if any), plaster, paint or other finish); and (d) any chase walls, ducts, shafts, conduits, risers and the like serving two (2) or more Units or the Common Elements, regardless of their location within or bordering a Unit.

B-5.2. Common Elements. The space owned in common by all Unit Owners is called the "**Common Elements**". The Common Elements include the Structural Components of the Building, all Building Equipment, Facilities, Systems and other Installations not expressly stated to be part of a Unit and all other parts of the Property necessary or convenient to its existence, maintenance, safety, security, protection or normally in common use. All Common Elements are subject to certain easements and rights in favor of Sponsor, the Upper Owner and others.

B-5.2.1. Items of Common Elements. The Common Elements are to be Maintained and Repaired by the Condominium Board as part of the Common Expenses (see subsection B-5.3 below) and include the following:

(a) Land: the Common Elements include the parcel comprising the Land and the air space thereover occupied by the Common Elements, but exclude the air space thereover occupied by Units, which are part of each Unit, and exclude further all unused floor area or unimproved air space comprising the Unused Development Rights of the Property, which are owned exclusively by Sponsor (see SPECIAL RISKS Section A, subsection A-1 above);

(b) All Structural Components: the Common Elements include all Structural Components of the Building, including the following (if and to the extent existing): (b-1) foundation walls and structural columns; (b-2) all Base Floors, Base Ceilings, Building Walls, Roofs and Roof Structures, including the main Roof and the bulkheads enclosing the public stair and elevator equipment, but excluding the Roof Terrace Unit to be installed on the main Roof by, and at the sole Cost and Expense of, the Purchaser of such Unit; and

(c) On the Cellar Level: the Common Elements include: (c-1) the license or right to use the two (2) Vaults and the equipment housed therein that serve or benefit two (2) or more Units; (c-2) the mechanical room; (c-3) the electrical room; (c-4) the boiler room; (c-5) the storage room; (c-6) the telephone closet; (c-7) public stairs 1 and 2; (c-8) the elevator shaft and pit; and (c-9) the obsolete flue (i.e., the smoke stack);

(d) On the Ground Floor: the Common Elements include: (d-1) the Vandam Street public entrance, vestibule and lobby (the "**100 Vandam Street Public Areas**"); (d-2) the passenger elevator shaft; (d-3) public stairs 1 and 2; and (d-4) the obsolete flue;

(e) On Floors 1 through 5: the Common Elements include: (e-1) the passenger elevator shaft; (e-2) public stairs 1 and 2; and (e-3) the obsolete flue;

(f) On the Main Roof: the Common Elements include: (f-1) the main Roof (but exclude the Roof Terrace Unit, when installed thereon, and exclude further the skylights of Unit 500, which are part of the Roof Terrace Unit and provide light to Office Unit 500 under a revocable license from the Roof Terrace Unit Owner) and its Roof Structures; (f-2) the elevator mechanical room and its bulkhead, but exclude each air-conditioning condenser unit serving exclusively an Office Unit, which is part of such Unit; (f-3) the public stair 2 and its bulkhead; and (f-4) the obsolete flue; and

(g) Equipment, Facilities, Installations and Systems: the Common Elements include, generally, the elevator and HVAC/Mechanical/Utility Building Systems, and the portions of all Building-wide Equipment, Installations and Systems serving exclusively or primarily the Common Elements or two (2) or more Units, regardless of their location within or bordering a Unit or elsewhere in, on, under or adjacent the Building, but exclude those portions of these items that serve exclusively one (1) Unit (which are part of such Unit).

See Section 7.2 of the Declaration (DOCUMENT 6 in Part II of the Plan) for a list of the Common Elements. The portions of said Building-wide Equipment, Facilities, Installations and Systems that serve exclusively one Unit are part of such Unit (e.g., sprinkler heads, distribution or branch lines, pipes, conduits, ducts and the like).

B-5.2.2. Association's Properties. The Condominium will consist of an unincorporated association of the Unit Owners (**"Condominium Association"** or **"Association"),** which will be governed by a board of managers (**"Condominium Board"** or **"Board"**) elected by the Unit Owners (see subsection B-5.6 below). The Condominium Board, on behalf of the Association, may purchase or lease Units, directly or in the name of its nominee or designee, assess and collect Common Charges, receive payments for the Association's Working Capital Fund, and potentially earn interest or income on investment of the monies held from time to time. These and all other

assets owned, leased, licensed, operated or otherwise held by the Condominium Board, directly or in the name of its nominee or designee, on behalf of the Condominium Association, whether real or personal property, chattel real, intangibles or otherwise, are collectively called the **"Association's Properties"**. Unless otherwise expressly indicated, the references in this Plan (including the Declaration and By-Laws in Part II of the Plan) to the rights, requirements and obligations with respect to any Disposition of the Common Elements shall apply to the Association's Properties.

B-5.2.3. Common Interest. Each Unit Owner owns a proportionate, undivided interest in the Common Elements (**"Common Interest"**), which cannot be separated from the Unit. See SCHEDULE A (in Section D) for the percentage of Common Interest of each Unit and the statutory method used to determine each Unit's Common Interest. The Common Interest of each Unit also constitutes a proportionate, undivided interest of each Unit Owner in the Association's Properties.

B-5.3. Common Charges.

B-5.3.1. Definitions. Each Unit Owner shall be charged monthly (or in such other periodic payments as the Board may determine), and shall be personally liable for, the Owner's proportionate share of the Condominium's expenses (the amounts charged are called **"Common Charges"**) in accordance with the New York Condominium Act, Real Property Law (**"RPL"**) Sections 339-i and 339-m (see Section R, subsection R-3.3 below). Each Unit Owner also shall be charged, and shall be personally liable for, amounts assessed by the Condominium Board for certain Condominium expenses and individual delinquencies (these amounts are called **"Additional Common Charges"**). The Additional Common Charges are payable in addition to the monthly Common Charges and consist of assessments (**"Special Assessments"**) payable in one or more installments at such time or times as the Condominium Board shall determine to pay certain Common Expenses. The Additional Common Charges also include: the amounts levied against a particular Unit Owner in connection with: (a) a default in paying the Common Charges, Special Assessments or other sums authorized under the Declaration or By Laws (including the Rules and Regulations); or (b) a default, breach or violation of any obligation, requirement or other provision of said Condominium Documents.

B-5.3.2. Condominium Lien. The Condominium Board will have a lien on the Unit for unpaid Common Charges and unpaid Additional Common Charges owed by the Owner of such Unit (see Section R, subsections R-3.4.1 and R-3.4.2 below).

B-5.3.3. Special Allocation and Apportionment Rule. The "Common Expenses" (defined in subsection B-5.3.4 below) generally are allocated, apportioned and assessed to all Units Pro Rata to their respective Common Interests. However, the amount of a projected Condominium Association expense item that is fairly and properly attributable to a Unit due to its "Usage" (defined below) shall be specially allocated, apportioned and assessed to such Unit in accordance with RPL Section 339-m, the Declaration and the By-Laws (herein called the **"Special Allocation and Apportionment Rule"**). The special use of a Unit or the special use of the Common Elements by a Unit is herein called **"Usage"**. For example, an increase in the Building's insurance premium due solely to a more hazardous use of a Unit, or an extraordinary consumption of utilities or extraordinary costs of services provided to a Unit, will be specially allocated and assessed to only such Unit.

All projected Common Expenses in the First Year's Budget (SCHEDULE B in Section E below) have been charged to all Units Pro Rata to their respective Common Interests, other than electricity, which is separately metered for all Office Units, but not the Commercial Unit. Until the Commercial Unit is separately metered or submetered for electricity, the estimated cost of electricity provided to the Commercial Unit shall be specially allocated and assessed to the Commercial Unit based on an electrical consumption survey prepared by a qualified licensed consulting or electrical engineer chosen by the Condominium Board and the applicable utility rates paid by the Board, including sales tax, in accordance with the Special Allocation and Apportionment Rule and RPL §339-m. For the first year of Condominium operation, the projection of electricity consumption by the Commercial Unit prepared by Mottola Rini Engineers P.C. (see SCHEDULE B-1 in Section E below) shall be followed. The Commercial Unit Owner shall have the right, at any time, at its sole Cost and Expense, to separately meter or submeter the consumption of electricity by the Commercial Unit. If submetered, the Board will bill the Commercial Unit for the cost of electricity consumed by the Commercial Unit as measured by said submeter and the applicable utility rates and sales tax paid by the Board. In addition, the First Year's Budget assumes that the use of the Commercial Unit will not increase the projected insurance premiums for the Property. If the actual use of the Commercial Unit increases the cost of insurance for the Property, the Condominium Board shall specially allocate and assess the amount of such increase to the Commercial Unit in accordance with the Special Allocation and Apportionment Rule. See SPECIAL RISKS Section A, subsection A-31 above.

The Roof Terrace Unit will pay its share of all Common Expenses Pro Rata to its Common Interest. Since the Roof Terrace Unit does not use any HVAC/Mechanical/Utility Building Systems or any other Building services, the Common Interest of the Roof Terrace Unit reflects its lack of Usage of the Common Elements in accordance with Section 339-i(1)(iv) of the Condominium Act.

B-5.3.4. Common Expenses. The following Condominium expenses are herein collectively called the "**Common Expenses**": (a) the expenses to Maintain, Repair, Alter, lease, license, sell, mortgage, manage and otherwise Operate and make Dispositions of the Common Elements or the Association's Properties; (b) the expenses to provide services to the Unit Owners; and (c) generally, the expenses to conduct affairs affecting or benefiting the entire Property or the Unit Owners.

For a further discussion and details of the Common Expenses, see Section E and the First Year's Budget (SCHEDULE B) contained therein, and Section R, subsection "R-3. Common Charges and Special Assessments" below.

B-5.4. Compliance with the Condominium Documents. Each Unit Owner is obligated to comply with the Declaration, the By-Laws and the Rules and Regulations, as they may be duly amended from time-to-time. These Condominium Documents, among other things, place reasonable restrictions on the use and occupancy of the Units and Common Elements in order to avoid one Unit Owner from unreasonably interfering with the occupancy of the Units and Common Elements in order to avoid one Unit Owner from unreasonably interfering with the rights or enjoyment of another Unit Owner or to prevent the Common Elements from being used improperly. If a Unit Owner violates any of these provisions, such Unit Owner may be enjoined by a court in a Lawsuit brought by the Condominium Board and will be liable for all Costs and Expenses incurred

by the Board in connection therewith and to collect such Costs and Expenses. See Section R, subsection "R-8. Remedies" below for discussion.

B-5.5. Restrictions on Use, Occupancy, Sale, Lease and Mortgaging.

B-5.5.1. Use. Each Sold Office Unit may be used only for standard office uses similar to other Manhattan office buildings in the vicinity of the Building and those uses permitted under existing leases for so long as they remain in effect, and for no other purpose (see Section R, subsection R-7 below for discussion). The Commercial Unit and the Roof Terrace Unit may be used or changed to be used for any lawful purpose, apart from certain Prohibited Uses and Offensive Office Uses (see SPECIAL RISKS Section A, subsection A-2.2 above and the following subsection B-5.5.2).

B-5.5.2. Restrictions on Use and Occupancy. No Unit may be used or occupied in a manner that is in violation of the Condominium's Declaration, By-Laws or the Rules and Regulations appended to the By-Laws (see Section R, subsection R-7 below for discussion) or applicable Laws (including zoning laws and resolutions and the Certificate of Occupancy of the Building, as it is to be amended or replaced with a new or amended Certificate of Occupancy to change the caretaker's apartment for use as an office and to authorize the Commercial Unit for the permitted retail and office uses contained in this Plan).

In addition, all or certain Units (as indicated) may not be used or occupied for any of the following uses ("**Prohibited Uses**"): (a) any use that impairs or threatens the structural integrity of the Building or the life, health, safety, security or protection of Owners, tenants or occupants of Units; (b) any use of a Sold Office Unit that is an unreasonable nuisance to other Unit Owners or an unreasonable interference with the peaceful possession or proper use of other Units or the Common Elements for their intended or permitted purposes as stated in this Plan and the Condominium Documents (this Prohibited Use does not apply to Unsold Office Units or the Commercial Unit); (c) any use that violates applicable Laws; or (d) any use that results in the cancellation or a notice of cancellation of insurance maintained by the Condominium Board.

Further, all or certain Units (as indicated) shall not be used or occupied for any of the following uses ("**Offensive Office Uses**"):

Offensive Office Uses Applicable to All Units:

(a) a so-called "discount house" or "flea market" or for "cut rate", "discount", "surplus", "odd lot" or "second hand" type of business;

(b) to sell or display for sale, or display of, or to permit or suffer the sale or display for sale, or display of, any material determined by the Board to be pornographic or obscene;

(c) a gambling or gaming establishment, such as an Off-Track Betting, sport gambling, casino gambling or similar establishment;

(d) a pawn shop or auction house or public auction of any kind;

(e) a billiard or pool hall or parlor;

(f) a video game or other amusement arcade or game room, or other business deriving income from coin-operated games, slot machines or pinball machines;

(g) a check cashing business;

(h) a commercial or non-profit establishment of any type or nature whatsoever: (h-1) the primary purpose of which is to sell, afford or permit on premises sexual stimulation or sexual liaisons; (h-2) that permits or presents obscene (in the judgment of the Board), nude or semi-nude performances or modeling; (h-3) that sells, affords or permits body massages, whether or not of a sexual nature; (h-4) that sells "rubber goods" or other sexual or erotic products of a type not commonly found in high quality, national chain pharmacies; or (h-5) that sells, rents or permits the viewing of "X" rated videos, photographs, books or other material;

(i) a facility for the sale of paraphernalia for use with illicit drugs or controlled substances;

(j) any foreign or domestic (local, state or federal) government or the United Nations or an embassy or consulate office, or any agency, department or bureau of any of the foregoing, or an office of any entity that is entitled to sovereign immunity;

(k) an office, clinic or other facility that provides or counsels on abortions, pregnancy termination or family planning services, or alcohol, narcotics, methadone or other substance abuse clinic or treatment facility, or any governmental or non-governmental office that distributes or dispenses pharmaceutical drugs;

(l) a military recruitment office;

(m) any use that would violate any legal requirement for the Building or that is illegal;

(n) a homeless shelter;

(o) an automobile or truck showroom or the sale of automobile or truck parts or accessories;

(p) a dating or escort service;

(q) a dry cleaning facility;

(r) a gypsy, fortune teller, palm reader or card reader;

(s) a laboratory;

(t) a ballroom, dance hall, discotheque, night club, social or other club, or banquet hall;

(u) a funeral parlor or chapel, or a facility for the sale or display of tombstones or monuments;

(v) a facility for live performances;

(w) a racquet facility, bowling alley, ping pong parlor, shooting or archery gallery, or roller or ice skating rink);

(x) a manufacturer of any kind of product;

(y) a church or other house of worship;

(z) a community or social services center;

(aa) an employment agency;

(bb) a telephone "bank" to solicit funds from the public;

(cc) a labor union;

(dd) a messenger service;

(ee) an office, store, reading room, headquarters, center or other facility devoted or opposed to the promotion, advancement, representation, purpose or benefit of: (ee-1) any political party, political movement or political candidate; (ee-2) any religion, religious group or religious denomination; (ee-3) any foreign government; or (ee-4) any union;

(ff) a pet shop;

(gg) a print shop, reproduction or blueprinting establishment;

(hh) a shoe repair facility;

(ii) spiritualist services;

(jj) a storage facility (other than ancillary to a permitted office use);

(kk) a teen center; or

(ll) any use that in the judgment of the Condominium Board shall in any way: (ll-1) impair, or tend to impair, interfere with or overload any of the Building services or the proper, efficient and economic performance, function, capacity or utility of the HVAC/Mechanical/Utility Building Systems or any portion thereof at any time serving the Common Elements or another Unit, or any Equipment and Installation then comprising the Common Elements or another Unit; (ll-2) impair, or tend to impair or interfere with, the use of any portion of the areas of the Common Elements or another Unit; or (ll-3) increase, or tend to increase, the Costs and Expenses of the Condominium Board to Maintain, Repair and otherwise Operate the Common Elements or the Building (any such increase shall be

specially allocated, apportioned and assessed to such Sold Office Unit in accordance with the Special Allocation and Apportionment Rule, but this shall not excuse a violation of this Offensive Office Use).

Offensive Office Uses Applicable to Only the Office Units and the Roof Terrace Unit:

(aa) the preparation, manufacture or mixing of anything that emits or might emit any odors or noises which are or may be objectionable or offensive to the Owners, tenants, occupants or visitors of other Units;

(bb) a tanning, health, exercise or spa, a gymnasium or other athletic, sports or recreational facility;

(cc) an auditorium or any other place of public assembly, such as a bingo parlor;

(dd) a beauty salon, barber shop, haircutting salon or nail salon; or

(ee) any tax-exempt or charitable, educational or other not-for-profit uses.

B-5.5.3. Restrictions on Sale or Lease of Sold Units.

B-5.5.3.1. Board Right of First Refusal. Each Unit Owner will have the right to sell its Unit at any price to any purchaser or to lease its Unit at any rent to any tenant. SPECIAL RISK: The sale or lease of a Sold Office, Commercial or Roof Terrace Unit, however, shall be subject to the right of the Condominium Board, or its nominee or designee, to purchase or lease the Sold Unit on the same terms offered by a bona fide purchaser or tenant (**"Right of First Refusal"** or **"Match Offer Right"**). Certain sales and leasing are exempt from the Board's Right of First Refusal (e.g., a sale or lease to an Entity which owns more than 50% of the legal and beneficial interest of the Sold Unit Owner or to an Entity in which such Owner owns more than 50% of the legal and beneficial interest). The Board may not purchase or lease a Sold Unit pursuant to its Right of First Refusal unless such purchase or lease (as applicable) is approved in writing by a majority in Common Interest of all Unit Owners or by vote of a majority in Common Interest of those Unit Owners attending a duly convened meeting of Unit Owners at which a quorum is present. The Board also does not have the right to approve or disapprove the terms of a lease. A lease of a Sold Unit, however, cannot be assigned or the Unit sublet without obtaining the prior written Discretionary Approval or Consent of the Condominium Board. See Section A, subsection A-24 above.

B-5.5.3.2. Other Restrictions, Requirements and Payments. The sale or lease of any Unit or any Sold Unit (as applicable) shall be subject to compliance with the following additional restrictions, requirements and payments:

(a) the sale or conveyance of a Unit must include the entire Unit and its appurtenant undivided interest in the Common Elements (this, however, will not prohibit a Unit Owner from subdividing its Unit in compliance with the terms and conditions contained in the Declaration);

(b) no sale or conveyance of a Sold Unit may be consummated unless all unpaid Common Charges and Additional Common Charges, if any, are satisfied and all other liens on the Unit, other than a Permitted Mortgage, are satisfied or bonded;

(c) at closing of title, the grantee (i.e., the new Unit Owner), at its sole Cost and Expense, must duly sign, acknowledge and record a Unit Owner's Power of Attorney in favor of the Condominium Board, Sponsor and the Upper Owner and certain other persons on the form contained in Part II of this Plan as DOCUMENT 2 or, if there is no longer any Unsold Unit, on the form then approved for use by the Condominium Board and the Upper Owner;

(d) the Unit Owner shall notify the Condominium Board or its managing agent (as directed) in writing, at least thirty (30) days (or such other period as the Board may require from time to time) prior to the conveyance or the commencement of the lease term or possession by the tenant (as applicable), of the following information with respect to the new Owner or tenant (as applicable): (d-1) the new Owner's or tenant's (as applicable) name and address for notices; (d-2) the nature of the business and proposed use by said new Owner or tenant (as applicable); (d-3) and the authorized occupants for building or elevator access passes or keys; and (d-4) such other information with respect to the new Owner or tenant (as applicable) as the Condominium Board may reasonably require to assure compliance with the use and occupancy restrictions contained in the Declaration and By-Laws and for security purposes;

(e) a Sold Unit Owner shall pay the reasonable fees and expenses incurred by the Condominium Board or its managing agent and/or attorney in connection with such sale or lease transaction as may be imposed from time to time by the Board;

(f) the Board may collect a security deposit from the existing Owner or tenant of a Sold Office Unit when moving out of the Building and from the new Owner or tenant of a Sold Office Unit when moving into the Building, which the Board may apply to pay for any damage to the Common Elements caused by such move; such security deposit initially is to be in the amount of $5,000.00, subject to change from time to time by the Board with the prior written Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period, and is to be refunded upon completion of the move after deducting any amounts applied to repair any damage caused by the move;

(g) access to the passenger elevator will be during such hours and days, and limit on duration, as may be adopted from time to time by the Board;

(h) each deed shall expressly provide that its acceptance by the grantee shall constitute grantee's acceptance, ratification and assumption of all of the terms of the Condominium Documents; and

(i) each lease and permitted sublease entered into after the recording of the Condominium Documents shall expressly provide that it is subject and subordinate to the Condominium Documents, which are paramount and shall govern any inconsistency between the terms of the lease or sublease (as applicable) and the Condominium Documents,

and shall acknowledge the rights and remedies of the Board, among others, to enjoin violations of the Condominium Documents. See Section R, subsections R-1 and R-7 below for full discussion.

B-5.5.4. Exemption of Unsold Units. The Board's Right of First Refusal and the other restrictions, requirements and payments applicable to Sold Units set forth above do not apply to Unsold Units, each of which may be sold, transferred and leased Freely and Without Consent, Payment or Restriction (other than the restriction against using a Unit for applicable Prohibited Uses. See SPECIAL RISKS Section A, subsection A-24 above and Section R, subsection "R-1. Sale or Lease of Units by Unit Owners" below.

B-5.5.5. Mortgaging. Each Unit may be separately encumbered by one (1) or more mortgages held by any lender or lenders, without the consent or approval of the Condominium Board and without restriction, except no new mortgage may be given while an Owner is in default in paying the Common Charges or Additional Common Charges, or other unpaid liens on the Unit are outstanding (other than Permitted Mortgages). A copy of the each mortgage is to be filed with the Condominium Board. See Section R, subsection "R-2. Mortgaging of Units by Unit Owners" below for discussion. See also Section W, subsection W-1.3 below for the fee to be paid by an Owner to the Managing Agent if any Board action is requested with respect to a mortgage financing or refinancing of a Sold Office Unit.

B-5.6. The Condominium Board. The affairs of the Condominium and the Operation of the Building will be governed and administered by the Condominium Board. Initially, the Condominium Board will consist of one (1) Board Member designated by Sponsor. Sponsor will call the first meeting of Unit Owners to be held no later than approximately sixty (60) calendar days after the first anniversary of the First Unit Closing. If prior thereto, the Sold Units constitute more than fifth percent (50%) in number and Common Interest of all Units, such first meeting will be called to be held within approximately thirty (30) calendar days after such fifty percent (50%) threshold is exceeded. At such first meeting, the Unit Owners will elect a new three (3)-member Condominium Board.

During the "Sponsor Board Control Period" (i.e., the first five (5) years from the First Unit Closing or whenever the Unsold Units constitute less than 50% in number and Common Interest of all Units, whichever is sooner), the three (3)-member Condominium Board will consist of two (2) Sponsor Board Members and one (1) Independent Board Member, thereby giving Sponsor voting control of the Board. See SPECIAL RISKS Section A, subsection A-7 above.

After the end of the Sponsor Board Control Period, for so long as Sponsor owns at least one (1) Unsold Unit, Sponsor shall continue to exclusively appoint and designate one (1) Sponsor Board Member. See Section P, subsection P-1 below for full discussion.

The Sponsor Board Member(s) will be appointed and designated exclusively by Sponsor. The Independent Board Member(s) will be elected by all Sold and Unsold Unit Owners, each of whom will have one (1) vote for each 0.0001% of Common Interest (e.g., 169,961 votes if the Common Interest is 16.9961%). See Section Q, subsections Q-1 and Q-6 below for details.

During the Sponsor Board Control Period, there will be no limitation or restriction on Sponsor's right to nominate and vote for the Independent Board Member. At all Board elections held after the end of the Sponsor Board Control Period, Sponsor will no longer have the right to "nominate" any candidates to serve as Independent Board Members (who will then constitute a majority of the Condominium Board) and thus Sponsor cannot exercise voting control of the Condominium Board, but Sponsor shall continue to have the right to "vote" (*without limitation or restriction*) for all candidates nominated to serve as Independent Board Members.

All references herein to the Condominium Board shall include any nominee or designee, incorporated or otherwise, organized by the Board to act on behalf of the Condominium Association.

Prospective Purchasers should be aware of potential inherent conflict of interest as to the management and operation of the Property while Sponsor exercises voting control of the Board. See SPECIAL RISKS Section A, subsection A-7 above and Section P, subsection P-1 below for discussion.

B-5.7. Separate Taxes and Mortgages.

B-5.7.1. Real Estate Taxes. After the Condominium is established, The City of New York will separately assess and bill each Unit for real estate taxes. The estimated real estate taxes for each Unit for the projected first year of Condominium operation are listed in the Offering Price Schedule (SCHEDULE A in Section D). These estimates are based on certain assumptions and projections and are not assured or guaranteed (see footnote (6) to SCHEDULE A). Generally, the City will start separately billing each Unit for real estate taxes within approximately six (6) months after the Condominium Documents are recorded and filed. During the interim period, the real estate taxes will continue to be assessed against the entire Property and will be paid by the Condominium Board as a Common Expense. The Board will allocate and apportion the real estate taxes to the Units Pro Rata to their respective Common Interests, as explained more fully in said footnote (6) to SCHEDULE A and in "Section S. Real Estate Taxes". See also SPECIAL RISKS Section A, subsection A-27 above. After the Units are separately assessed and billed, each Owner will be solely liable for the real estate taxes and assessments levied on its Unit and no lien may thereafter be placed against an Owner's Unit because of non-payment of the real estate taxes on another Unit.

B-5.7.2. Mortgages. Each Unit is separate and is not subject to the lien, nor liable for payments, of any mortgage placed on any other Unit.

B-5.8. Maintenance, Repairs and Insurance.

B-5.8.1. Maintenance and Repairs of Units. Each Unit Owner, at its sole Cost and Expense, shall Maintain and Repair (other than structural or extraordinary Repairs expressly stated in the Condominium Documents to be performed by the Condominium Board) its Unit and its individual Unit Equipment in accordance and compliance with the Building's Maintenance Standard, except the Unit 500 skylights (which are part of the Roof Terrace Unit) shall be Maintained and Repaired by the Owner of Office Unit 500 (see SPECIAL RISKS Section A, subsection A-2.6.2 above). Pursuant to the Building's Maintenance Standard, each Unit Owner (or the Office Unit 500 Owner in the case of the Office Unit 500 skylights) is required: (a) to Maintain and Repair its Unit in good

and proper working order in accordance with good construction practices, free of water leaks and undue air penetration, and otherwise in clean, neat and sanitary condition; and (b) to keep the interior side of a Unit's windows, the Unit's street entrances and other areas of the Owner's Unit exposed to public view in clean, neat and good appearance and first-class condition in accordance with the high quality, character and dignity of the Building, good construction practices and applicable Laws. The foregoing Maintenance and Repair obligations apply to all individually-owned items included in, and part of, the Unit (see subsection B-5.1 above). However, the windows, the exterior side of a Unit's street entrance doors (and related door hardware and saddles), and any other portion of a Sold Unit exposed to public view shall not be Decorated, Repaired or Altered without obtaining the prior written Discretionary Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of the new or amended Certificate of Occupancy changing the use of the caretaker's apartment to an office and authorizing the use of the Commercial Unit) Sponsor (this restriction does not apply to Unsold Units, which may be Decorated, Repaired and Altered without the approval or consent of the Condominium Board or Unit Owners). See Section R, subsection "R-4. Repairs" and subsection "R-5. Additions, Alterations and Improvements" below for discussion.

B-5.8.2. Maintenance and Repair of Common Elements and Association's Properties. The Condominium Board shall Maintain and Repair the Common Elements and the Association's Properties in accordance and compliance with the Building's Maintenance Standard (see Section R, subsections R-4.1.2 and R-4.1.3 below) and in a manner that: (a) shall not materially impair or prevent, nor unreasonably and materially interrupt or interfere with, the permitted Use and Enjoyment of a Unit; and (b) shall maintain the value of all Units and the Building services to be provided to the Units pursuant to the Declaration and the By-Laws. The Costs and Expenses of such Maintenance and Repairs shall be a Common Expense and charged to all Unit Owners Pro Rata to their respective Common Interests.

B-5.8.3. Insurance. The Condominium Board will maintain fire and other casualty insurance insuring the Building, the Building's Equipment, the boundary walls of each Unit and all other items of Common Elements. The insurance will include the interests of the Condominium Board, the Unit Owners and their Permitted Mortgagees, as their interests may appear. This insurance will not cover losses to the furniture, furnishings, personal belongings, fixtures or other improvements and contents in an Owner's Unit, including Decorations to walls, Base Floors, Base Ceilings and windows. Each Unit Owner will be responsible to obtain and pay for insurance covering the personal property and the contents of its Unit, and the Unit's undivided interest in the Common Elements, if desired.

The Condominium Board will also maintain liability insurance covering claims for personal injury and property damage arising from occurrences on the Common Elements, but not within or on Units. The insurance will include the interests of the Condominium Board, its officers, employees and agents, and each Unit Owner. Each Unit Owner will be responsible to obtain and pay for liability insurance to protect against occurrences within or on its Unit, if desired.

The premiums for the casualty and liability insurance maintained by the Condominium Board will be included in the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests as set forth in the First Year's Budget (SCHEDULE B in Section E) and the

Condominium Documents, subject to specially allocating and assessing a Unit for any increase in premium due to the use of a Unit in accordance with the Special Allocation and Apportionment Rule (see subsection B-5.3.3 above). The minimum insurance coverages are also contained in such First Year's Budget.

B-5.9. Sidewalk. The sidewalk immediately adjacent to, and fronting, the Property (**"Immediately Adjacent Sidewalk"**) is owned by The City of New York and is not part of the Condominium or the Common Elements. Nevertheless, each property owner is required by Law to keep the Immediately Adjacent Sidewalk clean and free and clear of snow, ice, debris and water accumulation (collectively, **"Sidewalk Cleaning Obligations"**) and properly Maintained and Repaired (collectively, **"Sidewalk Repair Obligations"**). Under the Condominium Documents, all Sidewalk Cleaning Obligations and all Sidewalk Repair Obligations (collectively **"Sidewalk Obligations"**) shall be performed by the Condominium Board as part of the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests (see Section R, subsection R-4.1.4 below for discussion).

All uses of the Immediately Adjacent Sidewalk permitted by applicable Law shall be determined by the Condominium Board, subject to certain Promotional rights and easements reserved to Sponsor (see Section O, subsection O-1.6 below) and the Upper Owner.

B-6. Equipment and Fixtures Included in Sale. The offering price of each Office Unit includes only the individual Unit Equipment described in this Plan as being owned by Sponsor, but does not include the equipment, fixtures (lighting, trade, business or otherwise), cabinets, appliances, finishes or other improvements or additions owned, leased or otherwise held and installed by tenants. See Section K, subsection K-11 below for provisions on risk of loss from fire or other casualty, subsection K-26 below for sale being subject to existing leases and rights of tenants thereunder as tenants, and subsection K-27 below for obligation of Purchaser to purchase the Unit and said individual Unit Equipment included in the sale in "AS IS" condition existing at closing of title, subject only to Sponsor's undertaking to obtain a new or amended Certificate of Occupancy of the Building to authorize the Commercial Unit for the permitted retail and offices uses set forth in this Plan and to change the designation of the "caretaker's apartment" located on a portion of Unit 500 to "office" so as to allow all of such Unit to be used as offices, and subject further to Sponsor's obligation to Maintain and Repair the Unit and said personal property if and to the extent required by the then existing lease for the office space comprising the Office Unit or applicable Law, but otherwise without any obligation of Sponsor to make any other repairs, corrections, additions or improvements, and without any obligation of Sponsor to make any repairs, corrections or improvements, and without abatement in price, set-off or recourse of any kind against Sponsor based on any defects, faults, damages, violations, required inspections, open applications or other conditions requiring repair or correction. See also SPECIAL RISKS Section A, subsection A-10, A-17 and A-18 above.

B-7. Prices Set By Sponsor Without Governmental Approval. The offering prices are set by Sponsor and are not subject to approval of the Department of Law or any other governmental agency.

B-8. All Material Terms Disclosed. This Plan delivered to prospective Purchasers contains all of the material terms of the transaction. Copies of the Plan and all Amendments thereto, all

documents referred to in the Plan and all Exhibits submitted to the Department of Law in connection with the filing of the Plan and any Amendments 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 Department of Law, Real Estate Finance Bureau, 120 Broadway, New York, NY and the office of Sponsor set forth on the cover page of the Plan.

B-9. **Who May Purchase**. This offering is made to only individuals aged 18 years or older and Entities qualified to do business in the State of New York who are competent to own real estate in the State of New York.

B-10. **CAVEAT**. 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 AND SALE AGREEMENT.

B-11. **Glossary**.

The words frequently used in this Plan (both Parts I and II) are defined below. Unless the context otherwise requires, whenever the words defined herein or elsewhere in this Plan are used in any number (singular or plural), gender (masculine, feminine or neuter) or tense (past, present or future), they shall include any other number, gender or tense, respectively, as the context may require.

"**Access Requirements**": As defined in Section A, subsection A-2.6.2 above.

"**Additional Common Charges**": As defined in this Section B, subsection B-5.3.1 above.

"**Agents, Employees and Contractors**": All agents, employees, contractors and subcontractors, and their respective employees and workers.

"**All Repair Work**": All Maintenance and Repairs, whether structural or non-structural, or extraordinary or ordinary.

"**Allocable Common Area**": As defined in Section C, subsection C-1.3 below.

"**Alter**", "**Alters**", "**Alterations**" and other derivations thereof: All alterations, additions, improvements, installations, demolitions, removals or replacements, whether structural or non-structural, or extraordinary or ordinary.

"**amend**", "**amended**" and variations thereof: To amend, modify, add, delete, repeal or otherwise change.

"**Amendment**": An amendment to this Plan accepted and filed by the New York State Department of Law or to the Condominium Documents, as indicated by the text.

"**approval**": Unless otherwise expressly provided, the approval to be obtained is Discretionary Approval.

"**Association**": As defined in this Section B, subsection B-5.2.4 above.

"**Association's General Properties**": As defined in this Section B, subsection B-5.2.4.1 above.

"**Association's Office Properties**": As defined in this Section B, subsection B-5.2.4.2 above.

"**Association's Properties**": As defined in this Section B, subsection B-5.2.4 above.

"**Authorized First Sold Unit Owner**": As defined in Section O, subsection O-1.4 below.

"**Base Ceiling**": The wood joists, steel decking or other construction material above the paint, plaster or other finish covering a ceiling. The Base Ceiling borders the top of a Unit or Common Element and constitutes one of the Structural Components of the Building. The Base Ceiling of a Unit is also the Base Floor of the Unit immediately above such Unit.

"**Base Floor**": The wood joists, metal decking or other construction material below the wood, stone, tile, carpet or other finish covering a floor, together with any underflooring. The Base Floor borders the bottom of a Unit or Common Element and constitutes one of the Structural Components of the Building. The Base Floor of a Unit is also the Base Ceiling of the Unit immediately below such Unit.

"**Base Floor Area**": As defined in Section C, subsection C-1.3 below.

"**Board**": The Board of Managers of the Condominium

"**Board Members**": The members of the Condominium Board, including the Independent Board Members and the Sponsor Board Members.

"**Budget**": The Budget of Projected Receipts and Expenses of Operation for the first 12 months of Condominium operation (also called the "First Year's Budget").

"**Budget Year**": A Budget for the twelve (12) month period (fiscal or calendar) determined and adopted by the Condominium Board.

"**Building**": The building known by the street address of 100 Vandam Street (a/k/a 96-100 Vandam Street and 527-531 Greenwich Street), New York, NY 10013.

"**Building Walls**": As defined in this Section B, subsection B-5.1 above.

"**Building's Maintenance Standard**": To Maintain and Repair a Unit, including its individual Equipment, Facilities, Installations and Systems, or the Common Elements (as applicable) in good and proper working order in accordance with good construction practices, free of water leaks and undue air penetration, and otherwise in clean, neat and sanitary condition. To Maintain and Repair both sides of all windows, the Unit's or the Building's street entrance and other areas of a Unit or the Common Elements exposed to public view in clean, neat and good appearance and first-class condition in accordance with the high dignity, quality, character and standards of the Building, good construction practices and all applicable Laws. To Maintain and Repair the Roofs, the drainage Systems, the Immediately Adjacent Sidewalks to the Property and other outdoor areas, in

accordance with good construction practices and free and clear of snow, ice, water accumulation and debris.

"business day": Any day of the year that is not a Saturday, Sunday or a legal holiday of the State of New York or United States government.

"business hours": Between the hours of 9:00 a.m. and 5:30 p.m.

"By-Laws": The By-Laws of the Condominium set forth as EXHIBIT D to the Declaration, as such By-Laws or a provision thereof may be amended from time to time in accordance with its provisions. The By-Laws provide for (among other matters) the administration and governance of the Condominium Association, the Operation and uses of the Property and Units and the rights and obligations of the Condominium Board and the Unit Owners. The proposed By-Laws are set forth as DOCUMENT 7 in Part II of this Plan.

"**calendar day**": Any day of the year.

"**Claims**": All claims, rights, causes for Lawsuits and Lawsuits.

"**closing**", **"closing of title**" and words of similar import: The transfer of legal ownership of a Unit pursuant to this Plan and the Purchase and Sale Agreement.

"**Closing Date**": The date the closing of title occurs and Purchaser, among other things, pays the balance of the Purchase Price.

"Commercial Signage Easement Area": As defined in Section A, subsection A-2.5 above.

"Commercial Unit": The Commercial Unit in the Building being offered for sale under this Plan (such term includes a Sold Commercial Unit and an Unsold Commercial Unit, unless the context expressly provides otherwise) and constituting one of the Condominium Units to be established under, and to be so designated as such in EXHIBIT B to, the Declaration, together with the Common Interest appurtenant to such Unit. The Commercial Unit includes all Equipment, Facilities, Installations and Systems, or portions thereof, wherever located, that are for the exclusive use, service or benefit of such Unit or its Owner and are not expressly stated in the Declaration to be part of the Common Elements or another Unit.

"Commercial Unit Owner": The Owner of the Commercial Unit.

"**Common Charges**": As defined in this Section B, subsection B-5.3.1 above.

"**Common Elements**": As defined in this Section B, subsection B-5.2 above.

"**Common Expenses**": As defined in this Section B, subsection B-5.3.5 above.

"**Common Interest**": As defined in this Section B, subsection B-5.2.5 above.

"**Common Profits**": The excess of: (a) all receipts of rents, profits and revenues from the Common Elements and the Association's Properties, and the Operation and governance of the Condominium and the Association's Properties by the Board, over (b) the Common Expenses.

"**Communication Equipment and Other Installations**": All antennae, satellite dishes and other communication devices and related Equipment (including fiber-optic cable and other communication lines, wires, cables and conduits), plus any and all other new and/or additional Equipment and Installations that service or benefit the Units and/or the general public.

"**Condominium**": The condominium that is the subject of this Plan, to be known as "100 Vandam" and to be established on the Property by the filing and recording of the Condominium Documents. The term refers to the Property being submitted to the provisions of the Condominium Act.

"**Condominium Act**": Article 9-B of the Real Property Law of the State of New York.

"**Condominium Association**": As defined in this Section B, subsection B-5.2.4 above.

"**Condominium Board**": The Board of Managers of the Condominium, which is the body that governs the affairs of the Condominium and the Operation of the Common Elements and the Association's Properties. The Condominium Board comprises the Independent Board Member(s) and the Sponsor Board Member(s).

"**Condominium Documents**": The Declaration, including the Exhibits thereto (e.g., the By-Laws and Rules and Regulations), and Floor Plans of the Condominium, as each may be amended from time-to-time.

"**consent**": Unless otherwise expressly provided, the consent to be obtained is Discretionary Consent.

"**Costs and Expenses**" or "**Costs or Expenses**" or similar words: All losses, damages, liabilities, costs, expenses and amounts paid, payable or incurred (including reasonable legal fees and disbursements, court costs and all other litigation expenses, together with per diem interest thereon at the rate equal to the lower of 16% a year or the maximum legal rate, computed from the date paid to the date reimbursed) in connection with any Claim or to perform, observe, enforce, uphold, protect, defend, maintain and to collect sums payable under, a right, remedy, obligation, requirement, agreement or indemnity given in or pursuant to the Condominium Documents or an Amendment thereto or this Plan or a Plan Amendment. This term also includes all costs and expenses: (a) to Operate and make any Disposition of the Common Elements and the Association's Properties, including interest and principal payments under a loan; (b) to conduct the affairs of the entire Property, the Association's Properties and the Condominium Association generally; and (c) to provide services to all Unit Owners or to only a specified Unit Owner (as applicable).

"**damages**": All damages, whether actual, consequential, indirect, incidental, special, punitive or otherwise.

"**days**": All references in this Plan, the Declaration and By-Laws to "days" shall mean calendar days, unless expressly stated to be business days.

"**Declaration**": The instrument to be executed by Sponsor and recorded in the Register's Office, which submits the Property to condominium ownership pursuant to the Condominium Act.

"**declare effective**", "**declared effective**" and similar words: The election of Sponsor to declare this Plan effective based upon the Purchase and Sale Agreements for not less than the required minimum fifteen percent (15%) of the number of Units being signed by bona fide Purchasers under this Plan. Such election shall be made in a written notice to all then existing Purchasers or (at Sponsor's exclusive option) in the Effectiveness Amendment.

"**Decorate**", "**Decorations**" and derivations thereof: All painting, ornaments, furnishings, furniture, fixtures, embellishments and decorations of any kind, including: all manner of flooring (e.g., wood, tiles of any composition, carpeting, rugs and other floor coverings); all manner of baseboards and moldings; all manner of lighting fixtures and chandeliers and related switch plates and electrical outlets; all manner of doorknobs, hinges and other hardware; all manner of plants, flowers and landscaping; and all manner of wall and ceiling finishes and coverings (e.g., paint, plaster, tiles, wood paneling, fabric and wallpaper) .

"**Department of Law**": The Department of Law of the State of New York.

"**Deposit**": The amount deposited toward the Purchase Price of an Office Unit under the Purchase and Sale Agreement.

"**Depository**": Valley National Bank, at its office at 275 Madison Avenue, New York, NY 10016, where the Deposits of Purchasers will be deposited.

"**Discretionary Approval**" or "**Discretionary Consent**" or "**Discretionary Approval or Consent**" or similar words: The approval or consent to be obtained is discretionary and may be conditioned, withheld or denied without cause or explanation, in the sole and absolute judgment of the Party whose approval or consent is sought or required to be given, without recourse against such Party in the event the approval or consent is conditioned, withheld or denied.

"**Disposition**": To own, hold, use, lease, sublease, rent, grant easements or concessions, license, mortgage, grant security interests, collateralize, assign, transfer, sell, convey, market, advertise, Promote, offer, manage, administer, clean, Operate (including Maintain, Repair and Alter), improve, combine, subdivide, expand, contract and to otherwise transact any matter with respect to, and to make any other disposition of, real or personal property allowed by Law, whether or not similar to the foregoing (but not to cast the votes appurtenant to any Unit owned by the Condominium Board or its designee or nominee).

"**duties**": All duties, obligations, burdens, responsibilities, requirements and services.

"**Effectiveness Amendment**": The Amendment disclosing that Sponsor notified then existing Purchasers of Sponsor's election to declare this Plan effective or (at Sponsor's option) a Plan Amendment in which Sponsor elects to declare this Plan effective.

"**elect**", "**elected**", "**election**" and similar words and derivations: To elect to serve on the Condominium Board by nomination and voting (in the case of an Independent Board Member) or by appointment and designation (in the case of a Sponsor Board Member).

"**Entity**": A partnership, limited liability partnership or company, corporation, trust, estate, fiduciary, unincorporated association, syndicate, joint venture, organization, government, embassy, consulate, Governmental Authority or any other entity legally competent to own real property.

"**Equipment**": All machinery, tools, apparatus, devices and implements comprising part of a Common Element or Unit (as applicable), at any time, whether mechanical, electrical, electronic, plumbing or otherwise (see EXHIBIT C to the Declaration for full definition).

"**Facilities**": All fixtures and personal property not otherwise comprising the Equipment, now or hereafter existing in, on or under the Land or Building and for the use, service or benefit of one (1) or more Units or Unit Owner(s), or forming a part of the Common Elements, or necessary or desirable for the existence, Maintenance, life, health, safety, security or protection of the Property or any portion thereof or the Owners or occupants of one (1) or more Units.

"**Filing**": The acceptance and filing of this Plan or a Plan Amendment by the Department of Law.

"**Filing Date**": The date of acceptance and filing of this Plan or a Plan Amendment contained in a letter from the Department of Law.

"**First Closing**" or "**First Unit Closing**": The first conveyance of an Office or Commercial Unit to a bona fide Purchaser under this Plan.

"**First Year's Budget**": The projection of receipts and expenses of the Property for the first twelve (12) months following the projected date of First Unit Closing contained in SCHEDULE B, set forth in "Section E. Budget for First Year of Condominium Operation".

"**Floor Plans**": The tax lot floor plans of the Building (showing, among other things, the layout, location and approximate square footages of the Units as built) to be filed with the Real Property Assessment Department for the Borough of Manhattan, in the County, City and State of New York and in the Register's Office.

"**Force Majeure**": Acts of nature (such as flood, earthquake or severe or unusually inclement weather), explosion, fire, strikes, work stoppage or slowdown, unavailability of materials supplies, war, emergencies, national defense preemptions, governmental restrictions or actions, injunctions or court orders, or other cause or event beyond the control of Sponsor, the Condominium Board or other Person in question (as applicable) and not attributable to the improper or bad faith acts or omissions of such Person.

"**Freely and Without Consent, Payment or Restriction**": This term means and includes, unless otherwise expressly provided: (a) unfettered and unconditional; (b) without consent or approval of the Condominium Board or other Unit Owners or mortgagees of Units; (c) without paying any kind of fee, rental, charge, imposition or other sum to the Condominium Board, or its Managing Agent, attorneys or other professionals or consultants, or to Unit Owners; and (d) without complying with

any kind of work rule, restriction, requirement or limitation of the Condominium Board or other authority, other than the restriction against Prohibited Uses and Offensive Office Uses and the requirements to comply with all applicable Laws, the applicable Work Requirements set forth in Section 15.2 of the Declaration and any other expressly stated restriction, requirement or limitation.

"**GBL**": Article 23-A of the General Business Law of the State of New York and Part 20 of Title 13 NYCRR setting forth the regulations promulgated by the Department of Law, which are applicable to this Plan.

"**good construction practices**": The quality of the workmanship and materials with respect to any Maintenance, Repair, Alteration or other Work in, on, to or affecting the Building (including the Common Elements and Units) shall meet or exceed any relevant specific standards required by applicable Laws as well as the standards of locally accepted building practices for high quality office buildings in the locale of the Building and comparable to the construction and amenities of the Building.

"**Government Documents**": All notices, reports, registrations, applications, petitions, declarations, easements, licenses, forms, items, papers and other documents to be filed with, or given or submitted to, a Governmental Authority (see EXHIBIT C to the Declaration for full definition).

"**Governmental Authorities**": All authorities, agencies, departments, assessors, boards, bodies, courts and other instrumentality's of a federal, state, county, municipal, village, local, foreign, international, regional, domestic or other governmental, quasi-governmental or regulatory authorities having jurisdiction.

"**HVAC**": Heating, ventilating and air-conditioning.

"**HVAC/Mechanical/Utility Building Systems**": All Building Systems, including (if existing) HVAC, hot and cold water, storm drainage, refuse, fire protection (e.g., sprinklers, siamese connection and standpipe), sanitary, waste, utilities (e.g., electric, gas, cable television, telephone, Internet and other telecommunications), intercom, security and all other Building Systems.

"**immediate family**" or similar words: a spouse, child (whether by blood, marriage or adoption), parent (including a step-parent or parent-in-law), grandparent, grandchild, sibling or a certified domestic partner.

"**Immediately Adjacent Sidewalk**": As defined in this Section B, subsection B-5.9 above.

"**include**", "**includes**", "**including**", "**such as**", "**for example**" and similar words and derivations: Wherever these words precede a list of one or more items, the list is not be limited to the item(s) mentioned and shall always be construed as though followed by the words "but not limited to".

"**indemnify**": Whenever this term is used, it shall include to defend and hold harmless, and shall apply to the Related Parties of the Party being indemnified and the respective heirs, legatees, distributees, executors, administrators, legal representatives, successors and assigns of such indemnified Party and Related Parties.

"**Independent Board Members**": The members of the Condominium Board who have no family, employment or business relationship or affiliation with Sponsor or an Unsold Unit Owner or a Related Party to Sponsor or an Unsold Unit Owner. Generally, an Independent Board Member is an Owner of a Sold Unit or one of such Owner's Related Parties who is unrelated to Sponsor and Sponsor's principal.

"**individual**": A natural person.

"**Initial Working Capital Fund**": The reimbursable amount to be advanced to the Working Capital Fund by Sponsor at the First Unit Closing for application to the Common Expenses (including to pay the apportionments of certain Building expenses at the First Unit Closing if in favor of Sponsor) as set forth in "Section V. Working Capital Fund".

"**Installations**": All Equipment, Facilities, Systems, structures and fixtures now or hereafter existing in, on, under or adjacent to the Land or Building and for the use, service or benefit of one (1) or more Units or Unit Owners or forming a part of the Common Elements, or necessary or desirable for the Use and Enjoyment of the Property or any portion thereof or the Owner, tenant or occupant of one (1) or more Units.

"**Institutional Lender**": A savings bank; savings and loan association; bank or trust company; credit union; insurance company; real estate investment trust; mortgage trust; a federal, state, municipal, union or other employee, welfare, pension or retirement fund or system; or the holder of a mortgage encumbering one (1) or more Unsold Units.

"**Institutional Mortgage**": Any mortgage covering one (1) or more Units whose initial holder is either an Unsold Unit Owner (including Sponsor), or its designee or nominee, or an Institutional Lender.

"**Insurance Trustee**": An Institutional Lender having both an office in the City and State of New York and a capital surplus and undivided profits of $100,000,000 or more, from time-to-time appointed to serve as such by the Condominium Board.

"**Land**": The parcel of land on which the Building is located together with the air space thereover occupied by the Building. Such parcel is more particularly identified in EXHIBIT A to the Declaration in Part II of this Plan. The portions of said air space occupied by: (a) the Units are included in, and are part of, the respective Units; and (b) the areas and improvements comprising the Common Elements are part of the Common Elements. All Unused Development Rights of the Property associated with its unused floor area or unimproved air space currently existing or hereafter acquired or available to the zoning lot in which the Property is located are owned exclusively by Sponsor and shall be part of any Unit owned by Sponsor from time to time, but only while such Unit is owned by Sponsor, and shall continue to be owned exclusively by Sponsor after it no longer owns any Unit. The Land includes, and is subject to, all easements, agreements, covenants, restrictions, rights, privileges, benefits, encumbrances, burdens and other matters of record appurtenant thereto.

"**Laws**": All applicable laws and ordinances of federal, state, city or other local Governmental Authorities and all applicable regulations, codes, rules, orders, permits, directives and requirements of all Governmental Authorities having jurisdiction over the Property or the Condominium.

"**Lawsuits**": All suits, whether legal or equitable, disputes, controversies and litigation brought in or before any court or judicial system (federal, state, local or international), governmental or administrative authority, arbitration or mediation association or alternative dispute resolution body.

"**Liabilities and Expenses**": All liabilities, judgments, awards, losses, damages, penalties, fines and Costs and Expenses.

"**Litigation Document**": Any pleading, affidavit, petition, application, motion, interrogatory or other document utilized in connection with any litigation (see EXHIBIT C to the Declaration for full definition).

"**Maintain**", "**Maintenance**" and similar words: To inspect, test, paint, wash, clean, keep and otherwise maintain a Unit or the Common Elements (as applicable) in accordance and compliance with the Building's Maintenance Standard.

"**majority in Common Interest of Unit Owners**", or words of similar import or other specified percentage: Owners of more than fifty percent (50%) (or other specified percentage) in aggregate absolute Common Interests appurtenant to all Units, or Owners of more than fifty percent (50%) (or other specified percentage) in aggregate absolute Common Interests of only those Unit Owners who are present, in person or by proxy, and voting at a duly constituted meeting of Unit Owners at which a quorum is present, as applicable or indicated. All references herein to "Units" shall exclude for quorum and voting purposes any Unit while such Unit is owned by the Condominium Board or its nominee or designee and all references to "Unit Owners" shall exclude for quorum and voting purposes the Condominium Board or its nominee or designee as Owner of any Unit. An Owner of more than one (1) Unit shall be counted as a separate Owner for each such Unit for quorum and voting purposes. A Unit owned by more than one (1) Person shall be considered one (1) Unit Owner for purposes of counting the number or percentage of Unit Owners for quorum and voting purposes.

"**majority in number of Unit Owners**", or words of similar import or other specified percentage: Owners of more than fifty percent (50%) (or other specified percentage) in aggregate absolute number of all Units, or Owners of more than fifty percent (50%) (or other specified percentage) in aggregate number of only those Unit Owners who are present, in person or by proxy, and voting at a duly constituted meeting of Unit Owners at which a quorum is present, as applicable or indicated. All references herein to "Units" shall exclude for quorum and voting purposes any Unit while such Unit is owned by the Condominium Board or its nominee or designee and all references to "Unit Owners" shall exclude for quorum and voting purposes the Condominium Board or its nominee or designee as Owner of a Unit. An Owner of more than one (1) Unit shall be counted as a separate Owner for each such Unit for quorum and voting purposes. A Unit owned by more than one (1) Person shall be considered one (1) Unit Owner for purposes of counting the number or percentage of Unit Owners for quorum and voting purposes.

"**majority of Board Members**": More than fifty percent (50%) of all Board Members, or more than fifty percent (50%) of those Board Members attending a duly constituted Board meeting at which a quorum is present, as may be specified or indicated by the text.

"**Managing Agent**": The Person engaged from time-to-time by the Condominium Board to perform the duties of a managing agent of the Building and initially will mean the proposed first managing agent chosen by Sponsor to be engaged by the Condominium Board identified in Section W, subsection W-1 below.

"**Match Offer Right**": As defined in this Section B, subsection B-5.5.3.1 above. Same as Right of First Refusal.

"**Net Refundable Special Work Payment**": As defined in Section A, subsection A-5 above.

"**Offensive Office Uses**": As defined in this Section B, subsection B-5.5.2 above.

"**Offering Price Schedule**": The list of offering prices of Office Units in SCHEDULE A in "Section D. Offering Prices and Related Information" of this Plan.

"**Office Unit**": One of the Office Units in the Building being offered for sale under this Plan (such term includes a Sold Office Unit and an Unsold Office Unit, unless the context expressly provides otherwise) and constituting one of the Condominium Units to be established under, and to be so designated as such in EXHIBIT B to, the Declaration, together with the Common Interest appurtenant to each such Unit. Each Office Unit includes all Equipment, Facilities, Installations and Systems, or portions thereof, wherever located, that are for the exclusive use, service or benefit of such Unit or its Owner and are not expressly stated in the Declaration to be part of the Common Elements or another Unit.

"**Office Unit Owner**": The Owner of an Office Unit.

"**100 Vandam Street Public Areas**": As defined in this Section B, subsection B-5.2.2(d) above.

"**Operate**", "**Operates**", "**Operation**", "**Operations**" or derivations thereof: To Maintain, Repair, Alter and to otherwise use, operate, manage and conduct the business and affairs of: (a) the Association's Properties; (b) the Common Elements, (c) the entire Property, or (d) one or more Units, as the context requires, or as otherwise indicated by the text.

"**Owner**": The legal (record) owner of fee simple title of a Unit, including (as indicated, or otherwise expressly provided, by the text): (a) an Office Unit Owner, or (b) the Commercial Unit Owner, or (c) the Roof Terrace Unit Owner. An Owner of more than one (1) Unit shall be counted as a separate Owner for each such Unit for quorum and voting purposes. A Unit owned by more than one (1) Person shall be considered one (1) Unit Owner for purposes of counting the number or percentage of Unit Owners for quorum and voting purposes.

"**Part 20**": As defined in this Section B, subsection B-1 above.

"**Party**": A Unit Owner, the Condominium Board (including an Independent or Sponsor Board Member), a Permitted Mortgagee, a Registered Tenant and an Insurance Trustee are each a party.

"**Party Wall**": A boundary wall or partition separating a Unit from another Unit or a portion of the Common Elements.

"**Permitted First Mortgage**": A first mortgage placed on a Unit in compliance with the By-Laws.

"**Permitted First Mortgagee**": The holder of a Permitted First Mortgage.

"**Permitted Mortgage**": A mortgage placed on a Unit in compliance with the By-Laws.

"**Permitted Mortgagee**": The holder of a Permitted Mortgage.

"**Permitted Tenants/Occupants/Invitees**": The tenants, occupants, invitees, licensees, contractors, subcontractors, agents, employees and workers permitted or authorized to occupy, use, visit or enter a Unit by the Owner of such Unit or pursuant to Law or the Condominium Documents.

"**Person**": A natural person (i.e. individual) or an Entity.

"**Plan**": This Condominium Offering Plan for the Property.

"**powers**": All powers, rights, authorities, remedies, protections and benefits.

"**presentation date**", "**presentation**", "**presented**" and similar words: The day of hand delivery or (if mailed) the fifth (5th) day after mailing (whether by ordinary mail or registered or certified mail, with or without return receipt requested), whichever is the last to occur, of this Plan or a Plan Amendment to all then existing Purchasers and (after the First Unit Closing) then existing Sold Unit Owners.

"**Pro Rata**": In the proportion that the Common Interest or floor area or offering price or Common Charge of a Unit bears to the total Common Interests or the total floor areas or total offering prices or total Common Charges of all specified Units (respectively), or that the Common Interest or floor area or offering price or Common Charge of a Unit bears to the total Common Interests or total offering prices or total Common Charges of all Units (respectively), or otherwise, as the context indicates. For example, the Common Expenses are charged to all Unit Owners and generally apportioned and assessed among them Pro Rata to their respective Common Interests. This means that each Unit Owner shall pay that portion of the Common Expenses as the Common Interest appurtenant to such Owner's Unit bears to the total Common Interests appurtenant to all Units.

"**Prohibited Uses**": As defined in Section A, subsection A-2.2 above.

"**Projected First Year of Condominium Operation**": The first twelve (12) months following the projected date of First Unit Closing, as set forth in SCHEDULE B in Section E below.

"**Promote**", "**Promotion**" or derivations thereof: All manner of offering, advertising, marketing, Signage, displays and other promotion and promotional activities in connection with the sale, rental or Operation of a Unit or a business conducted in a Unit.

"**Property**": The Land, the Building and all other improvements on or under the Land and all other property (real, personal or mixed) used or intended for use in connection with the Land or Building

and submitted by Sponsor to the Condominium regime to be established pursuant to the Declaration.

"**Purchase and Sale Agreement**": The agreement between Sponsor and a Purchaser for the purchase and sale of a Unit in the form set forth as DOCUMENT 1 in Part II of this Plan.

"**Purchase Price**": The purchase price of a Unit under a Purchase and Sale Agreement.

"**Purchaser**": A Person or Persons buying a Unit under a fully executed Purchase and Sale Agreement, whether for personal occupancy or use of the Purchaser or a Related Party to Purchaser or for rental or other investment purposes.

"**Reasonable Approval**", "**Reasonably Approved**" or similar words: The approval required to be obtained shall not be unreasonably conditioned, withheld, denied or delayed.

"**Register's Office**": The office of the Register of the County of New York, in the City and State of New York.

"**Related Party**": An individual who has or had an employment, business or family relationship to a Unit Owner or an Entity comprising a Unit Owner or a partner, member, manager, shareholder, officer, director or principal of a Unit Owner or an Entity comprising a Unit Owner; or an Entity whose legal, equity or beneficial interest is owned (directly or indirectly) by a Unit Owner or an Entity comprising a Unit Owner or a partner, member, manager, shareholder, officer, director or principal of a Unit Owner or an Entity comprising a Unit Owner.

"**Repair**", "**Repaired**", "**Repairs**" or derivations thereof: To repair, fix, correct, rebuild, restore, replace, substitute, remove and to perform any other Work, apart from Maintenance or Alterations, in or to a Unit or the Common Elements.

"**Right of First Refusal**": As defined in this Section B, subsection B-5.5.3.1 above. Same as Match Offer Right.

"**Roof**": A "Roof" consists of the following (if and to the extent existing): the wood joists or other structural material; the asphalt/bitumen strip roofing or other roofing material thereover; the insulation; the membrane; the flashing; the counterflashing and similar elements protecting the interior portions of the Building. A reference to a "Roof" shall be deemed to include all Roof Structures appurtenant to such Roof, unless otherwise expressly provided. The main roof above the top floor of the Building and the roof above each bulkhead enclosing a public stair or elevator equipment are each a "Roof" and are part of the Common Elements. The Roof Terrace Unit is not included in the term "Roof".

"**Roof Structures**": The drainage System of a Roof (including, if and to the extent existing) drains, gutters, leaders and similar elements), the parapets, copings, railings, walls and other structures enclosing a Roof, including said main roof, the roof of said bulkhead enclosing a public stair or the elevator equipment.

"**Roof Terrace Unit**": The Roof Terrace Unit to be installed on the main Roof of the Building and being offered for sale under this Plan (such term includes a Sold Roof Terrace Unit and an Unsold Roof Terrace Unit, unless the context expressly provides otherwise). The Roof Terrace Unit constitutes one of the Condominium Units to be established under, and to be so designated as such in EXHIBIT B to, the Declaration, together with the Common Interest appurtenant to such Unit. The Roof Terrace Unit will consist of only the decking, pavers or other construction material and supporting pedestals protecting the main Roof and safety railings, if and when installed by the Owner of the Roof Terrace Unit, but does not include such Roof or its related Roof Structures, which are part of the Common Elements.

"**Roof Terrace Unit Owner**": The Owner of the Roof Terrace Unit.

"**RPL**": The Real Property Law of the State of New York.

"**Section 339-m**": Section 339-m of the Condominium Act.

"**Sidewalk Cleaning Obligations**": As defined in this Section B, subsection B-5.9 above.

"**Sidewalk Repair Obligations**": As defined in this Section B, subsection B-5.9 above.

"**Sign**", "**Signs**" or "**Signage**" or similar words: Each and every kind whatsoever of: sign, inscription or lettering (on doors, windows or elsewhere), picture, banner, flag, awning, canopy, planter, landscaping, structure, placard, board, stanchion, decoration and display used for sales, rental, Promotional, advertising, identity, business, Operations and/or any other lawful purpose. There is no restriction or limitation whatsoever on the nature, composition, material, design, size, illumination, configuration, fabrication, quality, character, color, appearance or content of Signs, unless otherwise expressly provided.

"**Sold Commercial Unit**" or "**Sold Office Unit**" or "**Sold Roof Terrace Unit**" or "**Sold Unit**": The Commercial Unit or an Office Unit (as applicable) that is sold and conveyed to a bona fide Purchaser under this Plan. Generally, a Sold Unit is any Unit that is not an Unsold Unit.

"**Sold Commercial Unit Owner**" or "**Sold Office Unit Owner**" or "**Sold Roof Terrace Unit Owner**" or "**Sold Unit Owner**": The Owner of a Sold Commercial or Office Unit (as applicable).

"**Sold Unit Owner Affiliate**": As defined in Section Q, subsection Q-1.2 below.

"**Special Allocation and Apportionment Rule**": As defined in this Section B, subsection B-5.3.3 above.

"**Special Assessment**": The amount assessed by the Condominium Board to pay a portion of the Common Expenses and payable by Unit Owners in the time and manner determined by the Condominium Board. A Special Assessment is an Additional Common Charge and may be payable in an amount or amounts and time period other than that applicable to the regular Common Charges, as determined by the Condominium Board.

"**special work**": As defined in Section A, subsection A-4 above.

"**Sponsor**": 100 Vandam, LLC, the offeror of the Commercial, Office and Roof Terrace Units under this Plan. Whenever the Plan, the Purchase and Sale Agreement or the Condominium Documents provide that Sponsor shall not be liable or responsible, or that there shall be no recourse against Sponsor, such provision shall be deemed to include Sponsor's Related Parties and Sponsor's employees, agents and attorneys, whether or not so expressly stated.

"**Sponsor Board Control Period**": As defined in Section A, subsection A-7 above.

"Sponsor Board Member": A Board Member appointed and designated exclusively by Sponsor (or, after Sponsor no longer owns any Unsold Unit, other Unsold Unit Owners, if any) to serve as a Board Member and represent the interests of Sponsor and other Unsold Unit Owners on the Condominium Board. There is no restriction or limitation whatsoever on who may serve as a Sponsor Board Member and may be anyone that either has or does not have a family, employment or business relationship or affiliation with Sponsor or other Unsold Unit Owner or a Related Party to either.

"**Sponsor Related Party**": A Person who is a Related Party to Sponsor.

"Sponsor Unit": An Unsold Unit (including the Commercial Unit or an Office Unit) owned by Sponsor at the time in question.

"Sponsor Veto Control Period": The period ending on the *earlier* of: (a) the date that the Common Interests appurtenant to the Unsold Units constitute less than twenty-five percent (25%) of the aggregate Common Interests appurtenant to all Units; or (b) the fifth (5th) anniversary of the First Unit Closing.

"**Sponsor's Obligations**": As defined in Section O, subsection O-2 below.

"**Sponsor's Rights**": The special rights, powers, privileges, exemptions, easements, licenses, indemnities, remedies, protections and other benefits of Sponsor and Unsold Unit Owners set forth in this Plan (including a Plan Amendment) and the Condominium Documents and which are applicable to the respective Units owned by them (see Section 28.1 of the Declaration for full definition).

"Structural Components": The following components of the Building (if and to the extent existing): foundations, structural columns, beams, supports, wood joists, metal decking and similar structural members; load bearing walls; Building Walls; Base Floors; Base Ceilings; and Roofs, including Roof Structures appurtenant thereto.

"**Systems**": All mechanical, electrical, electronic, video, audio, Internet, plumbing and other Installations relating to: heat; ventilation; air-conditioning; utilities for power, lighting and cooking; security; telephone; waste; refuse; fire protection; sprinklers; standpipe; hot and cold water; elevators; intercom; cable and satellite television; Roofs, including Roof Structures; Building Walls; and all other services provided to one (1) or more Units or the Common Elements.

"TIME IS OF THE ESSENCE", "TIME BEING OF THE ESSENCE", "TIME OF THE ESSENCE" or other words of similar import: The period stated to pay or perform an obligation or

act, or to give a notice, is an absolute deadline and cannot be extended by the party required to so pay, perform or notify, regardless of the reason or excuse for not timely doing so.

"**title closing**": Same as closing of title.

"**Title Insurance Company**": any of the following title insurers or agent: First American Title Insurance Company of New York or Commonwealth Land Title Insurance Company.

"**Unavoidable Causes**": Same as Force Majeure.

"**Unit**": A unit is a part of the Property intended for any type of use or uses, with an exit to a public street or to Common Elements leading to a public street, and is designated under the Declaration as a condominium unit owned separately and exclusively by its Owner together with the Common Interest appurtenant to the unit. Each Owner has exclusive ownership and possession of the Owner's Unit, subject to certain use and occupancy restrictions, and certain rights and easements (including those in favor of the Condominium Board, Sponsor and the Upper Owner), as and to the extent set forth in this Plan and the Condominium Documents. A Unit is designated in this Plan, and will be designated in EXHIBIT B to the Declaration and on the Floor Plans, as a Commercial Unit, an Office Unit or a Roof Terrace Unit.

"**Unit Change**": As defined in Section G, subsection G-2 below.

"**Unit Equipment**": As defined in Section A, subsection A-18 above.

"**Unit Layout**": As defined in footnote 2 to SCHEDULE A in Section D.

"Unit Owner": The legal or record owner of a Unit. An Owner of more than one (1) Unit shall be considered a separate Unit Owner for each such Unit for quorum and voting purposes. A Unit owned by more than one (1) Person shall be considered one (1) Unit Owner for purposes of counting the number or percentage of Unit Owners for quorum and voting purposes.

"Unsold Commercial Unit" or **"Unsold Office Unit"** or **"Unsold Roof Terrace Unit"** or **"Unsold Unit"**: Any Unit (Commercial or Office) owned at the time in question by an Unsold Unit Owner (regardless of whether such Owner is Sponsor and/or other Person so designated by Sponsor as such). A Sold Unit that is reacquired by Sponsor shall be regarded as an Unsold Unit for all purposes other than for determining the expiration of the Sponsor Board Control Period or the Sponsor Veto Control Period. An Unsold Unit shall retain its status and character as an Unsold Unit until it is conveyed to a bona fide Purchaser under this Plan.

"Unsold Commercial Unit Owner" or **"Unsold Office Unit Owner"** or **"Unsold Roof Terrace Unit Owner"** or **"Unsold Unit Owner"**: Sponsor and (if applicable) a Person designated by Sponsor in writing or a Plan Amendment as an Unsold Unit Owner having, with regard to each Unsold Unit owned by such designated Person, all of Sponsor's Rights under this Plan, the Plan Amendments and the Condominium Documents (i.e., all rights, powers, easements, licenses, privileges, exemptions, indemnities, remedies, protections and other benefits of Sponsor under this Plan, the Plan Amendments and the Condominium Documents with respect to each Unsold Unit owned by such designee), but

subject in each case to the same limitations and restrictions as are applicable to Sponsor under this Plan, the Plan Amendments and the Condominium Documents.

"Unused Development Rights": As defined in Section A, subsection A-1 above.

"Usage": As defined in this Section B, subsection B-5.3.3 above.

"Use and Enjoy", "Use and Enjoyment" or **"Used and Enjoyed"** or similar words: This term means and includes all manner of permitted use, occupancy, Operation, Disposition and other enjoyment of a Unit and the Common Elements for their respective intended purposes, as indicated or inferred in, and in compliance with, this Plan, the Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time.

"Vault": A Vault is the space below a sidewalk adjacent to the Property and is permitted to be used by the Property pursuant to an undocumented general revocable license or right from The City of New York. The license or right to use a Vault is part of the Common Elements.

"Work" or derivations thereof: All labor performed, and all materials and supplies used, to Maintain, Repair, Alter and otherwise Operate or perform other work in or to a Unit or the Common Elements.

"Work Requirements": As defined in Section 15.2 of the Declaration.

"Working Capital Fund": The amounts to be "advanced" by Sponsor and to be paid by Purchasers of Office Units for use as working capital of the Condominium as provided in "Section V. Working Capital Fund".

"Working Capital Payment": As defined in Section V, subsection V-2 below.

END OF SECTION B

This Page Intentionally Left Blank

SECTION C. DESCRIPTION OF THE PROPERTY AND IMPROVEMENTS

The following is a general description of the Property, including the Units and Common Elements, as well as certain facilities, services and amenities to be provided at the Condominium. For a more detailed description of the Property and the Building condition, see DOCUMENT 4. "Description of Property and Specifications or Building Condition" in Part II of this Plan.

C-1. The Property.

C-1.1. Land. The Land comprises approximately 6,434 square feet at the southeast corner of the intersection of Vandam and Greenwich Streets. The Property fronts approximately 99 feet 11-1/8 inches on the south side of Vandam Street and approximately 64 feet, 2 inches on the east side of Greenwich Street. The entrance to the Building for the Office Units is at 100 Vandam Street and the primary entrance for the Commercial Unit is on Greenwich Street (the Commercial Unit also has a secondary entrance on Vandam Street).

C-1.2. Building. The Building contains a cellar, six (6) above-grade floors, a main Roof and two (2) bulkheads (one bulkhead enclosing a public stair and one bulkhead enclosing elevator equipment). The floors above the cellar are numbered ground (lobby) and 1 to 5 (see SPECIAL RISKS Section A, subsection A-29 above). See the following subsection C-1.3 for location of the Units on each floor. One (1) automatic, self-service passenger elevator serves all floors from the cellar through floor 5, but does not serve the Roof.

C-1.3. Units. The Building contains a total of 5 Office Units located on portions of floors 1 through 5, 1 Commercial Unit located on the cellar level with its primary entrance from Greenwich Street and a secondary entrance from Vandam Street, and one (1) Roof Terrace Unit to be installed on a specified portion of the main Roof reserved for such purpose (see SPECIAL RISKS Section A, subsections A-2.1 and A-19.12 above). The "Total Floor Area" (as hereafter defined) of each Office Unit ranges in size from approximately 6,929 square feet to approximately 6,980 square feet. The "Base Floor Area" (as hereinafter defined) of each Office Unit ranges in size from approximately 5,631 square feet to approximately 5,672 square feet. The Total Floor Area and the Base Floor Area of the Commercial Unit are approximately 6,063 square feet and 4,927 square feet, respectively. The Total Floor Area and Base Floor Area of the Roof Terrace Unit are approximately 5,928 square feet and 5,274 square feet, respectively. The "**Total Floor Area**" of a Unit is the sum of its "Base Floor Area" and its "Allocable Common Area". The "**Base Floor Area**" is the floor area of a Unit measured from the outside surface of the boundary walls enclosing the Unit and thus substantially exceeds the Unit's usable floor area. See SPECIAL RISKS Section A, subsection A-21 above. The "**Allocable Common Area**" is the portion of the floor area of the Common Elements allocated to such Unit Pro Rata to its Base Floor Area (i.e., in the proportion that the Base Floor Area of the Unit bears to the aggregate Base Floor Areas of all Units).

The Common Interest of each Office Unit is computed, in part, on its Total Floor Area in accordance with RPL §339-i(1)(iv).

The floor areas of each Unit were measured by Sponsor's architect, K Square Designs, Inc. and are approximate, within reasonable tolerances, without subtractions for Common Elements bordering or

within the Unit (such as boundary Building Walls, corridor wall, chases and the like). The "as built" floor plan of each Unit, including its configuration, size and space as partitioned on the date of this Plan, is contained in Part II as DOCUMENT 5 of this Plan. The "marketing" floor plans of Office Units 400 and 500 showing these Units without the existing partitions, corridors and other existing improvements are contained in DOCUMENT 5A of Part II. The "marketing" floor plans are to show an open, unimproved floor plan of such Units for presentation purposes only. Sponsor is selling Office Units 400 and 500 "AS IS" and "as built", and does not undertake, and shall not be obligated, to demolish the existing partitions and other improvements of such two (2) Units.

All square footages shown on the "as built" and "marketing" floor plans and stated above are approximate (within reasonable tolerances) and subject to change pursuant to Sponsor's right to change the number, configuration, layout, size and demised space of Units in compliance with Part 20, Section 20.3(k) of the regulations issued by the Department of Law (see Section G, subsection G-2 below).

If the actual overall Base Floor Area of a Unit is not materially smaller than its floor plan in DOCUMENT 5, then the inaccuracy shall be considered to be minor and, regardless of any inaccuracies in size or layout of individual spaces comprising a Unit (whether greater or smaller) or otherwise, a Purchaser of such Unit will not be excused from paying the full Purchase Price, without abatement, set-off or credit, and without recourse of any kind against Sponsor. If such is not the case and the actual overall Base Floor Area of a Unit is materially smaller than its floor plan in DOCUMENT 5, the Plan will be amended to offer such Purchaser the right for only fifteen (15) days after presentation of the Amendment to rescind the Purchase and Sale Agreement, which shall be the limit of Purchaser's remedies and Purchaser's sole recourse against Sponsor. If Purchaser elects to rescind, Purchaser's Deposit and any earned interest will be returned to Purchaser, together with any Net Refundable Special Work Payment (if and to the extent applicable) (see SPECIAL RISKS Section A, subsections A-5 and A-21 above).

C-1.4. Zoning. The Property is zoned M1-6, which permits all intended commercial uses of the Building. The Building is not a landmark and is not located in a landmark historic district.

C-2. "AS IS" Sale. Each Office and Commercial Unit, including its individual Unit Equipment that are owned by Sponsor, is being offered and sold in "AS IS" condition existing at the closing of title, subject only to Sponsor's undertaking to obtain a new or amended Certificate of Occupancy of the Building to authorize the use of the Commercial Unit for the permitted retail and office purposes set forth in this Plan and to change the designation of the "caretaker's apartment" to "office" on a portion of Office Unit 500 so as to allow all of such Unit to be used as offices, and subject further to Sponsor's obligation to Maintain and Repair the Unit if and to the extent required by the then existing lease (if any) for all or a portion of the space comprising the Unit or applicable Law, but otherwise without any obligation of Sponsor to make any other repairs, corrections, additions or improvements, and without any abatement in Purchase Price, set-off or recourse of any kind against Sponsor based on any defects, faults, damages, violations, required inspections, open applications or other conditions requiring correction or repair.

The Roof Terrace Unit is being offered and sold as unimproved Roof space. In order to use the Roof as a Roof Terrace Unit, the Purchaser of the Roof Terrace Unit shall be responsible, at Purchaser's sole Cost and Expense, to first install the construction items comprising the Roof

Terrace Unit (i.e., decking, pavers or other protective flooring, supporting pedestals and required guard rails) on a specified portion of the main Roof reserved for such purpose (see SPECIAL RISKS Section A, subsections A-2.1 and A-2.19.11 above) for estimated costs and requirements to install the Roof Terrace Unit.

Similarly, the Condominium Board and all Unit Owners shall accept the Common Elements in their then existing "AS IS" condition at the time of the First Unit Closing and the Board shall assume full and sole responsibility for all Maintenance and Repair thereof as a Common Expense, without recourse of any kind against Sponsor and subject to all defects, faults, violations, required inspections, open applications or other conditions requiring correction or repair. Subject to the provisions on risk of loss from fire or other casualty contained in the Purchase and Sale Agreement (see Section K, subsection K-11 below) and Sponsor's foregoing limited maintenance and repair obligations: (a) Sponsor is not otherwise obligated and shall not be required to make any repairs, corrections or improvements to the Units or the Common Elements; and (b) Purchasers shall be obligated to consummate the closing without abatement in price, set-off or recourse of any kind against Sponsor, regardless of the Unit's condition at such time. See SPECIAL RISKS Section A, subsection A-18 above.

C-3. Services and Amenities.

C-3.1. Standard Building Services and Amenities. Generally, the services normally associated with the operation and maintenance of comparably sized and equipped, quality mixed commercial and office buildings located in the vicinity of the Building will be provided to the Owners, tenants and occupants of Units, regardless of the number of Units that are sold. All Costs and Expenses of these services and amenities will be part of the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests (see SCHEDULE B in Section E, subsection E-6 below). These Building services and amenities include the following:

Standard Building Services and Amenities

1. Elevator: The Units are served by one (1) passenger elevator, which serves all floors from the cellar to floor 5. The elevator does not serve the Roof.

2. Intercom: The intercommunication system consists of a voice intercom system used in conjunction with an electric strike door release at the Building's street entrance doors. A caller identifies his or her presence through a call box located outside of the Building. The occupant of the Unit can hear who is calling and can communicate back through the Unit's intercom and activate the door release letting the caller into the vestibule and then into the Building.

3. Building Staff: The Building staff will consist of one (1) full time superintendent who will be scheduled to visit the Building eight (8) hours a day, five (5) days a week and will be on-call during off hours. The exact hours and days are to be arranged by the Condominium Board and the superintendent.

4. Fire Alarm System: The Building has a Class "E", central station, fire alarm system with the command station in the main lobby and the equipment control cabinet in the cellar.

There are pull stations and telephones on the floors, as well as illuminated, emergency lighting.

5. Building Directory: No tenant directory is maintained in the Building.

6. Exterior Window Cleaning Services: Exterior window cleaning services is planned to be provided on a semi-annual basis as part of the Common Expenses to be borne by all Unit Owners Pro Rata to their respective Common Interests.

C-3.2. General Provisions Concerning Services and Amenities. In all likelihood, the nature of the services and amenities listed above, the hours during which they are provided, any increase or decrease or elimination of any such services or amenities, and the rates charged for same by third-party providers will change from time to time, in the discretion of the Board or the party providing the service. Sponsor does not represent, assure or guarantee that the Board will maintain the services and amenities set forth above. However, all services and amenities required by Law will be provided at all required times and any changes in the standard Building services and amenities cannot be made during the Sponsor Veto Control Period without obtaining Sponsor's prior written Discretionary Approval or Consent therefore.

C-3.3. Governing Condominium Documents; Changes and Interruptions in Building Services. The foregoing Building services and amenities will be governed by, and subject to, the Declaration, By-Laws and the Rules and Regulations (the latter may be amended from time to time by the Condominium Board). The Sponsor and Managing Agent will not be responsible for: (a) the quality or level of Building services or amenities (which will be within the discretion of the Condominium Board, but subject to certain rights, benefits and veto powers reserved to Sponsor); or (b) a change, reduction or discontinuance of Building services or amenities (which also will be within the discretion of the Condominium Board, but subject to certain rights, benefits and veto powers reserved to Sponsor). However, during the Sponsor Board Control Period and after the election of an Independent Board Member, the Building services and amenities set forth in this Plan will not be reduced or eliminated without the consent of such Independent Board Member.

Sponsor will have the right, Freely and Without Consent, Payment or Restriction (other than the requirement to comply with the applicable Work Requirements set forth in Article 15, Section 15.2 of the Declaration), and without liability to Owners, tenants or occupants of Units or to the Board for any Claims or Liabilities and Expenses, to temporarily interrupt Building services and amenities in order to perform any Repair, Maintenance, Alterations or other Work pursuant to this Plan, a Plan Amendment or a Purchase and Sale Agreement (whether performed before or after the closing of title thereunder).

The Condominium Board (including its members and officers in their capacity as such), the Managing Agent and Sponsor will not be liable to Owners, tenants or occupants of Units or their invitees for any Claims or Costs and Expenses based on an interruption, reduction, change or discontinuance of a Building service or amenity due to Unavoidable Causes (e.g., fire, explosion, shortage or late delivery of material, labor disruptions, inclement weather, power interruption, or failure of electrical or mechanical Equipment) or the acts or omissions of third parties engaged to provide Building services. The foregoing shall not excuse Sponsor from Sponsor's obligations

under this Plan (including those set forth in Section O, subsection "O-2. Obligations of Sponsor" below), nor excuse Sponsor or the Managing Agent from its own negligence.

All decisions concerning the Building services and amenities summarized in subsection C-3.1 above and any changes thereto will be made by a majority of the Board Members. See SPECIAL RISKS Section A, subsection A-7 above, for period of voting control of the Board by Sponsor. The Plan will be amended to disclose an adverse change in a material Building service or amenity.

END OF SECTION C

This Page Intentionally Left Blank

SECTION D. OFFERING PRICES AND RELATED INFORMATION

D-1. SCHEDULE A

100 Vandam

The projections in this SCHEDULE A assume that the first year of Condominium operation will be from July 1, 2009 to June 30, 2010.

Unit No. (1)	Approximate Floor Area (2) Base Floor Area	Allocable Common Area	Total Floor Area	Offering Price (3)	Percentage of Common Interest (4)	Projected First Year's Common Charges (5) Monthly	Projected First Year's Common Charges (5) Annual	Projected 2009/2010 Real Estate Taxes (6) Monthly	Projected 2009/2010 Real Estate Taxes (6) Annual	Projected First Year's Total Charges (7) Monthly	Projected First Year's Total Charges (7) Annual
Office Units											
100	5,663	1,305	6,968	$ 8,013,200	16.9961%	$ 4,125.12	$ 49,501.48	$ 2,436.21	$ 29,234.48	$ 6,561.33	$ 78,735.96
200	5,663	1,305	6,968	$ 6,619,600	16.9961%	$ 4,125.12	$ 49,501.48	$ 2,436.21	$ 29,234.48	$ 6,561.33	$ 78,735.96
300	5,672	1,308	6,980	$ 6,980,000	17.0231%	$ 4,131.68	$ 49,580.12	$ 2,440.08	$ 29,280.92	$ 6,571.76	$ 78,861.04
400	5,658	1,304	6,962	$ 6,613,900	16.9811%	$ 4,121.48	$ 49,457.79	$ 2,434.06	$ 29,208.68	$ 6,555.54	$ 78,666.47
500	5,631	1,298	6,929	$ 6,929,000	16.9000%	$ 4,101.80	$ 49,221.59	$ 2,422.43	$ 29,069.18	$ 6,524.23	$ 78,290.77
Sub-total – 5 Office Units	28,287	6,520	34,807	$35,155,700	84.8964%	$ 20,605.20	$ 247,262.46	$ 12,168.99	$ 146,027.74	$ 32,774.19	$ 393,290.20
Commercial Unit	4,927*	1,136	6,063	$ 7,275,600	14.7871%	$ 3,588.99	$ 43,067.74	$ 2,119.58	$ 25,434.86	$ 5,708.57	$ 68,502.60
Roof Terrace Unit	5,274	24	5,298	$ 1,059,600	0.3165%	$ 76.82	$ 921.81	$ 45.37	$ 544.40	$ 122.19	$ 1,466.21
Total All 7 Units	38,488	7,681	46,168	$43,490,900	100.0000%	$ 24,271.01	$ 291,252.01	$ 14,333.94	$ 172,007.00	$ 38,604.95	$ 463,259.01

* Cellar Level:4,836 square feet
Street Level: 91 square feet

Footnotes start after the end of this SCHEDULE A.

Footnotes to SCHEDULE A

(1) The Building will contain a total of 7 Units consisting of 5 Office Units, 1 Commercial Unit and 1 Roof Terrace Unit. All Units are being offered for sale under terms set forth in this Plan. Sponsor reserves the right to change the number of Units in compliance with Part 20, Section 20.3(k) (see Section G, subsection G-2 below).

SPECIAL RISK: Each Unit is being offered for sale subject to one or more existing leases (if and as applicable), as such lease or leases may be extended or renewed pursuant to their respective terms (see Section I, subsection I-2 below for schedule of leases and related information). Sponsor reserves the right to modify, amend and terminate or cancel an existing lease and to enter into a new lease for vacant space comprising a Unit prior to execution of a Purchase and Sale Agreement for such Unit, but will amend the Plan to disclose any material modification or amendment to an existing lease or the terms of any new lease (as applicable). After a Purchase and Sale Agreement is in effect, Sponsor shall not modify or amend an existing lease, or terminate or cancel such lease by mutual agreement with the tenant, without obtaining the prior written consent of the Purchaser of the applicable Unit, but reserves the right to terminate or cancel a lease in accordance with its terms (e.g., based on non-payment of rent) without Purchaser's consent. In addition, in the event of the expiration or sooner termination of an existing lease, Sponsor reserves the further right to lease vacant space comprising such Unit on the following terms. Sponsor shall first offer in writing to lease such vacant space to the Purchaser at such rent and other terms as they may mutually agree upon for the interim period prior to the date of closing of title. If the parties fail to reach a mutual agreement within 30 calendar days after the offer to lease is given to Purchaser, or Purchaser declines to enter into such interim lease, Sponsor shall have the unfettered right to lease said vacancy at not less than the rent and other material terms last offered by Sponsor to Purchaser, except the lease may be for a term of not more than ten (10) years, unless the Purchaser agrees in writing to a longer term. See Section A, subsection A-10 above and Section I, subsection I-3 below for discussion.

SPECIAL RISK: Sponsor has undertaken to obtain a new or amended Certificate of Occupancy of the Building authorizing the use of the Commercial Unit for the permitted retail and office purposes set forth in this Plan and to change the use of the caretaker's apartment on a portion of Unit 500 to office use so as to allow all of such Unit to be used as offices. In addition, the main Roof is not improved with the Roof Terrace Unit, which is to be installed on a specified portion of such Roof by, and at the sole Cost and Expense of, the Purchaser of the Roof Terrace Unit. See Section A, subsection A-18 above.

(2) The Base Floor Area is the floor area of each Unit and is measured from the outside surface of the boundary walls enclosing the Unit, and thus substantially exceeds the Unit's usable floor area. The Allocable Common Area is the portion of the floor area of the Common Elements allocated to such Unit in proportion to its Base Floor Area (i.e., in the proportion that the Base Floor Area of the Unit bears to the aggregate Base Floor Areas of all Units). The Total Floor Area is the sum of the Unit's Base Floor Area and Allocable Common Area. The Common Interest of each Unit is computed, in part, on its Total Floor Area in accordance with RPL §339-i(1)(v) (see footnote 5 below).

The floor area of each Unit was measured by Sponsor's architect, K Square Designs, Inc., and is approximate, within reasonable tolerances. If the actual overall Base Floor Area of a Unit is not materially smaller than its Base Floor Area in this SCHEDULE A or its Floor Plan in

DOCUMENT 5 in Part II, then the inaccuracy shall be considered minor and, regardless of any other inaccuracies in size of individual spaces comprising a Unit (whether greater or smaller) or otherwise, a Purchaser of such Unit will not be excused from paying the full Purchase Price of the Unit, without abatement, set-off or credit, and without recourse of any kind against Sponsor. If, on the other hand, the actual overall Base Floor Area is materially smaller than its Base Floor Area in this SCHEDULE A or its Floor Plan in DOCUMENT 5, the Plan will be amended to offer such Purchaser the right for fifteen (15) days only after presentation of such Amendment to rescind the Purchase and Sale Agreement, which shall be the limit on Purchaser's remedies and Purchaser's sole recourse against Sponsor. If Purchaser elects to rescind, Purchaser's Deposit and any earned interest thereon will be returned to Purchaser, together with any Net Refundable Special Work Payment (if and to the extent applicable). Sponsor reserves the right to make changes to a Unit (see Section G, subsection G-2 below).

(3) The offering prices and other terms of sale for Units not under contract are negotiable and may be changed by Sponsor from time to time in accordance with the provisions set forth below in Section G, subsection G-1 below. As a result, a Purchaser may purchase on less favorable terms (including price) than other Purchasers for similar Units.

In addition to the Purchase Price, Purchasers will pay various closing costs and if a Purchaser fails to close on the date scheduled for closing in accordance with the Purchase and Sale Agreement, such Purchaser will be required to reimburse Sponsor for certain losses and expenses (see SPECIAL RISKS Section A, subsection A-11 above and Section N, subsection N-1.1 below for full discussion).

(4) The Common Interest of each Unit in the Common Elements has been determined based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of the Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit in accordance with RPL §339-i(1)(iv).

(5) The projected Common Charges in SCHEDULE A are based on the projected Common Expenses contained in the First Year's Budget (SCHEDULE B in Section E Below), which assumes the first year of Condominium operation will begin July 1, 2009. The actual date of commencement of Condominium operation is not assured or guaranteed and may be earlier or later (see Section E, subsection E-2 below for right to rescind if the actual date is delayed by 12 months or more).

The projected Common Expenses in the First Year's Budget are for only the first year of Condominium operation and are good faith estimates based, in part, on: (a) certain applicable historical operating expenses; (b) estimates of reasonably anticipated operating costs for said Budget Year under existing circumstances; and (c) the assumption that present trends and conditions, to the extent applicable, will continue. The projections, however, are not assured or guaranteed. Budget forecasts are inherently uncertain due to the many and variable factors, as well as unforeseeable events, affecting operating expenses. In all likelihood, the actual operating expenses will vary from their estimates. If the actual Common Expenses are higher than projected, the Common Charges will increase to pay the deficit as they are the sole source to pay the Common Expenses (see Section E for full discussion and other budget matters).

The estimated Common Charges in SCHEDULE A include the costs of standard Building services for heating, hot water and water and sewer, but do not include the following Unit ownership

expenses that each Unit Owner will pay separately: (a) the cost of air-conditioning; (b) real estate taxes (see Note (6) below); (c) electricity supplied to each Office and Commercial Unit as determined by a separate meter (in the case of an Office Unit) or consumption survey (in the case of the Commercial Unit) (see Note 7 to SCHEDULE B in Section E); (d) mortgage payments on any loan obtained to purchase the Unit; (e) costs to Maintain, Repair and keep watertight the interior of the Office or Commercial (as applicable) Unit (including: individual Unit Equipment for heating and air-conditioning; individual lighting and plumbing fixtures; and business or trade fixtures and equipment); (f) premiums for any insurance an Owner may wish (or may be required by the Unit's mortgage lender, if financed) to obtain to insure the Unit Owner's fixtures, cabinets, furniture, equipment and other personal property against loss from fire or other casualty or to insure against claims for personal injury or property damage arising from incidents in or on the Unit (these matters will not be covered under the insurance maintained by the Condominium Board) or liability for a Unit's undivided interest in the Common Elements to the extent the liability insurance maintained by the Condominium Board for incidents in, on or caused by the Common Elements is inadequate or the risk is not insured; and (g) charges for telephone, Internet, cable television or other telecommunication service an Owner may install.

(6) Upon recording the Declaration, the Property will be divided into Units with a separate tax lot assigned to each Unit. Generally, within approximately six (6) months thereafter, each Unit is to be taxed as a separate tax lot for real estate tax purposes by the taxing authority and the Unit Owner will not be responsible for the payment of, nor will the Owner's Unit be subject to, any lien arising from the non-payment of taxes on other Units. During the approximate six (6) month interim before each Unit is separately assessed and billed for real estate taxes, the real estate taxes will continue to be assessed to the entire Property as one (1) tax lot and included in the Common Expenses (see Section E, subsection E-3.2 below for allocation and apportionment of real estate taxes based on Common Interests until Units are separately taxed and "Section S. Real Estate Taxes" for discussion).

The first year of Condominium operation is projected to begin July 1, 2009 and to end June 30, 2010, which corresponds to the 2009/2010 fiscal tax year. The projected real estate taxes in SCHEDULE A are based on the following projections of Lawrence J. Berger, P.C., with offices at 200 Madison Avenue, Suite 1902, New York, NY 10016 ("**Berger**"), of the estimated taxable assessed valuation ("**Taxable A.V.**") of the Property and the estimated tax rate (expressed as a percentage) applicable for the July 1, 2009 to the June 30, 2010 tax year:

Projected 2009/2010 Real Estate Taxes

	All Units
Estimated 7/1/09 to 6/30/10 Taxable A.V.	$ 1,630,711
Estimated 7/1/09 to 6/30/10 Tax Rate	10.548%
Estimated 7/1/09 to 6/30/10 Real Estate Taxes	$ 172,007 [$1,630,711 x 10.548%]

The assessed valuation and tax rate for the Property for the current 2008/2009 fiscal tax year are as follows:

Tax Year	Actual Assessed Valuation[1]	Transitional Assessed Valuation[1]	Tax Rate per $100 of A.V.	Real Estate Taxes[2]
7/1/08 to 6/30/09	$1,242,000	$1,125,799	$9.87	$111,116

(1) Amount reflects land and Building. Real estate taxes are based on the lower of the actual or transitional assessed valuation (referred to herein as the "taxable assessed valuation").

(2) Rounded.

For further details, see Section S, subsections S-2 and S-3 below. Berger's opinion letter is contained in subsection S-6 below.

SPECIAL RISK: For purposes only of presenting an estimate of the real estate taxes of each Unit in SCHEDULE A, the projected assessed valuation of the entire Property, as estimated by Berger, has been apportioned to each Unit in the proportion that such Unit's Common Interest bears to the Common Interests of all Units. The method that may be used by the taxing authority to apportion the Property's assessed valuation among such Units is uncertain. The taxing authority, for example, may apportion the Property's assessed valuation among such Units in proportion to each Unit's Common Interest, or a Unit's initial offering price in SCHEDULE A, or a Unit's actual Purchase Price (which is a truer indicator of value, but not the method necessarily used by the taxing authority), or a Unit's square footage, location, overall size, income potential or other extrinsic factors of value, or some combination of the foregoing. See SPECIAL RISKS Section A, subsection A-27 above.

After the Units are separately assessed and billed for real estate taxes, the taxing authority will bill real estate taxes to each Unit in quarterly or semi-annual installments. The projection in this SCHEDULE A of each Unit's estimated monthly real estate taxes for the projected first year of Condominium operation is solely to illustrate the amount to be budgeted each month for a Unit that closes title at the beginning of the projected first year of Condominium operation.

If at the time of closing title a Unit is not separately assessed and billed for real estate taxes by the taxing authority, then Purchaser and Sponsor will apportion real estate taxes in accordance with the Unit's "Tax Share" of the Property's taxes at closing, subject to adjustment for any overpayment or underpayment, as explained in Section N, subsection "N-1.3. Closing Apportionments with Purchasers" below).

Sponsor, Selling Agent and Berger do not represent, assure or guarantee the actual taxable assessed valuation, tax rate or real estate taxes for any tax year or the actual allocation and apportionment of the taxable assessed valuation of the Property by the taxing authority to each Unit. See "Section S. Real Estate Taxes" below for full discussion of the foregoing, the adjustment for any overpayment or underpayment of real estate taxes by a Unit Owner before the Units are separately assessed and billed by the taxing authority and other important real estate tax issues.

(7) The Projected First Year's Total Charges in the last two (2) columns are the sum of the projected annual and monthly Common Charges and projected annual and monthly Real Estate Taxes in the adjacent columns.

END OF SECTION D

SECTION E. BUDGET FOR FIRST YEAR OF CONDOMINIUM OPERATION (SCHEDULE B)

E-1. **Projected First Year**. The Budget for the first year of Condominium operation (SCHEDULE B below) is based on the 12 month period projected to begin July 1, 2009. The actual date of Condominium operation will begin at the First Unit Closing with a bona fide Purchaser, which may be earlier or later.

E-2. **Revised Budget; Rescission**. 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 this 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, or if the actual date is delayed twelve (12) months or more from such projected date, Sponsor must amend the Plan to offer all Purchasers the right to rescind and a period of fifteen (15) calendar days after the date of presentation of the Amendment to exercise the right. Sponsor must return any Deposit or downpayment to Purchasers who timely rescind within such 15 day period, together with any interest earned thereon and any Net Refundable Special Work Payment (if and to the extent applicable). Such right to rescind shall be Sponsor's sole liability and Purchaser's sole recourse against Sponsor (regardless of any losses or damages Purchaser may have sustained or incurred). 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 Plan.

E-3. **Allocation and Apportionment of Expenses**. The following First Year's Budget (SCHEDULE B) itemizes the anticipated Condominium expenses for the first year of Condominium operation, which are charged to all Unit Owners Pro Rata to their respective Common Interests, other than electricity, which is separately metered for all Office Units, but not the Commercial Unit. Until the Commercial Unit is separately metered or submetered for electricity, the estimated cost of electricity provided to the Commercial Unit shall be specially allocated and assessed to the Commercial Unit based on an electrical consumption survey prepared by a qualified licensed consulting or electrical engineer chosen by the Condominium Board and the applicable utility rates paid by the Board, including sales tax, in accordance with the Special Allocation and Apportionment Rule and RPL §339-m. For the first year of Condominium operation, the projection of electricity consumption by the Commercial Unit prepared by Mottola Rini Engineers P.C. (see SCHEDULE B-1 in this Section E below) shall be followed. The Commercial Unit Owner shall have the right, at any time, at its sole Cost and Expense, to separately meter or submeter the consumption of electricity by the Commercial Unit. If submetered, the Board will bill the Commercial Unit for the cost of electricity consumed by the Commercial Unit as measured by said submeter and the applicable utility rates and sales tax paid by the Board. In addition, the First Year's Budget assumes that the use of the Commercial Unit will not increase the projected insurance premiums for the Property. If the actual use of the Commercial Unit increases the cost of insurance for the Property, the Condominium Board shall specially allocate and assess the amount of such increase to the Commercial Unit in accordance with the Special Allocation and Apportionment Rule.

The Roof Terrace Unit will pay its share of all Common Expenses Pro Rata to its Common Interest. Since the Roof Terrace Unit does not use any HVAC/Mechanical/Utility Building Systems or any other Building services, the Common Interest of the Roof Terrace Unit reflects its lack of Usage of the Common Elements in accordance with Section 339-i(1)(iv) of the Condominium Act. See Section B, subsection B-5.3 and B-5.3.3 above for full discussion.

E-3.1. Real Estate Taxes: Until the Units are separately assessed and billed for real estate taxes, the real estate taxes assessed to the Property will be included in the Common Expenses and allocated and assessed to all Units Pro Rata to their respective Common Interests in accordance with the opinion of Lawrence J. Berger, P.C. (see Section S, subsection S-6 below). The amounts so apportioned and assessed to the respective Units shall be subject to adjustment for any overpayment or underpayment of real estate taxes. See SPECIAL RISKS Section A, subsection A-27 above, and "Section S. Real Estate Taxes" below for full discussion (see also subsection 9.1.7 of the By-Laws).

E-4. Budget Procedure. When adopting a Budget for each Budget Year, the Condominium Board shall determine the Budget items comprising the projected Common Expenses, and shall allocate and apportion each Budget item of projected Common Expense based on, and in strict compliance with, this Plan, including: this Section E and the following First Year's Budget (SCHEDULE B); the principles, rules, requirements and procedures set forth in Section R, subsection R-3.1 below and the Declaration (see Sections 9.2 through 9.12 of the Declaration).

E-5. Budget Certification. In the opinion of Penmark Realty Corp. ("**Penmark**"), having an office at 820 Second Avenue, 4th Floor, New York, NY 10017, the estimated Common Expenses appears reasonable and adequate under existing circumstances to meet the reasonably anticipated Common Expenses for the projected first year of Condominium operation (see Document 8C in Part II of this Plan for Certification of Penmark). Sponsor and Penmark cannot, and do not, represent, assure or guarantee the actual amount of the Common Expenses (or the resulting Common Charges), which may be higher or lower than the estimates in SCHEDULE B.

END OF TEXT ON THIS PAGE

E-6. **Schedule B**

SCHEDULE B

Budget of Projected Receipts and Expenses of Operation
for the 12 Months Projected to Begin July 1, 2009
and to End June 30, 2010 (Note 1)

First Year's Projected Common Receipts (Note 2):

First Year's Common Charges:	
Office Units (Note 3)	$ 247,262*
Commercial Unit (Note 3)	43,068*
Roof Terrace Unit (Note 3)	922*
Total Projected Common Receipts	$ 291,252

First Year's Projected Common Expenses (Note 4):

Estimated Expenses	Total All Units*
Labor (Note 5)	$ 53,195
Heating and Hot Water (Note 6)	26,775
Electricity (Note 7)	37,800
Water and Sewer Charges (Note 8)	9,309
Repairs Maintenance & Supplies (Note 9)	12,700
Service Contracts (Note 10)	26,919
Insurance (Note 11)	40,700
Management Fee (Note 12)	60,000
Legal and Audit Fees (Note 13)	11,750
Other (Note 14)	5,000
Contingency (Note 15)	7,104
Total Projected Common Expenses	$ 291,252

* Amounts are rounded.

The Notes to this SCHEDULE B start on the next page and are an integral part of this SCHEDULE B and should be read in conjunction herewith.

Notes to SCHEDULE B — Budget of Projected Receipts and Expenses of Operation for the 12 Months Projected to Begin July 1, 2009 and to end June 30, 2010:

Note 1. **Projected First Year of Condominium Operation**

All amounts are projections for the first twelve (12) months of Condominium operation, which is assumed (for budget purposes) will begin on July 1, 2009, the projected date of First Unit Closing under this Plan. The actual first year of Condominium operation may begin earlier or later (see subsection E-2 above for requirements to revise the Budget if the actual or anticipated date of commencement of Condominium operation is delayed by more than six (6) months from the projected date and to offer rescission if the amended projections exceed the original projections by 25% or more).

Note 2. **First Year's Projected Common Receipts**

No income will be provided to the Condominium Association from any contracts or leases. The Common Charges payable by Unit Owners and potential interest or investment income earned on the Working Capital Fund (if any) will be the only sources of income for the Condominium Association. For the purposes of presentation in this First Year's Budget, the Projected Common Receipts do not include any interest or investment income that may be received by the Condominium Board from investment of the Working Capital Fund, which will be established in increments at and after the First Unit Closing. It is expected that all or part of such Working Capital Fund will be expended during the first or subsequent years of Condominium operation and/or applied for cash flow purposes to cover (for example) unevenness in collection of Common Charges or payment of Common Expenses. Accordingly, such interest or investment income is not expected to be significant. For this reason, and for the further reason that such interest or investment income does not reflect normally anticipated income from operations, no interest or investment income from investment of said Working Capital Fund has been included in this Budget. Nevertheless, any interest or investment income earned on said Working Capital Fund (after deducting income taxes based thereon) will be available to pay the Common Expenses.

Note 3. **First Year's Projected Common Charges (Budget: $291,252)**

The projected Common Charges in this First Year's Budget have been assessed to all Units Pro Rata to their respective Common Interest and applies for only the first twelve (12) months of Condominium operation. Thereafter, any increase in Common Expenses caused by the use of a Unit (e.g., the use of the Commercial Unit for other than as an office) may be specially allocated and assessed to such Unit by the Condominium Board in accordance with the Special Allocation and Apportionment Rule. See Section B, subsection B-5.3.3 above. Any dispute as to a proposed Budget item or the amount specially allocated and assessed to a Unit in accordance with the Special Allocation and Apportionment Rule shall be submitted to arbitration in New York City pursuant to Article 19 of the By-Laws (see Section R, subsection R-9 below).

Note 4. **First Year's Projected Common Expenses (Budget: $291,252)**

All projected Common Expenses are for the first twelve (12) months of Condominium operation, which is assumed (for budget purposes) will begin July 1, 2009, the projected date of First Unit Closing under the Plan. The actual first year of Condominium operation may begin earlier or later. All amounts in this Budget are estimates and approximations. While they are believed to be reasonable, they are not assured or guaranteed.

The projected Common Expenses in this Budget are based on: (a) certified, historical financial statements; (b) estimates provided by BSC Property Management, LLC ("**BSC Property Management**") of the reasonably anticipated recurring costs of operations for the First Year's Budget under existing circumstances; and (c) the assumption that present trends and conditions, to the extent applicable, will continue. Certain of the estimated expenses (where indicated below) may be based on proposals that are not binding.

SCHEDULE B does not reflect: (a) real estate taxes for the interim period prior to the separate assessment of Units, which will be allocated, apportioned and assessed to the Units as explained in footnote (6) to SCHEDULE A in Section D above and Section S, subsection S-1 below); (b) potential major or capital repairs or replacements in future years (CAVEAT: no reserves for major or capital replacements are budgeted); and (c) miscellaneous two or five year inspection fees (see Note 14 below). No Budget item is guaranteed. This Budget has been prepared by BSC Property Management and certified by Penmark Realty Corp. (see DOCUMENTS 8C, 8D and 9 in Part II of this Plan).

Before the First Unit Closing, Sponsor has reserved the right, from time to time, to enter into, modify, renew and replace service, maintenance, employment, concessionaire, utility and other agreements and insurance policies that will be binding on the Condominium Board after such First Unit Closing. However, the Plan will be amended to disclose the terms of any service or maintenance contract not set forth in this Budget that would materially increase the first year's projected Common Charges or is for a term in excess of five (5) years, other than service or utility agreements that customarily are for longer terms (such as cable television, utility and telecommunication agreements, which typically are for initial terms of ten (10) to twenty (20) years).

BUDGET FORECASTS ARE INHERENTLY UNCERTAIN AS OPERATING EXPENSES WILL BE AFFECTED BY MANY AND VARIABLE FACTORS AS WELL AS UNFORESEEABLE EVENTS. THE PROJECTED EXPENSES IN THIS BUDGET ARE GOOD FAITH ESTIMATES, BUT CANNOT BE, AND ARE NOT, ASSURED OR GUARANTEED. IN ALL LIKELIHOOD, THE ACTUAL EXPENSES WILL VARY FROM THEIR ESTIMATES.

IF THE TOTAL ACTUAL COMMON EXPENSES ARE HIGHER THAN PROJECTED, THEN THE COMMON CHARGES WILL INCREASE TO PAY THE DEFICIT. COMMON CHARGES OF UNIT OWNERS ARE THE SOLE SOURCE OF RECEIPTS AVAILABLE TO PAY THE PROJECTED COMMON EXPENSES IN THIS FIRST YEAR'S BUDGET.

Note 5. **Labor and Related Expenses (Budget: $53,195)**

The budget amount is the estimated costs of one (1) full-time superintendent (rounded). The superintendent will be a non-union employee.

The superintendent will be scheduled to visit the Building eight (8) hours per day, five (5) days per week at an annual salary of $40,000 and will be on call during off hours.

The projected vacation, holiday, sick days, contingency, payroll taxes, and hospitalization are as follows:

Item		Totals
Vacations, Holidays, Sick Pay and Contingency	$	3,077
FICA and Medicare		3,295
Workers' Compensation and Disability		2,722
State and Federal Unemployment Insurances		1,099
Hospitalization		3,000
Total	$	13,193

Note 6. **Heating and Hot Water (Budget: $26,775)**

There are two (2) gas meters in the Building. One (1) meter measures gas consumption to heat the Office Units and the Common Elements, which is a Common Expense and charged to all Units Pro Rata to their respective Common Interests. The other meter measures gas consumption for cooking to Office Unit 500, which shall be paid by the Owner of Office Unit 500 directly to the utility provider as measured by said separate meter.

The Commercial Unit has three (3) ceiling-mounted Unit heaters, which use hot water and electric fans from the Building Systems and are included in the Common Expenses charged to all Units Pro Rata to their respective Common Interests.

No hot water is provided to the Common Elements or to the Units from Building Equipment.

The projected consumption and cost per Mottola Rini Engineers P.C., Consulting Engineers ("**Mottola Rini**"), with offices at 36 West 25th Street, New York, NY 10010, for the heating system serving the Common Elements and all Units are estimated at 15,455 Therms/Year, at a rate of $1.65/Therm, including taxes, at October 28, 2008 for a total cost estimated at $25,500.

The Budget amount includes an inflation factor estimated by BSC Property Management at five (5%) percent above the average cost per Therm as at October 28, 2008, or an estimated rate of $1.73.

The actual costs of gas will depend on the level of consumption and gas rates. Consumption will be affected by various and unpredictable factors, including conservation measures (if any) adopted by the Condominium Board. Gas prices fluctuate, are volatile, and are inherently uncertain.

Note 7. **Electricity (Budget: $37,800)**

The amount set forth in this Budget item is the estimate for electricity consumed by only the Common Elements. Electric service to the Office Units will be individually billed to each Office Unit based on its separate meter. Electric service to the Commercial Unit and the Common Elements are commonly metered and until the Commercial Unit is separately metered or sub-metered, consumption of electricity by the Commercial Unit will be based on an electrical consumption survey conducted by a qualified licensed consulting or electrical engineer chosen by the Condominium Board and the applicable utility rates and sales tax paid by the Board. For

the First Year's Budget, the Commercial Unit's electricity consumption, as estimated by Mottola Rini (see SCHEDULE B-1 below), shall apply.

The amounts set forth in SCHEDULE B for electricity to be provided to the Common Elements are based on the projections of consumption and rates described in a letter dated October 28, 2008 from Mottola Rini, which reflects a projected annual consumption of electricity estimated at approximately 135,850 kilowatt hours ("**kwh**") and an estimated cost of $36,000 per year, to which BSC Property Management has added a five (5%) percent estimated inflationary factor, for a projected total budget amount estimated at $37,800 (rounded).

In the future, this expense should be reviewed annually by the Condominium Board and an engineer hired to determine the then current costs and estimated consumption by the Common Elements and the Commercial Unit, if in dispute. The cost of the engineer will be a Common Expense charged to all Units Pro Rata to their respective Common Interests. Any dispute with respect thereto shall be submitted to arbitration in New York City pursuant to Article 19 of the By-Laws (see Section R, subsection R-9. "Arbitration" for discussion below).

The actual costs of electricity will depend on the level of consumption and electric rates. Consumption will be affected by various and unpredictable factors, including conservation measures (if any) adopted by the Condominium Board. The electric rates will be affected by numerous, unpredictable variables that impact on the cost of oil used by the utility, as its primary energy source to generate electricity. Electric prices fluctuate, are volatile and are inherently uncertain.

Note 8. **Water Charges and Sewer Rents (Budget: $9,309)**

The City of New York provides municipal water and sewer services to the Building. There is a single meter serving the entire Building, which is included in one billing from the New York City Water Board.

Water and Sewer services will be provided to the Common Elements for cold water, a staff lavatory and sanitary sewerage. The Common Elements and Units also use water service in connection with the Building's fire protection systems, which do not consume water, except in cases of testing an emergency. The projected costs of water and sewer services in this First Year's Budget are based on the projections of consumption by Mottola Rini and BSC Property Management set forth below and shall be charged to all Units Pro Rata to their respective Common Interests.

Mottola Rini, in its aforesaid letter, estimates usage for the Common Elements and the Office and Commercial Units at 40 gallons per person, per day, for a total consumption estimated at 1,311 HCF (hundred cubic feet), excluding sprinkler testing. BSC Property Management estimates 50 HCF for sprinkler testing, for a combined total consumption estimated at 1,361 HCF for the Common Elements, Units and sprinkler testing.

The current water rate for the New York City fiscal year beginning July 1, 2008 is $2.31/HCF. In order to compute the sewer rent, the water charge is multiplied by the factor 159%, or $3.67 (rounded), with the result being $5.98/HCF (rounded) for the period July 1, 2008 thru June 30, 2009. The Budget is predicated on the historical increase in the water rate of approximately 14.5% for the fiscal year beginning July 1, 2009; or an estimated water rate of $2.64/HCF, plus the sewer factor at times 159%, or approximately $4.20 (rounded), resulting in

a total rate estimated at $6.84/HCF for the period July 1, 2009 through June 30, 2010, or a total expense of approximately $9,309 (rounded) for all Units.

For purposes of presentation in this Budget, it is assumed that the use of water by the Commercial Unit will be substantially similar to the Office Units. After the first year of Condominium operation, if the actual consumption of water by the Commercial Unit is significantly higher due to its use as a restaurant or otherwise, the cost of such increased water consumption, as estimated by a mechanical or consulting engineer selected by the Board, shall be specially allocated and assessed to the Commercial Unit in accordance with the Special Allocation and Apportionment Rule. The fee of said mechanical or consulting engineer shall be a Common Expense and charged to all Unit Owners Pro Rata to their respective Common Interests. Any dispute with respect thereto shall be submitted to arbitration in New York City pursuant to Article 19 of the By-Laws (see Section R, subsection "R-9. Arbitration" below for discussion).

The actual cost of water and sewer services will depend, in part, on the level of water consumption and the rates and formulas for these services as determined by The City of New York. Consumption will depend upon the water usage by the individual Units, which may vary widely depending on the size of a Unit Owner's organization, the individual requirements and habits of the employees of each Unit Owner and the use of each Unit.

Note 9. Repairs, Maintenance and Supplies (Budget: $12,700)

The Condominium Board is to provide for repairs, maintenance and supplies to the Common Elements, including: the 100 Vandam Street Public Areas; the common corridors; the elevator; the public stairs; the sidewalk; and all Systems, Equipment, Facilities and Installations comprising the Common Elements. Each Unit Owner will be responsible to pay and perform or provide for any needed or desired repairs, maintenance and supplies to or for the Owner's Unit and the Unit's Equipment, Facilities and Installations (including a Unit's appliances; individual heating and air-conditioning equipment and fixtures; bathroom sinks, toilets and related hardware), as well as Unit painting, and washing and cleaning the both sides of Unit windows.

The Budget amount represents the estimated cost for ordinary maintenance and repairs of the Common Elements, including periodic painting and supplies, such as cleaning supplies, lubricants, bulbs, fixtures, hardware, rubbish bags, etc. used in connection with the foregoing and the operation of the Common Elements.

Based in part on applicable historical costs, BSC Property Management projects the cost for ordinary repairs, maintenance and supplies to the Common Elements at approximately an estimated $12,700 for the first 12 months of Condominium operation.

No amounts have been budgeted for major repairs or replacements to the roof, the heating and ventilating systems, or the Building exterior. The Common Elements are not air-conditioned. Each Office Unit has its individual air-conditioning equipment, which is to be maintained and repaired by, at the sole Cost and Expense of, the Owner of such Unit. The Commercial Unit is not air-conditioned.

During the first year of Condominium operation, the purchase of small equipment may be necessary, including a vacuum cleaner, snow blower, wet-vac machine and various power tools. The cost of this equipment is to be paid from this Budget item, the Budget item for "Other Expenses" and the Working Capital Fund to the extent sufficient (see Section V. "Working Capital Fund").

This projection is based on historical costs and the experience and opinion of BSC Property Management of the reasonably anticipated costs of recurring, ordinary building repairs, maintenance and supplies for the first year Condominium under existing circumstances and assuming present trends and conditions, to the extent applicable, will continue. No budget item, however, is warranted as to its accuracy, sufficiency or otherwise.

Note 10. **Service Contracts (Budget: $26,919)**

The following contracts are anticipated to be entered into with, or assumed by, the Condominium Board at or prior to the First Unit Closing (all amounts are estimates and based on proposals):

(CONTINUED ON NEXT PAGE)

END OF TEXT ON THIS PAGE

Contractor	Service	Proposal	Term	Budgeted Amount (1)
Otis Elevator 516 West 34th Street New York, NY 10001	Elevator Maintenance	$746 per month (includes sales tax) covering material and labor; cost changes with International Union of Elevator Constructors	01/2008-12/2008	$9,489
Centaur Exterminators P.O. Box 251 Blue Point, NY 11715	Exterminating	$120 per month (includes sales tax) to treat common areas	Month-to-Month	1,440
Petzvel Corporation 389 Broome Street New York, NY 10013	Sprinkler System Maintenance	$420 per year (plus sales tax) to inspect sprinkler system on a monthly basis	01/2008-12/2008	455
TSS Integrated Systems 132 West Broadway New York, NY 10013	Fire Station Maintenance	$2,400 per year (plus sales tax) for semi-annual testing	To be determined	2,601
TSS Integrated Systems 132 West Broadway New York, NY 10013	Fire Station Monitoring	$1,980 per year (plus sales tax) for monitoring of command station	To be determined	2,146
Chemical Specifics 46-09 54th Road Maspeth, NY 11378	Boiler Water Treatment	$756 per year (plus sales tax) to test and treat boiler water	05/2008-04/2009	819
Apple Window Cleaning 260 West 36th Street Suite 503 New York, NY 10018	Exterior Window Cleaning	$4,600 per service (plus sales tax) to clean windows on a semi-annual basis	To be determined	9,969
				$26,919

(1) Sales tax of 8.375% has been added to contracts where indicated.

Each Unit Owner is to arrange for private cartage of trash generated in its Unit. If private trash cartage is arranged by the Board for one (1) or more Units, the costs thereof shall be specially allocated and assessed to such Unit or Units (as applicable) in accordance with the Special Allocation and Apportionment Rule.

Note 11. Insurance (Budget: $40,700)

The budgeted amount for insurance premiums is based on a letter, dated October 16, 2008, from the insurance brokerage firm of York International Agency, LLC, One Executive Boulevard, Yonkers, New York 10701, setting forth the following coverages:

Coverage	Amount of Insurance
Property	
Building-Risks of direct physical loss subject to policy terms & conditions	$15,360,0000
Agreed amount/Replacement cost	Included
Deductible	$5,000
Building Ordinance	Included
Increased cost of construction & demolition	Included
Business Income/Extra Expense	$929,000
Co-Insurance	Actual Loss Sustained
Flood (Rising Water)	$1,000,000 (Deductible - $25,000)
Earthquake	$1,000,000 (Deductible - $100,000)
Elevator Collision	Included
General Liability — Each Occurrence	$1,000,000
General Aggregate	$2,000,000
Personal Injury	$1,000,000
Employee Benefits Liability (Claims Made)	$1,000,000 (Deductible - $1,000)
Water Damage Legal Liability	Included
Non-Owned/Hired Auto	$1,000,000
Lead/Mold	Not Excluded
Fidelity Bond	
Employee Dishonesty	$250,000 (Deductible - $5,000)
Managing Agent's Rider	Included
Directors' & Officers' Liability	
Limit and Deductible	$1,000,000 (Deductible - $5,000)
Participation %	.1
Managing Agent's Rider	Included
Umbrella — Limit	$100,000,000
Excess Directors & Officers Liability (excludes employment practices)	Included to Full Limit
Self Insured Retention	$10,000
Energy Systems — Comprehensive Limit	Property Limit (Deductible - $5,000)
Business Income/Extra Expense	Included
Business Income Deductible	24 Hours

Coverage	Amount of Insurance
Building Ordinance & Law	Included
Workers Compensation	Statutory
Disability	Statutory

Note: This is only a general description of coverages provided. For a detailed description of the terms of the policy, refer to the policy itself. This proposal is dependent upon the receipt of acceptable loss information and loss control surveys.

The total annual premiums for these coverages were estimated at $37,000, to which BSC Property Management adds an estimated ten percent (10%) inflation factor for a total projected cost of $40,700. In the opinion of BSC Property Management, an inflation factor estimated at ten percent (10%) is appropriate. While this is a good faith estimate, insurance premiums have been subject to substantial increases in recent years. No assurance, representation or guarantee is given that the actual costs of insurance will be in accordance with this projection.

At First Unit Closing, Sponsor will deliver to the Condominium Board, at the expense of the Condominium Board (payable by all Unit Owners as set forth above), policies or binders for the insurance coverages set forth above in favor of the Condominium Association. The actual cost of such coverages will depend on the premiums in effect at First Unit Closing, which possibly may be higher than those projected in this Budget, depending upon various, unpredictable factors.

The All Risk Replacement Cost coverage limit is based upon an agreed amount replacement cost for the Building. By carrying a building limit of $15,360,000 (subject to underwriting review at the time of placement as aforesaid), the insurance policy will include a provision known as an "agreed amount replacement cost endorsement" or "agreed value" whereby the insurance carrier agrees to reimburse the insured for losses up to the full amount of the policy regardless of the actual replacement value of the Building. This clause has the effect of waiving any co-insurance penalty that the insurer might otherwise invoke. This clause does not mean that the Condominium Association would receive sufficient proceeds to actually rebuild or restore the Building in the event of its substantial or total destruction. The Condominium Board should periodically review the amount of casualty insurance for the Building to insure that the amount of coverage is sufficient.

The fire, casualty and general liability insurance will provide that each Unit Owner is an additional insured, that there will be no cancellation without notice to the Condominium Board, and (to the extent obtainable) a waiver of subrogation, a waiver of invalidity because of the acts of the insured and Unit Owners and a waiver of pro rata reduction if Unit Owners obtain additional coverage. The liability coverage is in the amount recommended by York as being adequate.

Each Unit Owner should consider the desirability of obtaining additional insurance at the Unit Owner's sole cost for the following coverages, which are not included in the above coverages:

1. fire or casualty losses to the contents of the Owner's Unit, including appliances, cabinets, kitchen (if any) and bathroom fixtures, business and trade fixtures, furnishings and other personal property;

2. liability for personal injury or property damage as a result of occurrences within the Owner's Unit, including water damage legal liability to cover damage arising from leaks or other conditions within the Unit; and

3. liability arising from its undivided interest in the Common Elements (to the extent the coverage maintained by the Board is inadequate or does not cover the risk).

Note 12. Management Fee (Budget: $60,000)

At or prior to the First Unit Closing, the Condominium Board will enter into a management agreement with BSC Property Management, LLC, having an office at 100 Vandam Street, 4th Floor, New York, New York 10013. The principal of Sponsor also is the principal of BSC Property Management, LLC.

The proposed agreement with said Managing Agent is for an initial term of twelve (12) full calendar months following the month the First Unit Closing is consummated, at an annual fee of $60,000, payable in advance in equal monthly installments. The agreement automatically will be extended from year to year until canceled by either party at least 90 days prior to an annual extension. The fee is negotiable after expiration of said initial 12-month period. Penmark Realty Corp., with offices at 820 Second Avenue, 4th Floor, New York, NY 10017, has certified that the proposed management fee is in accordance with the prevailing market rate fee for office buildings similar in size, amenities and location as 100 Vandam Street (see DOCUMENT 9 in Part II)

The management fee includes billing and collection services, day-to-day phone availability, on-site inspections and attendance at Board and Unit Owners' meetings. Reference should be made to Section W below for further discussion of the terms of the management agreement, including reimbursement of expenses (e.g., payroll costs and administrative costs), commissions for placing insurance and fees from Sold Unit Owners on a sale, conveyance, lease, alteration or financing (or refinancing).

Note 13. Legal and Audit Fees (Budget: $11,750)

This Budget expense item includes an allowance of $500 for potential legal expenses in the event the Condominium Board elects to retain an attorney for minor legal services with respect to the operation, governance and affairs of the Condominium Association.

The Condominium Association will incur auditing fees in connection with the preparation of the Condominium Association's first year's audited financial statements and its Federal, State, and City income tax and franchise tax returns. An estimated $11,250 has been budgeted for these services based upon a written quote received from GBQ Partners, Certified Public Accountants and Consultants, 500 South Front Street, Suite 700, Columbus, Ohio, 43215. No accountant has been engaged for these services as of this writing.

Note 14. **Other Expenses (Budget: $5,000)**

This Budget expense item includes: licenses and permits; annual elevator inspection (but excludes the two and five year inspections); corporate and franchise taxes; payroll costs related to the generation of weekly payroll, taxes, and tax filings; building and superintendent telephone; office supplies; reproduction costs for notices, etc., to Unit Owners, staff, etc.; and a minor amount to purchase small equipment (for cleaning and snow removal) and hand tools. This Budget does not include the fees for future inspections such as standpipe and sprinkler five-year inspections.

This projection is an estimate of BSC Property Management and is based on its opinion of the reasonably anticipated customary miscellaneous expenses of the Condominium Association for the projected Budget Year under existing circumstances and assuming present trends and conditions, to the extent applicable, will continue.

Note 15. **Contingency (Budget: $7,104)**

This Budget expense item is to provide a fund for unanticipated operating expenses during the first year of Condominium operation, including an allowance for a possible increase in one (1) or more expense items in this Budget and/or to add to this Budget one (1) or more new expense items. This item is not to provide a reserve for capital or major expenditures and no such capital reserve fund is included in this Budget or under this Plan (see "Section U. Reserve Fund" below).

For budgeting purposes only, this contingency item consists of: (a) approximately 2.5% of the total of all other budgeted Common Expenses of $284,149 allocated to all Units. After the first year of Condominium operation, the amount budgeted for Reserve for Contingencies will be determined annually by the Condominium Board, but cannot exceed 5% of the Common Charges budgeted to be paid by the Office Units and the Commercial Unit without obtaining the prior written Discretionary Approval or Consent of Sponsor (during only the Sponsor Veto Control Period).

This projection is an estimate of BSC Property Management based upon its experience in building management and on its opinion of the reasonably anticipated customary contingency expenses of the Condominium Association for the projected Budget Year under existing circumstances and assuming present trends and conditions, to the extent applicable, will continue.

END OF SCHEDULE B

E-7. Schedule B-1: Unit Utility Projections

SCHEDULE B-1

Unit Utility Projections of
Mottola Rini Engineers P.C.

The electricity for Office Units 100, 200, 300, 400 and 500 are separately metered and billed directly to the respective Unit Owners by the utility provider.

The Commercial Unit and the Common Elements share an electric meter. In a letter dated October 28, 2008, Mottola Rini Engineers P.C. ("**Mottola Rini**") projected that the Commercial Unit will consume approximately an estimated 45,736 kilowatt hours ("**kwh**") per year and the Common Elements will consume an estimated 135,850 kwh per year, for a total annual usage estimated at approximately 181,586 kwh for the shared meter. Based on the projected usage amounts, it is expected that the Commercial Unit's share of the meter usage will be approximately 25.187%, while the Common Elements share of the meter usage will be approximately 74.813%.

The following table contains the projected annual cost of electricity for each Office and Commercial Unit for the projected first year of Condominium operation based on the projected consumption in kwh, as estimated by Mottola Rini in the aforementioned letter dated October 28, 2008 (reproduced at the end of this SCHEDULE B-1), and the utility rates contained in said letter, to which BSC Property Management, LLC has added an estimated five percent (5%) inflation factor (no electricity consumption by the Roof Terrace Unit is anticipated).

Unit No.	kwh/Year	$/Year*
Commercial Unit	45,736	$12,727.00
Office Unit 100	58,208	16,197.00
Office Unit 200	58,585	16,302.00
Office Unit 300	58,680	16,328.00
Office Unit 400	58,680	16,328.00
Office Unit 500	55,500	15,443.00

*Rounded

Each month the Managing Agent will invoice the Commercial Unit Owner, as an Additional Common Charge, for its share of the electricity charges based on the percentages detailed above.

The foregoing consumption data and percentages were based on estimates provided by Mottola Rini. The Commercial Unit Owner, at such Owner's sole Cost and Expense, shall have the right to obtain a new consumption survey or have its Unit metered separately. The Condominium Board, as a Common Expense to all Unit Owners, also shall have the right to obtain a new survey of electricity consumption by the Commercial Unit or to separately meter the Commercial

Unit. In the case of a new electricity consumption survey (whether obtained by the Commercial Unit Owner or the Condominium Board), future billing of the Commercial Unit for electricity will be based on such new survey and the applicable rate of the utility provider, plus sales tax. Unless such new survey is obtained or the Unit is separately metered, the foregoing consumption estimates projected by Mottola Rini will govern.

CAVEAT: MANY AND VARIABLE FACTORS, AS WELL AS UNFORESEEABLE EVENTS, WILL AFFECT UTILITY COSTS. THE PROJECTED CONSUMPTION, UTILITY RATES AND COSTS ARE GOOD FAITH ESTIMATES, BUT CANNOT BE, AND ARE NOT, ASSURED OR GUARANTEED. ACTUAL CONSUMPTION WILL FLUCTUATE WITH PERSONAL NEEDS, HABITS AND WEATHER CONDITIONS. IN ALL LIKELIHOOD, ACTUAL UTILITY COSTS WILL VARY FROM THESE ESTIMATES.

The letter or Mottola Rini on utility projections starts on the next page.

MOTTOLA RINI ENGINEERS P.C.
Consulting Engineers

October 28, 2008

Beck Street Capital
P.O. Box 613
Washington Depot, CT 06794

Attention: Mr. Shannon Smith

Re: 100 Van Dam Street
New York, NY

Gentlemen:

The following is the projected **individual unit electrical costs** for lighting, power and air conditioning for the condominium:

Unit No.	KW-Hrs./Year	$/Year
Commerical Unit	45,736	$ 12,120.00
100	58,208	$ 15,425.00
200	58,585	$ 15,525.00
300	58,680	$ 15,550.00
400	58,680	$ 15,550.00
500	55,500	$ 14,710.00

The following is the **projected common area costs** for this project:

Electricity

For public interior and exterior lighting, fans, boiler, pumps, elevator, etc.:

135,850 KWH/Year = $ 36,000.00/year

Water and Sewer

$ 7,850.00/year (131,092 CF total)

Natural Gas (for Heating Systems):

15,455 Therms/Year = $ 25,500.00/year

The above figures are based on the following assumptions:

1. Double insulated glass, thermal barrier type windows.
2. R-19 insulation for roof.
3. R-11 insulation for walls.
4. A Master/Common gas meter assembly is provided for heating.

38 West 25th Street, New York, NY 10010 (212) 627-7299 FAX (212) 627-1567

5. Individual tenant electric meters and a house meter are provided.

6. Cost of Electricity: $0.265 per KW-hr average yearly usage rate. Costs include taxes, and adjustments but no inflation factors or demand charges.

7. Cost of Gas: $1.65 per Therm average to include taxes, adjustments but no inflation factor. (Gas for heating only)

8. Heating based on 4871 degree days, 68F space temperature average with +5F outdoor design with 15 mph wind.

9. Cooling based on 1200 load hours per air conditioning season, figured with 35 BTU/SF. All equipment figured with an EER of 9.5.

10. Occupancy is assumed to average 1 person per 150 SF.

11. Exterior lighting will be operated on a timeclock basis. Lighting is based on ninety (90) 40-watt indoor fixtures and six (6) 100-watt outdoor fixtures. Costs also include common elevator, exhaust fans, pumps and the like.

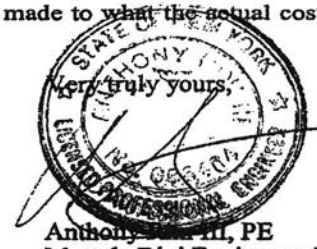
12. Water costs are computed at $5.95 per 100 cubic feet of water usage. Each person will use approximately 40 gallons of water per day. Calculations are based on metered method. Costs include taxes, and adjustments but no inflation factors.

13. All commercial units are assumed to operate on a typical 10 hour day, six days a week.

The above figures are based upon construction complying with the New York State Energy Conservation Construction Code. Costs can vary considerably depending upon actual usage, personal habits and maintenance of equipment in efficient operating condition, as well as, thermostat settings. These figures are not intended to be a guarantee.

Although it is believed that the foregoing is accurate, no warranty is made to what the actual costs may be.

Very truly yours,



Anthony [illegible], PE
Mottola Rini Engineers, P.C.

END OF SECTION E

SECTION F. OPINION ON COMPLIANCE WITH REAL PROPERTY LAW SECTION 339-I

PENMARK
REALTY CORP

December 11, 2008

100 Vandam, LLC
c/o Beck Street Capital LLC
100 Vandam Street, 4th Floor
New York, NY 10013

Re: Condominium Offering Plan (the "**Plan**") for
100 Vandam
100 Vandam Street, New York, NY 10013 (the "**Building**")

Ladies and Gentlemen:

We are a licensed New York real estate broker and have been engaged in the business of managing commercial, mixed residential and commercial, and residential properties in Manhattan for at least 40 years. We currently manage approximately 100 commercial, mixed residential and commercial properties, and residential properties in New York City. The definitions of the terms contained in the Plan will apply when such terms are used herein without express definition.

You have requested our opinion on whether the method used to determine the undivided percentage interest of each Unit in the Common Elements in the above-referenced matter complies with Real Property Law Section 339-i(1)(iv) ("**Section 339-i(1)(iv)**"). In connection with this opinion, we have reviewed the Plan and have assumed and relied upon the statements and information contained therein (including the floor plans and the computations of square footages prepared by K Square Designs, Inc.) as being correct and accurate.

The Plan states that the Common Interest of each Unit is based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit, as provided in Section 339-i(1)(iv).

In our opinion, the Common Interest of each Unit set forth in the Plan appears to be based on factors of relative value to other Units in the Condominium (such as floor space and location in the Building), and other factors of uniqueness of the Unit, the availability of the Common Elements for the exclusive use, service and benefit of certain Units (if any) or for shared use (here, all Common Elements are for the use in common by all Units), and the overall dimensions of the Unit.

Accordingly, based upon our knowledge of current market conditions and on our experience in the real estate brokerage and management business, in our opinion, the Common

820 Second Avenue • New York, NY 10017 • 212-876-4200 • F 212-876-4258

Interest of each Unit complies with the requirements of said Section 339-i(1)(iv) so as to reasonably reflect: (a) its value relative to other Units, (b) the Building services and amenities furnished to all Units, and (c) the Common Elements that are for the shared use, service and benefit in common of all Units.

We are not owned or controlled by, and have no financial or beneficial interest in, nor any family, employment or other business relationship with, Sponsor, 100 Vandam, LLC, or Sponsor's principal, other than our fee for services rendered in connection with this opinion and our certifications as to the adequacy of the First Year's Budget (SCHEDULE B) and the common charges payable by the Commercial Unit, and our opinion as to a market rate management fee of the Property.

We understand that this letter will be reproduced in the Plan and we hereby consent to such use.

Penmark Realty Corporation.

By: _____
Name: Bernard Friedman
Title: President

Sworn to before me this
11 day of December 2008

_____
Notary Public

MARIBEL ALVERIO
Notary Public, State of New York
No. 01AL6074898
Qualified in New York County
Commission Expires May 27, 2010

PENMARK
REALTY CORP

END OF SECTION F

SECTION G. CHANGES IN PRICES AND UNITS

G-1. Changes in Offering Prices. The offering prices set forth in SCHEDULE A (in Section D above) may be changed by Sponsor from time to time, in Sponsor's sole and absolute discretion, in accordance with the following. Sponsor must change the offering prices 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. In all other cases, individual offering prices may be decreased by Sponsor without filing an Amendment to the Plan. The Condominium Board, Unit Owners and Purchasers shall not have the right to approve the offering prices or any changes in offering prices, whether before or after the First Unit Closing. No change in offering price will affect the Purchase Price stated in a fully executed and delivered Purchase and Sale Agreement.

G-1.1. Offering Prices and Price-Related Terms are Negotiable. Offering prices and other price related terms are negotiable on an individual basis. Sponsor may enter into a Purchase and Sale Agreement with a Purchaser to sell one or more Units at separately negotiated prices lower than those set forth in SCHEDULE A without filing an Amendment to the Plan. Sponsor, however, may not change the trust fund and escrow provisions of the Purchase and Sale Agreement or any other provisions in violation of Article 23-A of the General Business Law or Part 20 of the regulations issued by the Department of Law. In addition, Sponsor may not modify a Purchase and Sale Agreement to waive Sponsor's obligations or representations in the Plan or to reduce or abridge any rights Purchasers may have under said Article 23-A.

The following is a sample of negotiable price-related terms, in addition to the Purchase Price: the amount of the contract Deposit; the right to cancel the Purchase and Sale Agreement and recover the Deposit if a Purchaser is unable to obtain financing or close by a specified date; the Closing Date and the minimum period required to fix a new Closing Date following an adjournment; free upgraded appliances, fixtures or equipment; free alterations, additions or other improvements to the Unit; waiver of closing costs and/or penalties for closing late; longer time periods to pay or perform obligations under the Purchase and Sale Agreement; elimination of "time of the essence" provisions; Sponsor financing (which must be disclosed in the Plan or an Amendment); paying Purchaser's lender to buy down the interest rate; Purchase Price or Common Charge rebates or a buy-back (which, if offered, must be secured by a letter of credit or other security); Sponsor paying or guaranteeing Common Charges and/or real estate taxes for a given period; allowances or credits against the Purchase Price for decorations, rent paid under an interim lease for the Unit or otherwise; rent abatements or reductions under an interim lease for the Unit; consent to harboring pets, or combining two (2) Units, or incorporating a portion of an adjacent hallway in the Unit, or installing upgraded utilities, appliances or fixtures; and giving a Purchaser the benefit of any more favorable terms offered or given to another Purchaser.

Prospective Purchasers are not limited to this list and may negotiate for any other price-related terms. Sponsor is not required, however, to sell any Unit at a price or on other terms more favorable than those stated in this Plan or an Amendment to the Plan.

G-1.2. Impact of Changes on Other Purchasers. No changes in prices or price-related terms will change or otherwise affect the Purchase Price or price-related terms under Purchase and Sale Agreements with other Purchasers. Purchasers will not benefit from a more favorable price or price-related terms offered or given to other Purchasers or prospective Purchasers and will not be excused from Purchaser's obligation to timely consummate the closing of title,

without a Purchase Price abatement, set-off or adjustment, and without recourse against Sponsor. As a result, a Purchaser may pay more or less than another Purchaser for a comparable Unit.

G-2. **Changes in Units**. In order to meet the possible demand for Units of different sizes and/or configurations, or to meet particular requirements of Purchasers or prospective Purchasers, or for any other reason, Sponsor reserves the right from time to time, both before and after the First Unit Closing, Freely and Without Consent, Payment or Restriction, other than the restrictions set forth in subsections G-2.1 and G-2.2 below, to make the following changes to Units, including Units for which no Purchase and Sale Agreement is in effect or whose Purchasers have consented in writing to the changes (collectively, "**Unit Changes**" and individually, "**Unit Change**"):

(a) to subdivide the Unit ("**Unit Subdivision**") and establish new boundary walls separating the Units established on such Unit Subdivision;

(b) to combine all or portions of two (2) or more Units ("**Unit Combination**") and to incorporate walls, floors, ceilings or other portions of the Common Elements (where entire Units are combined into one (1) Unit) or to establish new boundary walls, floors and/or ceiling or other portions of the Common Elements (where portions of Units are combined);

(c) to raze, move and relocate the boundary walls, floors and/or ceilings of the Unit to incorporate a portion of the Common Elements, including: an adjacent hallway or space between the Unit and a neighboring Unit or walls, floors, ceilings, or other portions of the Common Elements ("**Unit Expansion**");

(d) to Alter the Unit (**"Unit Alteration"**), including to change the number of office spaces, bathrooms, layout and configuration of the Unit; and

(e) to change the description (**"Description Change"**) of portions of the Unit and the affected Common Elements involved in a Unit Change so that such applicable portions of the Common Elements become part of the Unit and/or portions of the Unit become Common Elements.

G-2.1. Compliance with Part 20. All Unit Changes shall comply with Part 20, Section 20.3(k), which requires that:

(a) no change will be made in the size or number of Units and/or their respective percentages of Common Interest, and no material change will be made in the size or quality of Common Elements, except by Amendment to the Plan and, when applicable, to the Declaration;

(b) unless an affected Purchaser consents, no material change will be made in Unit size, layout, or percentage of Common Interest if a Purchase and Sale Agreement has been executed and delivered to Sponsor for that Unit and the Purchaser is not in default; and

(c) unless all then existing Purchasers consent in writing, no material change will be made in the size and no material adverse change will be made in the quality of Common Elements.

G-2.2. Terms of Unit Changes. All Unit Changes must comply with the following terms and requirements:

(a) each Unit Change to an Unsold Unit may be made Freely and Without Consent, Payment or Restriction (that is: (a-1) without the approval or consent of the Condominium Board or other Unit Owners, but subject to compliance with Part 20, Section 20.3(k) as set forth in the preceding subsection G-2.1); (a-2) without entering into any agreement or complying with any regulations, rules or other requirements of the Condominium Board for Alterations or changes to Units, but subject to compliance with applicable Laws and Work Requirements (see clause (c) below); (a-3) without paying any kind of fee or other charge of the Condominium Board or its Managing Agent, attorneys, architect, engineer or other professional; and (a-4) without the plans and specifications of the proposed Unit Change being submitted to, or reviewed by, the Condominium Board or an architect, engineer or other professional chosen by the Condominium Board), other than those requirements expressly stated herein;

(b) a Unit Change incorporating or otherwise affecting the Common Elements shall be reflected in an Amendment to the Declaration and/or Floor Plans, if and to the extent required by the Condominium Act;

(c) each Unit Change shall be performed in compliance with all applicable Laws (including obtaining all work permits required by Law) and the other applicable Work Requirements set forth in the Declaration, including that: (c-1) the Work be performed in a manner that does not impair or threaten the Structural Components or structural integrity of the Building or the life, health, safety, security or protection of Unit Owners, and is not an unreasonable annoyance or nuisance to Unit Owners; (c-2) Sponsor shall assume full responsibility for the Work, including the performance, Maintenance and Repair of the Equipment and Installations involved in the Work, the failure of the proper and efficient performance, function, capacity and utility of any Equipment and Installations affected by the Work, the waterproofing of any portion of the Building structure directly or indirectly affected by the Work, and plumbing leaks and damage to another Unit or the Common Elements caused by the Work; and (c-3) Sponsor shall not permanently diminish or adversely affect the proper and efficient performance, function, capacity and utility of another Owner's Unit or the Common Elements serving another Unit (see "Section 15.2 Work Requirements" of the Declaration for full discussion);

(d) a Unit Change shall not: (d-1) prevent legal access by another Unit Owner to the public stairs, the elevator, the lobby, the Building entrance or the street; or (d-2) unreasonably impair or interfere with any Equipment or Installations serving another Unit;

(e) any public or common areas of the Common Elements incorporated in a Unit (other than boundary walls, floors and ceilings) shall remain part of the Common Elements, but its use will be completely limited or restricted to that Unit only or (at the option of Sponsor in the case of its Unsold Units, or with the Reasonable Approval of the Condominium Board in the case of Sold Units only) shall become part of such Unit;

(f) the Condominium Documents shall be amended to subdivide a Unit or to combine a Unit with all or part of another Unit or (if required by the Condominium Act) to effectuate a Unit Expansion;

(g) the Owner of a Unit involved in a Unit Subdivision, Unit Combination or Description Change or (if required by the Condominium Act) a Unit Expansion or Unit Alteration, at the sole Cost and Expense of such Owner, shall prepare and duly sign and acknowledge the required Amendment to the Declaration and (if required by the Condominium Act) an architect selected by such Owner shall prepare, certify and duly sign and seal the required Amendment to the Condominium's Floor Plans;

(h) these Amendments to the Condominium Documents may be made: (h-1) in the case of an Owner of an Unsold Unit (including Sponsor or its designee), without approval or consent of the Condominium Board and without the express approval or consent of other Unit Owners, who automatically and irrevocably shall be deemed to have given their approval or consent, and without the execution thereof by the members or officers of the Condominium Board; or (h-2) in the case of a Sold Unit Owner (other than an Authorized First Sold Unit Owner), subject to obtaining the Reasonable Approval of the Condominium Board and the execution thereof by the members or officers of the Condominium Board;

(i) in the case of a Unit Subdivision: (i-1) the applicable Unit Owner shall apportion the Common Interest of the original Unit among the Units ("**New Units**") established on the Unit Subdivision in accordance with the Condominium Act (subject to obtaining the Reasonable Approval of the Condominium Board in the case of a Sold Unit, but not an Unsold Unit, as to which no consent or approval of the Board or other Unit Owners shall be required); and (i-2) the total of the Common Interests of the New Units must equal exactly the Common Interest of the original Unit being subdivided;

(j) in the case of Unit Combination: (j-1) where entire Units are combined into a single Unit, the Common Interest of the resulting combined Unit shall equal exactly the total of the Common Interests of all Units involved in such Unit Combination; or (j-2) where a portion of a Unit is combined with another Unit: (j-2.1) the Common Interest of such Unit shall be apportioned by its Owner between the remaining portion of such Unit and the portion being combined with the other Unit in accordance with the Condominium Act (subject to obtaining the Reasonable Approval of the Condominium Board in the case of a Sold Unit, but not an Unsold Unit, as to which no consent or approval of the Board or other Unit Owners shall be required); and (j-2.2) the total of the Common Interests of the remaining portion of such Unit and the new combined Unit shall equal exactly the total of the Common Interests of the original Units involved in such Unit Combination;

(k) in each case, the required amendment to the Declaration shall reflect a Unit Subdivision or a Unit Combination or a Description Change or (if required by the Condominium Act) a Unit Expansion or Unit Alteration and the resulting changes in Common Interests (if and when required by the Condominium Act); and

(l) no Unit change shall use any of the unused Development Rights of the Property without obtaining the prior written Discretionary Approval or Consent of the Upper Owner.

G-2.3. Rights of Owners of Unsold Units. The respective Owners of Unsold Units shall each have all of the same Sponsor's Rights with respect to such Owner's Unsold Unit as Sponsor has with respect to the Units owned by Sponsor under this Plan (including the right to make all Unit Changes in accordance with this Section G), the Declaration and By-Laws, but subject to all of the same restrictions and limitations imposed on Sponsor, including compliance the Part 20, Section 20.3(k) (see subsection G-2.1 above) and the Terms of Unit Changes (see subsection G-2.2 above).

END OF SECTION G

This Page Intentionally Left Blank

SECTION H. ACCOUNTANT'S CERTIFIED STATEMENT OF OPERATION

Certified statements of income and expenses for the two most recent fiscal years of operation, prepared on an annual basis by an independent certified public accountant, begin on the next page. If, after the Plan is filed but before it is declared effective, a more recent fiscal year has ended and Sponsor has had three (3) additional months after the end of the more recent fiscal year to prepare a certified statement, Sponsor must amend the Plan to include the certified statement for the more recent fiscal year.

CAVEAT: The First Year's Budget (SCHEDULE B in Section E above) is based in part on certain historical expenses contained in these statements of operation. The income and certain expenses in these statements, however, do not reflect the anticipated income and various expenses of operation after the Building is converted to condominium ownership.



Assurance & Business
Advisory Services

March 31, 2008 and 2007

100 Vandam, LLC

Statements of Income and
Specified Expenses

GBQ Partners | Certified Public Accountants and Consultants

CONTENTS

	Page
Independent Auditors' Report	3
Statements of Income and Specified Expenses	4
Notes to Statements of Income and Specified Expenses	5

GBQ Partners
Certified Public Accountants and Consultants

GBQ Partners LLC
P.O. Box 182108
Columbus, OH 43218-2108

500 South Front Street, Suite 700
Columbus, Ohio 43215

614.221.1120
Fax 614.227.6999
www.gbq.com

To the Members of
100 Vandam, LLC
New York, New York

Independent Auditors' Report

We have audited the accompanying statements of income and specified expenses of the property located at 100 Vandam Street, New York, New York, for the years ended March 31, 2008 and 2007. These statements are the responsibility of the owner of the property. Our responsibility is to express an opinion on these statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the statements of income and specified expenses are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the statements. 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 audits provide a reasonable basis for our opinion.

The statements of income and specified expenses noted above are intended solely for the purpose of complying with certain requirements of the State of New York with respect to the proposed conversion of the property located at 100 Vandam Street, New York, New York, to a condominium and exclude certain expenses described in Note 2 that would not be comparable to the proposed future operations of the property.

In our opinion, the statements of income and specified expenses referred to above present fairly, in all material respects, the income and specified expenses of the property located at 100 Vandam Street, New York, New York, for the years ended March 31, 2008 and 2007, in conformity with accounting principles generally accepted in the United States of America.

This report is intended solely to be included in the offering plan for conversion of 100 Vandam Street, New York, New York, to a condominium ownership and should not be used for any other purpose.

GBQ Partners LLC

Columbus, Ohio
June 20, 2008

50 Years of Excellence
★ ★ ★ ★ ★

An independent member of the BDO Seidman alliance.

100 VANDAM, LLC

Statements of Income and Specified Expenses

For the Years Ended March 31, 2008 and 2007

	2008	2007
Income:		
Rent - office and retail space	**$ 887,258**	$ 481,617
Specified Expenses:		
Utilities	**39,563**	31,260
Repairs and maintenance	**28,510**	31,063
Insurance	**19,958**	22,555
Management fees	**60,000**	60,000
Professional fees	**7,327**	6,700
Payroll	**18,305**	10,507
Total specified expenses	**173,663**	162,085
Excess of Revenues over Specified Expenses	**$ 713,595**	$ 319,532

The accompanying notes are an integral part of the statements of income and specified expenses.

1. Organization

100 Vandam, LLC (the Owner), a Delaware Limited Liability Company, was formed as of October 30, 2006, by BSCKIM Holdco III, LLC.

The Owner acquired 100 Vandam Street, New York, New York (the Project) to convert the office space to condominium units. The office units are to be offered for sale. The Owner began leasing the office space during 2006.

The Limited Liability Company Agreement provides that the Project shall continue in existence on a perpetual basis unless it is earlier dissolved and terminated by provisions of the Agreement.

2. Summary of Significant Accounting Policies

The Statements of Income and Specified Expenses have been prepared on the accrual method of accounting and exclude certain expenses incurred but not applicable to the operation of the property as a condominium including, but not limited to, the following: depreciation and amortization; mortgage interest; and expenses related to individual commercial units. However, certain repairs and maintenance expenses included in the Statements of Income and Specified Expenses may include repairs to the interior of the commercial units.

END OF SECTION H

SECTION I. EXISTING TENANTS

I-1. **Sale Subject to Then Existing Leases**. Outside Purchasers of occupied Office Units shall buy subject to the then existing lease or leases of office space(s) comprising an Office Unit at the time of execution of a Purchase and Sale Agreement.

I-2. **Schedule of Existing Leases**. The existing leases of office spaces of each Office Unit being offered for sale at the date of this Plan are as follows:

Office Unit	Office No.	Tenant	Lease Term		Monthly Base Rent
			From	To	
100	100	RDA International Co., Ltd.	10/15/1992 – 10/31/2010		$11,344.42
200	200	RDA International Co., Ltd.	07/01/1995 – 10-31-2010		9,267.45
300	300	Nitro USA	01/17/2007 – 06-30-2009		24,891.67
400	400	Beck Street Capital LLC	N.A.		N.A.
400	401	Thompson Street Associates LLC	06/01/2004 – 5-31-2009		8,830.50
500	500	RDA International Co., Ltd.	05/01/2007 – 6-30-2009		8,240.00
500	501	Good Magazine LLC	03/22/2007 – 6-30-2009		5,665.00
500	502	Pfeiffer Partners Architects Inc., P.C.	05/29/2007 – 6-30-2009		5,150.00
500	503	Good Magazine LLC	06/01/2007 – 6-30-2009		5,150.00

The foregoing schedule does not reflect any options to renew or extend the lease term, any pass-through or escalation provisions or any service obligations of the owner. No tenant estoppel letter will be provided by Sponsor to a Purchaser of an occupied Office Unit. Prospective Purchasers must rely upon their own due diligence and are urged to review the then existing leases for these and other material terms, and to ascertain a Purchaser's obligations as owner under the leases, before signing a Purchase and Sale Agreement. Potential Purchasers and their representatives may examine (at no charge) and copy (at reasonable charge), at Sponsor's office contained on the cover page of this Plan, the existing lease of the Office Unit in which they are interested in purchasing.

No lease has been entered into for the Commercial Unit, which is vacant and to be listed on a new or amended Certificate of Occupancy for permitted retail and office uses under the current zoning Law applicable to the Property pursuant to Sponsor's undertaking under this Plan (see SPECIAL RISKS Section A, subsection A-18 above).

I-3. **Sponsor's Right to Modify and Terminate Leases and to Lease Vacancies**. Sponsor reserves the right to modify, amend and terminate or cancel existing leases and to enter into a new lease for a vacant space comprising an Office Unit prior to execution of a Purchase and Sale Agreement for such Unit, but will amend the Plan to disclose any material modification or amendment to an existing lease or the terms of any new lease (as applicable). After a Purchase and Sale Agreement is in effect, Sponsor shall not modify or amend an existing lease, or terminate or cancel such lease by mutual agreement with the tenant, without obtaining the prior written consent of the Purchaser of the applicable Office Unit, but reserves the

exclusive right to terminate or cancel a lease in accordance with its terms (e.g., based on non-payment of rent) without Purchaser's consent and, in the event of the expiration or sooner termination of an existing lease, to lease vacant space comprising such Office Unit on the following terms. Sponsor shall first offer in writing to lease such vacant space to the Purchaser at such rent and other terms as may be mutually agreed upon for the interim period prior to the date of closing of title. If the parties fail to reach a mutual agreement within 30 calendar days after the offer is given to Purchaser or Purchaser declines to enter into such interim lease, Sponsor shall have the unfettered right to lease said vacancy at not less than the rent and other material terms last offered to Purchaser, except the lease may be for a term of not more than ten (10) years, unless the Purchaser agrees in writing to a longer term. Purchaser will not have the right to lease or occupy a vacant office space or store any furniture, fixtures or other items therein prior to closing of title unless Sponsor, at its exclusive option, elects to lease such vacant space to Purchaser at such rent and other terms as may be satisfactory to Sponsor, in its sole and absolute discretion.

END OF SECTION I

SECTION J. INTERIM LEASES

J-1. **Sponsor's Exclusive Option to Rent**. Sponsor has the exclusive option to rent any space that is vacant at the date of this Plan or thereafter becomes vacant before the closing under a Purchase and Sale Agreement. Sponsor, however, will not enter into a lease or other occupancy agreement for a vacant office space without first offering, in writing, to lease such space to the Purchaser of the Unit containing said vacant space ("**Interim Lease**") for the interim period prior to the closing of title under the Purchase and Sale Agreement ("**Interim Period**"). The terms of such Interim Lease shall be at such rent and other terms as may be mutually agreed upon. The Interim Lease shall be prepared by Sponsor and shall be on Sponsor's standard form for the Building (which shall be available for inspection, at no charge, at Sponsor's office stated on the cover page of this Plan). If the parties fail to reach a mutual agreement on the rent or other terms, or Purchaser declines to enter into an Interim Lease, Sponsor shall have the unfettered right to lease said vacancy at not less than the rent and other material terms last offered to Purchaser, except the lease may be for a term extending beyond the Interim Period, but may not be for term of more than ten (10) years unless Purchaser agrees in writing to a longer term. If Sponsor elects not to lease the vacant space, Purchaser will not have the right to rent, use, occupy, decorate, Alter or store any furniture, fixtures or other personal property in the vacant space prior to the closing.

J-2. **No Rent Laws Applicable to Interim Lease**. No laws regulating rent or continued occupancy are applicable to the Units or an Interim Lease. As a result, if a vacancy is leased, the rent or fee for "use and occupancy" (hereafter "**use and occupancy fee**") will not be subject to any rent limitations or laws regulating rents and shall be a "free market", unregulated rent as determined by Sponsor, in its sole and absolute judgment.

J-3. **Cross-Default and Cancellation Provisions**. The Interim Lease entered into with a Purchaser of the Unit will be on Sponsor's standard form and will provide that a default under the Purchase and Sale Agreement shall automatically be a default under the Interim Lease and the Purchaser, as tenant or occupant under the Interim Lease ("**Interim Occupant-Purchaser**"), shall have only the single grace period stated in the Purchase and Sale Agreement to cure the default under both instruments. As a result, if the default under the Purchase and Sale Agreement is not timely remedied within the applicable cure period and the Purchase and Sale Agreement is cancelled, the Interim Lease shall simultaneously be cancelled. See subsection J-4 below for further discussion.

The Purchase and Sale Agreement (Document 1 in Part II of the Plan) contains a similar cross-default provision and the single grace period (if any) stated in the Interim Lease to cure the default under both the Interim Lease and the Purchase and Sale Agreement. Pursuant to this provision, a default under the Interim Lease is a default under the Purchase and Sale Agreement, *but Sponsor may not cancel the Purchase and Sale Agreement based on a default under the Interim Lease unless Sponsor obtains an order of eviction or other judgment or order of possession of the leased space from a court of competent jurisdiction or the Interim Occupant-Purchaser vacates the leased space.* Effective on the date such order of eviction is issued or the leased space is vacated (as applicable), the Purchase and Sale Agreement will be cancelled and Sponsor shall be entitled to receive and retain Purchaser's Deposit and any earned interest thereon (and certain other amounts, if applicable, as discussed in Section K, subsection K-4(a) below) without giving the Interim Occupant-Purchaser any further grace period to cure the default under the Purchase and Sale Agreement.

The Interim Lease also will provide that if the Purchase and Sale Agreement is cancelled or rescinded pursuant to a right of cancellation by the Interim Occupant-Purchaser contained therein or Sponsor's election to abandon or withdraw the Plan, or an offer of rescission contained in the Plan or an Amendment thereto, then the Interim Lease automatically shall be cancelled simultaneously therewith.

J-4. **30 Days to Vacate**. If the Purchase and Sale Agreement is cancelled based on an uncured default or Sponsor's election to abandon or withdraw the Plan, or the exercise of a right of rescission under the Purchase and Sale Agreement or the Plan or an Amendment, the Interim Occupant-Purchaser shall have only 30 calendar days from cancellation or rescission of the Purchase and Sale Agreement within which to vacate and surrender vacant possession of the leased space to Sponsor, free of all occupants, furniture, furnishings, office and business fixtures and equipment and other personal property, broom clean, and in the same condition as existed at the start of the Interim Lease (reasonable wear and tear excepted). Pending such surrender of vacant possession, the Interim Occupant-Purchaser shall pay Sponsor for use and occupancy a sum equal to the rent and additional rent (including any pass-through expenses) stated in the Interim Lease, appropriately prorated for the period beginning with the date of cancellation of the Interim Lease and ending on the date of surrender of vacant possession. Upon surrender of vacant possession in accordance with the foregoing, any unapplied security deposited under the Interim Lease will be returned to the Interim Occupant-Purchaser together with any interest earned thereon. Sponsor will have the right to deduct and retain from such security deposit, any unpaid rent and additional rent, any unpaid use and occupancy amount and any Costs and Expenses incurred to recover vacant possession and for the delay in not surrendering vacant possession within said 30 calendar say period (see SPECIAL RISK below) or to repair any damage to the Unit (including its contents) and the Common Elements resulting from the acts, omissions or negligence of the Interim Occupant-Purchaser or its employees, agents or contractors, and to restore them to their former condition.

SPECIAL RISK: The 30 calendar day period to surrender vacant possession is a "TIME OF THE ESSENCE", or deadline, period. If the Interim Occupant-Purchaser fails to timely surrender vacant possession before the 30 calendar day period expires, the Interim Occupant-Purchaser shall also be liable for all Costs and Expenses incurred by Sponsor to recover vacant possession and for the delay, including: (a) reasonable legal fees and disbursements, court costs and litigation expenses; (b) "carrying costs" (defined below) of the Unit attributable to the leased space; and (c) per diem interest on the Unit's Purchase Price at the rate of 10% per annum, prorated for the period beginning with the last day of said 30 calendar day period and ending on the date Sponsor recovers vacant possession of said leased space, to reimburse Sponsor for loss of potential earnings on the value of the leased space (as represented by the Unit's Purchase Price). The "carrying costs" of the Unit is a sum equal to: (x) the projected Common Charges and real estate taxes for the Unit set forth in SCHEDULE A (in Section D above) or the actual Common Charges and real estate taxes for the Unit (as applicable); plus (y) the Unit's allocable share (based on Common Interest) of the debt service on any mortgage on the Unit or Property (as applicable); less (z) rent or use and occupancy for the subject leased space actually collected by Sponsor. Sponsor shall have the right to deduct and retain these Costs and Expenses from said security deposit (if any) given under the Interim Lease and (in the case of a rescission of the Purchase and Sale Agreement by the Interim Occupant-Purchaser or an abandonment or withdrawal of the Plan) the Deposit monies otherwise to be returned to the Interim Occupant-Purchaser. The liability of the Interim Occupant-Purchaser, however, for said Costs and

Expenses to recover possession and for carrying costs for the delay shall not be limited to said security deposit or Deposit monies. See Section A, subsection A-13 above.

END OF SECTION J

This Page Intentionally Left Blank

SECTION K. PROCEDURE TO PURCHASE

This section describes the procedure to purchase a Unit and the essential terms of the Purchase and Sale Agreement. The documents indicated are reproduced in Part II of the Plan.

K-1. Procedure to Purchase. To purchase a Unit, the purchase procedure outlined below is to be followed.

K-1.1. Purchase Documents. The purchase documents to be completed, signed, notarized (where indicated) and returned by Purchaser to Sponsor's attorneys are as follows:

(a) Purchase and Sale Agreement: Purchaser is to complete information on the first page, sign and return four (4) originals of the Purchase and Sale Agreement on the form reproduced as DOCUMENT 1;

(b) IRS Form W-8 BEN or W-9: If Purchaser is not subject to back-up withholding rules, Purchaser is to complete, sign and deliver one (1) Internal Revenue Service ("**IRS**") Form W-8 "Certificate of Foreign Status of Beneficial Owner" (if Purchaser is a non-resident alien or foreign entity) or Form W-9 "Request for Taxpayer Identification Number and Certification" (if Purchaser is a United States citizen or resident alien).

Sponsor's attorney, Seyfarth Shaw LLP, 620 Eighth Avenue, New York, NY 10018, (212) 218-5500, will provide copies of these documents to prospective Purchasers for execution and will be available to assist prospective Purchasers and to answer questions as to completing these documents.

NOTE: The Unit Deed and closing documents must match exactly the name or names of Purchaser as signed on the Purchase and Sale Agreement. If legal ownership of a Unit is to be in the name of two (2) persons, both must sign the Purchase and Sale Agreement, unless the Purchaser is permitted to assign or transfer the Purchase and Sale Agreement. This Plan limits and restricts Purchaser's right to assign or transfer the Purchase and Sale Agreement (see subsection K-18 below for discussion).

K-1.2. Deposit. Purchaser is to pay a sum equal to 10% of the Purchase Price ("**Deposit**") when signing and delivering the Purchase and Sale Agreement.

K-1.3. Balance of Purchase Price. The balance of the Purchase Price ("**Balance**") is to be paid after the Filing of the Effectiveness Amendment and at closing of title under the Purchase and Sale Agreement.

K-1.4. Instruments. The Deposit is to be paid by good personal check of Purchaser (non-party checks are prohibited) and the Balance must be paid by certified personal check of Purchaser, or official cashier's or bank check or (at Sponsor's exclusive option) by electronic transfer of immediately available funds to a bank account designated by Sponsor (see paragraph 10 of the Purchase and Sale Agreement for additional details). All checks for the Deposit and the Balance must be drawn on (and payable by) a member bank of the New York Clearing House Association, unendorsed and made payable to the direct order of the following party:

(a) for the Deposit: "Seyfarth Shaw LLP as Escrow Agent for 100 Vandam Street Plan"; and

(b) for the Balance: "*100 Vandam, LLC*" or such other payee(s) as Sponsor may specify on prior notice to Purchaser.

K-1.5. Where and When Delivered. The Purchase and Sale Agreement, the applicable IRS Form W-8B or W-9, and the check for the Deposit are to be delivered or sent together to Sponsor's attorney, Seyfarth Shaw LLP, at 620 Eighth Avenue, New York, NY 10018, Attn: Alan L. Kazlow, Esq. (or such other attorney or legal assistant as may be directed).

K-1.6. Special Work Payment. If any special work ordered by a Purchaser is itemized in the Purchase and Sale Agreement or a rider or modification thereto, any payment by said Purchaser for such special work shall be paid to Sponsor or (if paid to Sponsor's attorneys) released by Sponsor's attorneys and paid to Sponsor for application to the special work, unless otherwise agreed in writing by Sponsor and said Purchaser. SPECIAL RISK: If the Purchase and Sale Agreement is cancelled following Purchaser's exercise of a right to rescind or cancel and the Deposit is returned to Purchaser, the special work payment will be refunded to Purchaser if, and only to the extent, such payment exceeds the actual Costs and Expenses paid or incurred to perform said special work and to restore the Unit to its condition existing before undertaking the special work (see Section A, subsection A-5 above).

K-2. Statutory Requirement. Sponsor shall comply with the escrow and trust fund requirements of GBL Sections 352-e(2-b) and 352-h, and Part 20 of the Attorney General's regulations, and all funds paid by Purchasers shall be handled in accordance with these statutes and regulations, as set forth in the following subsection K-3.

K-3. Escrow; Trust Fund. The following requirements apply to this offering:

K-3.1. The Account. All Deposits, downpayments, or advances made by Purchasers on account of the Purchase Price prior to closing of each individual transaction, whether received before or after the date of consummation of the First Unit Closing under the Plan, must be placed within five (5) business days after the Purchase and Sale Agreement is signed by all necessary parties, in an attorney's segregated special escrow account in a bank doing business in the State of New York which account is covered by federal bank deposit insurance.

SPECIAL RISK: Deposits will be FDIC federally insured to a maximum of $250,000 until December 31, 2009 and (unless the law increasing the federal deposit insurance is extended) $100,000 thereafter. Deposits in excess of said insured amount (i.e., $250,000 until December 31, 2009 and (unless said law is extended) $100,000 thereafter) will not be federally insured. Purchaser assumes the risk of any loss resulting from failure of the Depository, and will not have any recourse against Sponsor, Selling Agent or escrow agent based thereon. See Section A, subsection A-3 above.

An attorney designated by Sponsor shall open and maintain such account in his or her own name, or in the name of a firm of attorneys of which he or she is a member, or in the name of the attorney or firm of attorneys by whom he or she is employed, separate from such attorney's personal accounts or from any accounts in which assets belonging to the firm are deposited, and separate from any accounts maintained in the capacity of executor, guardian, trustee or receiver. A master escrow account with a sub-account for each Purchaser shall be maintained under this

Plan. The name of the master escrow account is "Seyfarth Shaw LLP Master Escrow Account". The master escrow account is maintained at Valley National Bank ("**Depository**"), at its branch at 275 Madison Avenue, New York, NY 10016. The master escrow account number is [redacted] Funds from this account may be released only by signature of the attorney who is named as escrow agent (see subsection K-3.3 below). Neither Sponsor nor any principal of Sponsor is a signatory on the account. Funds must be placed in an interest-bearing account, with all interest credited to the Purchaser, unless the Purchase and Sale Agreement is cancelled based on an uncured default of Purchaser and the First Unit Closing under the Plan is consummated. The account is not an Interest-on-Lawyer-Account ("**IOLA**") pursuant to Judiciary Law Section 497. The interest rate to be earned will be the standard published escrow rate of interest by the Depository from time to time. The published rate was 1.54% on October 28, 2008. This rate will fluctuate from time to time in accordance with the Depository's prevailing rate, as to which no representation or assurance is made nor guarantee given. Interest will begin to accrue when Purchaser's checks for the Deposit is deposited and collected by the Depository. If, however, the Deposit check is not accompanied by IRS Form W-8B (Certificate of Foreign Status) or W-9 (Request for Taxpayers Identification Number) as applicable, the Deposit check will be deposited in an IOLA account of escrow agent pending receipt of the requisite IRS Form. No interest will be credited or paid to Purchaser while the Deposit is in the IOLA account (interest on an IOLA account is paid to the State of New York). No fees of any kind may be deducted from the account principal or any interest earned thereon. Sponsor shall bear any administrative cost for maintenance of the account.

K-3.2. Payments. All funds received from Purchasers on account of the Purchase Price, whether in the form of checks, drafts, money orders, wire transfers, or other instruments which identify the payor, shall be made payable to the direct order of Seyfarth Shaw LLP, as escrow agent, as set forth more fully in subsection K-1.4 above.

K-3.3. The Escrow Agent. The principals of escrow agent are attorneys admitted to practice in the State of New York. The escrow agent is independent of Sponsor, although the escrow agent is entitled to, and will, receive compensation from Sponsor for acting as such and may receive, or previously been paid, compensation from Sponsor or Sponsor's principals for legal services rendered. The principals of escrow agent under this Plan are attorneys admitted or practicing in the State of New York and must comply with the Appellate Division rules for the preservation of client funds of the Judicial Department having jurisdiction over the attorneys. No principal of Sponsor is a member of, or employed by, the escrow agent. Only an attorney acting as escrow agent shall be a signatory on the escrow account and only such attorney shall be authorized to release funds. The name, address and telephone number of the escrow agent under this Plan are as follows: Seyfarth Shaw LLP, at 620 Eighth Avenue, New York, NY 10018, Attn: Alan L. Kazlow, Esq., telephone number (212)218-5500. The only attorneys who are signatories on the account are John P. Napoli, Esq., Lorie E. Almon, Esq., Stephen G. Epstein, Esq., Barry H. Mandel, Esq., Nicholas J. Kaiser, Esq. and Dennis H. Greenstein, Esq., all of whom are partners of escrow agent.

K-3.4. Escrow Agreement. The escrow agent and Sponsor have entered into an escrow agreement for the holding and disposition of funds deposited by Purchasers on account of the Purchase Price (see DOCUMENT 1C in Part II). The agreement is not the model form of the Department of Law, but complies with all material terms of such model form. The escrow agreement includes: (a) disclosures set forth in subsection K-2 above and this subsection K-3; (b) an indemnity by Sponsor in favor of escrow agent for payment by Sponsor of all "Claims and

Expenses" (as defined in the escrow agreement) arising out of escrow agent's duties or services, other than those based on escrow agent's gross negligence or willful misconduct; (c) a provision releasing and discharging escrow agent's obligations by Sponsor upon payment of the escrowed funds and interest earned thereon in accordance with Part 20 of the Attorney General's regulations; (d) the right of escrow agent to represent Sponsor in any Lawsuit, whether or not related to the escrowed funds or a Purchase and Sale Agreement, and irrespective of escrow agent being in possession of the escrowed funds; and (e) a provision for Sponsor to compensate escrow agent for acting in such capacity. See DOCUMENT 1D for these and other important provisions of this escrow agreement.

K-3.5. Notification to Purchaser. Within ten (10) business days after "tender" of the Deposit submitted with the Purchase and Sale Agreement, the escrow agent shall notify the Purchaser that such funds have been deposited in the bank indicated in this Plan, and provide the account number, and the initial interest rate. The term "**tender**" means the date delivered by hand or five (5) calendar days after being sent by mail, properly addressed, postage prepaid. If the Purchaser does not receive notice of such deposit within fifteen (15) business days after tender of the Deposit, Purchaser may cancel the purchase and rescind within ninety (90) calendar days after tender of the Deposit, or may apply to the Attorney General for relief.

SPECIAL RISK: The 90 days to cancel is a "TIME OF THE ESSENCE" or deadline period after which Purchaser may not cancel based on lack of timely notice of deposit in the escrow account. See Section A, subsection A-6 above. Rescission will not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited in accordance with Part 20 of the Attorney General's regulations and requisite notice was timely mailed to the Purchaser.

K-3.6. Escrow Revisions. Before funds are transferred to a new escrow account, or if the escrow agent is replaced, the Plan must be amended to provide the same full disclosure with respect to the new account, the escrow agent and the escrow agreement as was originally provided. A bond, letter of credit or other security shall not be substituted for the escrow account.

K-3.7. Release of Funds. The requirements and procedures for the release of the escrowed funds, include the following:

(a) Under no circumstances shall Sponsor apply for release of the escrowed funds of a defaulting Purchaser until after consummation of the First Unit Closing under this Plan. Consummation of the Plan does not relieve Sponsor of its obligations pursuant to GBL Section 352-h.

(b) The escrow agent shall hold the funds in escrow until otherwise directed in: (b-1) a writing signed by both Sponsor and Purchaser; or (b-2) a determination of the Attorney General; or (b-3) a judgment or order of a court of competent jurisdiction, or until released pursuant to paragraph (d) of this subsection.

(c) Sponsor shall not object to the release of the escrowed funds to: (c-1) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an Amendment to the Plan; or (c-2) all Purchasers after an Amendment abandoning the Plan is accepted for filing by the Department of Law.

(d) If there is no written agreement between the parties to release the escrowed funds, the escrow agent shall not pay the funds to the Sponsor until the escrow agent has given the Purchaser written notice of not fewer than ten (10) 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 contained in Part 20 of the Attorney General's regulations and has so notified the escrow agent in accordance with such provisions. In all events, the escrow agent shall have the right of a stakeholder to deposit the escrowed funds into court pursuant to applicable Law.

K-3.8. Disputes. In the event of a dispute, the following shall apply:

(a) Sponsor shall apply and the Purchaser or the escrow agent holding the Deposits in escrow may apply to the Attorney General for a determination on the disposition of the Deposit and any interest earned thereon (escrow agent may also apply to a court as a stakeholder and submit the Deposit or the disputed portion into court as permitted by Law). Forms to apply to the Attorney General for this purpose will be available from the Department of Law (see DOCUMENT 1E in Part II for sample form). The party making such application shall contemporaneously send to all other parties a copy of such application.

(b) Pending the determination of the Attorney General to grant or deny the application, Sponsor, Purchaser and escrow agent shall abide by any interim directive issued by the Attorney General.

(c) If the application permitting release of funds is granted, the Deposit and any interest earned thereon shall be disposed of in accordance with the determination of the Attorney General, subject to any court action in which preliminary relief is granted.

(d) The Attorney General shall act upon the application within thirty (30) days after its submission to the Department of Law, by either making a determination or notifying the parties that an extension of time in which to do so is necessary for stated reasons.

(e) If the application seeking release of funds is denied, the escrow agent shall continue to hold the Deposit and any interest earned thereon until: (e-1) both Sponsor and Purchaser direct payment to a specified party in accordance with a written direction signed by both Sponsor and Purchaser; or (e-2) a judgment or order of a court of competent jurisdiction is served on the escrow agent; or (e-3) escrow agent deposits the disputed amount into court.

(f) In no event shall the escrow agent release funds in dispute, other than a payment of such funds into court, until any dispute is finally resolved either by determination of the Attorney General or by order or judgment of a court of competent jurisdiction or by written agreement of Sponsor and Purchaser.

(g) In the event escrow agent is uncertain as to its duties or doubts the genuineness of any document or signature, escrow agent may refrain from taking any action and continue to hold the funds in the escrow account and interest until the uncertainty or genuineness is resolved or deposit them (or the amount in question) in court.

K-3.9. Exhibits to Plan. A copy of the escrow agreement is included in the Exhibits submitted to the Attorney General in connection with this Plan.

K-3.10. Records on File. The escrow agent shall maintain all records concerning the escrow account for seven years after release of the funds. Upon the dissolution of any law firm which was the escrow agent, the former partners or members of the firm shall make appropriate arrangements for the maintenance of these records by one of them or by the successor firm and shall notify the Department of Law of such transfer.

K-3.11. Review and Audit. The Department of Law may perform random reviews and audits of any records involving escrow accounts to determine compliance with statute and regulation.

K-3.12. Waiver Void. 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 escrow and trust fund provisions of Section 20.3(o) of Part 20 of the Attorney General's regulations shall prevail over any conflicting or inconsistent provision in the Plan or in a Purchase and Sale Agreement.

K-3.13. Trust Obligation of Sponsor. Nothing contained herein shall diminish or impair Sponsor's statutory obligation to each Purchaser pursuant to GBL Section 352-h to hold in trust all Deposits, advances or payments on account of the Purchase Price made in connection with the offer until consummation of the transaction with such Purchaser, except payments (if any) for special work ordered by Purchaser may be paid to Sponsor or (if deposited in the escrow account) withdrawn from the escrow account and paid to Sponsor to be applied for such purposes only. Consummation of the Plan with the First Unit Closing does not relieve Sponsor of its obligations pursuant to GBL Section 352-h. Funds from the escrow account remain the property of the Purchaser until consummation of the transaction. Such funds shall not be part of the estate of the Sponsor or the escrow agent upon any bankruptcy, incapacity or death.

K-4. Special Risks. The following provisions of the Purchase and Sale Agreement pose "SPECIAL RISKS" to Purchaser:

(a) the provisions allowing sums in excess of 10% of the Purchase Price to be retained by Sponsor as liquidated damages, including the recovery from Purchaser of the actual Costs and Expenses incurred by Sponsor: (a-1) to perform any special work ordered by Purchaser and to restore the Unit to the condition existing before undertaking the special work, if, and only to the extent, any payment given by Purchaser to Sponsor for such special work is insufficient, (a-2) to enforce this liquidated damages provision, and (a-3) to collect amounts owed, including reasonable legal fees and disbursements, court costs and litigation expenses, but Sponsor may not seek specific performance of the Purchase and Sale Agreement; this liquidated damages provision, however, is subject to review by a court or other authority having jurisdiction as to whether the liquidated amount is an unenforceable penalty designed to coerce performance of a Purchaser (see

Section A, subsection A-4 and see subsection K-3.8 above for discussion of Attorney General's dispute resolution procedure);

(b) the provision requiring Purchaser to reimburse Sponsor at closing for certain expenses and losses, if Purchaser fails to close title, or is at fault for not closing title, on the date set by Sponsor (see Section A, subsection A-11 above, and Section N, subsection N-1.1 below);

(c) the absence of a mortgage financing contingency provision, which prevents Purchaser from canceling the Purchase and Sale Agreement or recovering the Deposit based on Purchasers' inability or failure to obtain mortgage loan financing from an Institutional Lender or other source (see Section A, subsection A-8 above); and

(d) the "TIME OF THE ESSENCE" provisions (see subsection K-6 below).

K-5. "Time is of the Essence" Provisions. SPECIAL RISK: Provisions of the Purchase and Sale Agreement that expressly state "TIME IS OF THE ESSENCE" or similar words are absolute deadlines, which cannot be extended by Purchaser, regardless of inability or other excuse for not meeting the specified deadline. For example: (a) "TIME IS OF THE ESSENCE" for Purchaser to cure a default within a deadline of 30 days after Purchaser is given written notice of the default, which means Purchaser will lose the Deposit if Purchaser does not meet such 30 day deadline (see Section A, subsection A-4 above); (b) "TIME IS OF THE ESSENCE" for Purchaser to elect to cancel the Purchase and Sale Agreement within a deadline of 90 calendar days after Purchaser tenders the Deposit check if notice by escrow agent of deposit of Purchaser's Deposit check into the escrow account is not received by Purchaser within 15 business days after tender, which means Purchaser cannot cancel based on not timely receiving notice of the deposit if Purchaser fails to meet such 90 day deadline (see subsection K-3.5 above); and (c) "TIME IS OF THE ESSENCE" for Purchaser to rescind the Purchase and Sale Agreement within a deadline of seven (7) calendar days after Purchaser signs and delivers the Purchase and Sale Agreement with the Deposit check if Purchaser is given fewer than three (3) business days to review the Plan and all filed Amendments, which means Purchaser cannot cancel based on being given too few days to review the Plan and filed Amendments if Purchaser fails to meet such seven (7) day deadline (see subsection K-10 below).

K-6. Closing Date. After the Effectiveness Amendment is accepted for filing by the Attorney General, Sponsor will fix dates for closing of title to all Units for which Purchase and Sale Agreements have been executed and are still in effect. Sponsor will give each Purchaser not less than 30 calendar days prior written notice of the date, time and location (in New York City) set by Sponsor for Purchaser to close title. Purchasers may waive this 30 day period and close sooner on a date and at a time mutually convenient to Purchaser and Sponsor. After the First Unit Closing is consummated, Purchasers and Unit Owners will be served with a Plan Amendment disclosing (among other matters) the date of the First Unit Closing.

K-7. Projected Date of First Closing. Sponsor expects the First Unit Closing to occur on or about July 1, 2009, which corresponds to the projected date the first year of Condominium operation is to begin in SCHEDULE B (in Section E above). Such projected date is only a target and is not guaranteed. If such date of First Unit Closing is delayed by twelve (12) months or more, the Plan will be amended to offer Purchasers the right, for fifteen (15) calendar days, to rescind the Purchase and Sale Agreement and recover the Deposit, together with any earned

interest and any Net Refundable Special Work Payment. Such right to rescind shall be the limit of Sponsor's liability and Purchaser's sole recourse against Sponsor (regardless of any losses or damages Purchaser may have sustained or incurred). Sponsor and Selling Agent do not assure, represent or guarantee when the actual date of First Unit Closing may occur, which may be earlier or substantially later than such projected date, or when the actual date of closing of title will occur under a Purchase and Sale Agreement, which may be held substantially later than the actual date of the First Unit Closing.

K-8. Purchaser's 30 Day Grace Period. Sponsor must make a written demand for payment after default and allow Purchaser 30 calendar days to make the payment before Purchaser's Deposit shall be forfeited. SPECIAL RISK: Such 30 days is a "TIME OF THE ESSENCE" or deadline period. See Section A, subsection A-6 and subsection K-5 above.

K-9. Unit Owner's Power of Attorney. Each Purchaser is required to sign, acknowledge and deliver to Sponsor at closing of title for recording a Unit Owner's Power of Attorney (on the form reproduced as DOCUMENT 2 in Part II) in favor of the Condominium Board, Sponsor, the Upper Owner and others. The Unit Owner's Power of Attorney authorizes actions to be taken on behalf of Purchaser summarized in Part I of this Plan and permitted under the Declaration and By-Laws (see DOCUMENT 3 for full scope). Failure to execute and deliver the Unit Owner's Power of Attorney is an event of default under the Purchase and Sale Agreement.

K-10. Period to Review Plan and Amendments. At Sponsor's option, prospective Purchasers will be afforded either: (a) not fewer than three (3) business days to review the Plan and filed Amendments before executing a Purchase and Sale Agreement; or (b) (if fewer than three (3) business days is given) not fewer than seven (7) calendar days after delivering an executed Purchase and Sale Agreement to rescind the Purchase and Sale Agreement and have the full Deposit refunded promptly. In the latter case, Purchaser must either personally deliver a written notice of rescission to Sponsor within the seven (7) calendar day period or mail the notice of rescission to Sponsor at the address set forth on the cover page of the Plan and have the mailing post-marked within the seven (7) calendar day period. SPECIAL RISK: The seven (7) day period to rescind is a "TIME OF THE ESSENCE" or deadline period, which means that unless Purchaser timely rescinds as provided above, Purchaser may not rescind or recover the Deposit based on being given fewer than said seven (7) day period.

K-11. Risk of Loss. The risk of loss from fire or other casualty remains with Sponsor unless and until a Purchaser is in possession of the Unit at the time of execution of the Purchase and Sale Agreement or is given possession of the Unit pursuant to an Interim Lease whose term has begun, or legal title to the Unit has passed to Purchaser, at which time (in any of such cases) the risk of loss shall be assumed by the Purchaser. Such Purchaser should consider obtaining, at Purchaser's expense, insurance to insure the Unit, its contents and Purchaser's personal property against such loss. See Section M, subsection M-2 below for additional discussion.

K-12. Purchase and Sale Agreement. A complete copy of the Purchase and Sale Agreement is reproduced as DOCUMENT 1 in Part II of the Plan. Prospective Purchasers are urged to consult an attorney or legal adviser before executing the Purchase and Sale Agreement for a full understanding of Purchaser's rights, obligations and liabilities under the Agreement and this Plan.

K-13. **No Mortgage Financing Contingency**. SPECIAL RISK: Purchaser's obligation to purchase is not contingent on obtaining financing. See Section A, subsection A-8 above.

K-14. **Plan Governs**. Any conflict between the Plan and the Purchase and Sale Agreement will be resolved according to the terms of the Plan.

K-15. **Sponsor's Period to Accept or Reject Purchase and Sale Agreement**. Within 20 calendar days after a prospective Purchaser delivers to Sponsor or Sponsor's attorney an executed Purchase and Sale Agreement together with the required purchase documents and check for the Deposit, Sponsor must either accept or reject the Purchase and Sale Agreement and (if rejected) return the full Deposit previously tendered. If Sponsor fails to sign and return a fully executed Purchase and Sale Agreement to the prospective Purchaser within such 20 day period, the Purchase and Sale Agreement will be deemed rejected and Sponsor will return the full Deposit. Until the Purchase and Sale Agreement is rejected or deemed rejected by Sponsor, Purchaser is irrevocably bound to purchase and may not revoke or cancel the Purchase and Sale Agreement or recover the Deposit. Sponsor will not be obligated to accept, nor be bound by, the Purchase and Sale Agreement unless and until Sponsor executes and delivers a fully executed Purchase and Sale Agreement to Purchaser. No inference may be drawn that Sponsor has accepted or is bound by a Purchase and Sale Agreement because: (a) a prospective Purchaser is given the Plan, the Purchase and Sale Agreement or other documents, or (b) Sponsor or Sponsor's attorney accepts delivery of a signed Purchase and Sale Agreement and Deposit check, or (c) a Deposit check is deposited (whether or not inadvertent).

K-16. **No Waiver or Abrogation of Article 23-A of GBL**. The Purchase and Sale Agreement and Plan 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 GBL.

K-17. **Restriction Against Assignment**. Purchaser may not assign the Purchase and Sale Agreement without obtaining Sponsor's prior written Discretionary Approval or Consent. Sponsor may (in its sole and absolute discretion) permit the Agreement to be assigned to allow Purchaser to take title in the name of an Entity in which Purchaser or principals of Purchaser own a majority of the beneficial and controlling interests. If Sponsor consents to an assignment, Sponsor's attorneys must receive at least twenty (20) calendar days prior to the date scheduled by Sponsor for closing of title: (a) four (4) originals of an Assignment and Assumption Agreement (on Sponsor's standard form) pursuant to which Purchaser assigns the Purchase and Sale Agreement and Deposit to the new party or parties named as Purchaser, who shall assume all of Purchaser's obligations thereunder; (b) two originals of Internal Revenue Service form W-8B or W-9 (as applicable) for the new Purchaser; and (c) an unendorsed personal check in the sum of $500, made payable to the order of Sponsor's attorneys, Seyfarth Shaw LLP, for services in connection with the assignment. In no event will Purchaser be entitled to delay or postpone closing of title to effectuate such name change or assignment.

K-18. **Events of Default**. Purchaser shall be in default if:

(a) at closing: (a-1) Purchaser fails to pay the Balance of the Purchase Price in accordance with subsection K-1.3 above; (a-2) Purchaser fails to pay Purchaser's closing costs (see subsection N-1.1 below) or closing apportionments, if in favor of Sponsor (see subsection N-1.4 below); or (a-3) Purchaser fails to properly sign and/or deliver the documents required under the Purchase and Sale Agreement, such as the Unit Owner's

Power of Attorney (see subsection K-9 above), the Unit Deed (see DOCUMENT 3 in Part II), the New York State and City transfer tax returns, the New York State equalization and assessment form, and the mortgage tax credit affidavit (see paragraph 22 of the Purchase and Sale Agreement);

(b) Purchaser's check for the Deposit or any other payment under the Purchase and Sale Agreement is dishonored or fails of collection ("**failed instrument**");

(c) Purchaser is a tenant, or becomes a tenant under an Interim Lease, of the Unit or a portion thereof, and a warrant of eviction against Purchaser is issued; or

(d) Purchaser fails to pay or perform any of Purchaser's other obligations or agreements under the Purchase and Sale Agreement.

K-19. Sponsor's Remedies on Purchaser's Default. If Purchaser defaults, Sponsor may not seek specific performance of the Purchase and Sale Agreement and Sponsor's sole remedy shall be to cancel the Purchase and Sale Agreement effective at the end of 30 calendar days from giving Purchaser written notice of the default, unless Purchaser cures the default within such 30 day period. SPECIAL RISK: Such 30 day grace period is a "TIME IS OF THE ESSENCE" or deadline period. This means that if Purchaser fails to timely do so, the Purchase and Sale Agreement shall be canceled and Sponsor shall receive and retain as liquidated damages the Deposit, the interest earned thereon and the other amounts set forth in subsection K-4(a) above. This liquidated damages provision is subject to review by a court or other authority having jurisdiction as to whether the liquidated amount is an unenforceable penalty designed to coerce performance of a Purchaser (see Section A, subsection A-4 and see subsection K-3.8 above for discussion of Attorney General's dispute resolution procedure).

In the event of a failed instrument given in payment of the Deposit, Sponsor has the following choices: (a) to declare the Purchase and Sale Agreement null and void, in which case Sponsor shall cause the failed instrument and any other payment given under the Purchase and Sale Agreement to be returned to Purchaser; or (b) to declare Purchaser to be in default, in which case Purchaser shall have 30 calendar days from giving Purchaser written notice of the default to replace the failed instrument and to reimburse Sponsor for all Costs and Expenses incurred in connection with the failed instrument, including reasonable legal fees and expenses and bank charges. SPECIAL RISK: Such 30 day grace period is a "TIME IS OF THE ESSENCE" or deadline period. If Purchaser fails to timely cure the default, Sponsor may sue on the failed instrument and recover and retain as liquidated damages the amounts set forth above. See paragraph 22.6.c of the Purchase and Sale Agreement for full discussion.

K-20. Purchaser's Remedies on Sponsor's Default or Inability to Perform.

K-20.1. Grace Period. If Sponsor defaults, Purchaser must give Sponsor written notice of the default and allow Sponsor an opportunity to cure the default within a period of 30 calendar days or (if not reasonably curable in 30 days) such reasonably longer period (not to exceed 90 calendar days) from giving the default notice.

K-20.2. Remedies. If Sponsor fails to cure the default within the applicable grace period, Purchaser's sole remedy shall be either: (a) to compel Sponsor to specifically perform or (b) to cancel the Purchase and Sale Agreement and recover Purchaser's Deposit together with any interest earned thereon and any Net Refundable Special Work Payment (if and to the extent

applicable). Purchaser shall be deemed to have elected to cancel and recover said sums if Purchaser fails to consummate the closing of title on the date or any postponed date set by Sponsor. Sponsor, however, shall not be excused from a willful default for intentionally causing a title objection to frustrate a sale in bad faith, nor from Sponsor's obligation to obtain a release of a mortgage lien on the Unit.

K-20.3. Sponsor's Inability. If Sponsor is unable in good faith to perform or title shall not be in accordance with the Purchase and Sale Agreement, Purchaser's sole remedy shall be either: (a) to consummate the closing of title without delay and accept such title to the Unit as Sponsor is able to convey without abatement in, or set-off against, the Purchase Price and without recourse against Sponsor by reason thereof; or (b) to cancel the Purchase and Sale Agreement and recover Purchaser's Deposit together with any interest earned thereon and any Net Refundable Special Work Payment (if and to the extent applicable). Purchaser shall be deemed to have elected to cancel and recover said sums if Purchaser fails to consummate the closing of title on the date or any postponed date set by Sponsor.

K-21. Release of Claim. Upon cancellation of the Purchase and Sale Agreement and payment of the funds escrowed with the escrow agent and any earned interest thereon to the proper party, and (if applicable) recovery of any sums due Sponsor, all rights, obligations and liabilities of Purchaser and Sponsor under the Purchase and Sale Agreement, the Plan and Plan Amendments shall end and all Liabilities and Expenses of each party and Sponsor's employees, agents and attorneys, and the escrow agent, shall be released and discharged, except the parties shall remain liable for those indemnities, obligations and liabilities expressly stated to survive cancellation of the Purchase and Sale Agreement.

K-22. Purchaser's Closing Costs and Apportionments. Purchaser's closing costs include (among others) the state and city transfer taxes (see Section N, subsection N-1.1 below for details). At closing, Sponsor and Purchaser shall apportion the Common Charges, real estate taxes and any rent for the Unit (see Section N, subsection N-1.3 below for details).

K-23. Closing Payments and Documents.

K-23.1. Closing Payments. Purchaser's closing payments consist of the Balance of the Purchase Price, Purchaser's closing costs and the net closing apportionments, if in favor of Sponsor. If Purchaser is an existing tenant of the Unit or a portion thereof, or is permitted to rent the Unit or a portion thereof pursuant to an Interim Lease, any unapplied rent security will be refunded at or within 30 days following the closing together with any earned interest.

K-23.2. Closing Documents. The principal documents to be signed or delivered at closing of title include: (a) a Unit Owner's Power of Attorney to be signed by Purchaser (see DOCUMENT 2 of the Plan); (b) a bargain and sale deed of the Unit without covenant against grantor's acts to be signed by Sponsor and Purchaser (see DOCUMENT 3 in Part II of the Plan); (c) the New York State and City transfer tax returns and the State equalization and assessment form to be signed by Sponsor and Purchaser: (d) an assignment and assumption of leases and security deposits, if applicable (on Sponsor's standard form); (e) a release of lien and UCC-3 Financing Statement with respect to any mortgage on the Unit (other than any mortgage obtained by Purchaser), which are to be obtained by Sponsor (see Section M, subsection M-7 below); (f) Sponsor's certification of non-foreign status; (g) (if Purchaser is obtaining mortgage financing) a Purchaser's affidavit with respect to the mortgage tax credit; (h) an insurance

certificate naming Purchaser as an additional insured party under the Condominium's policy, which is to be obtained by Sponsor; (i) a statement on the payment status of Common Charges from the Condominium Board or Managing Agent, which is to be obtained by Sponsor; and (j) written notice from Sponsor to tenant(s) of the Office Unit advising of the sale and directing future rent payments to be sent to Purchaser. See paragraph 14 of Purchase and Sale Agreement (Document 1 in Part II of the Plan) for full list.

K-23.3. Satisfaction and Discharge. All agreements, obligations and liabilities of Sponsor and Purchaser are considered satisfied, released and discharged at consummation of closing of title, except only those that are expressly stated in the Purchase and Sale Agreement, the Plan or Plan Amendments to survive the closing or are to be paid or performed subsequent to closing. The foregoing shall not reduce or otherwise abridge any rights of Purchaser under Article 23-A of the General Business Law, or Part 20 of the Attorney General's regulation, or the Plan as amended.

K-24. Possession. Purchaser is not entitled to possess, occupy or in any way use the Unit prior to closing of title, unless at the time of purchase, Purchaser is an existing tenant of the Unit or Sponsor elects (at its exclusive option) to give Purchaser an Interim Lease for the Unit (see "Section J. Interim Leases" for discussion). At closing, Purchaser shall acquire title subject to the then existing lease(s) of office space(s) comprising the Unit. See Section A, subsection A-10 above and subsection K-26 below.

K-25. State of Title. Purchaser shall accept title to the Unit subject only to the "Permitted Encumbrances" defined and listed in EXHIBIT A to the Purchase and Sale Agreement (see Section M, subsection M-4 below). If Sponsor is required to postpone the date scheduled by Sponsor for closing of title to remove an objection to title that existed but was not included in a written notice or title report received from Purchaser or Purchaser's attorney at least ten (10) calendar days before such scheduled Closing Date, Purchaser will be at fault for causing the postponement and will incur the delinquency closing costs set forth in Section N, subsection N-1.1 below. Purchaser shall not be at fault for a postponement caused by a title objection first appearing on a title continuation obtained at closing.

NOTE: The title insurers identified in the Purchase and Sale Agreement (see paragraph 16.8 thereof) are most familiar with title to the Property and, therefore, are best able to facilitate the closing of title. Purchasers may choose any title insurer or agent preferred by Purchaser or Purchaser's attorney. If, however, Sponsor's attorney is required to prepare or produce documents or instruments to omit a title objection, then at closing Purchaser shall pay Sponsor's attorneys the sum of $500 for such services, regardless of the title insurer or agent chosen by Purchaser or Purchaser's attorney.

K-26. Sale Subject to Leases. SPECIAL RISK: The Office Units are being offered and sold subject and subordinate to the existing lease(s) of the office space(s) comprising each Office Unit at the time of entering into a Purchase and Sale Agreement and the rights of tenants thereunder as tenants, as such lease(s) may expire or sooner terminate in accordance with its(their) terms (see Section I, subsection I-2 above for schedule of present leases at the date of this Plan and related information). A Purchaser shall not be excused from Purchaser's obligation to consummate the closing of title, without abatement in the Purchase Price, set-off or recourse of any kind against Sponsor, in the event an existing lease expires or is sooner terminated pursuant to its terms. Sponsor reserves the right to modify, amend and terminate or cancel present leases

and to enter into new leases for vacant office spaces comprising an Office Unit prior to entering into a Purchases and Sale Agreement for such Unit, but will amend the Plan to disclose a material modification to a present lease or the material terms of any new lease (as applicable). After a Purchase and Sale Agreement is in effect, Sponsor will not modify or amend an office space lease, or terminate or cancel such lease by mutual agreement with the tenant, without obtaining the prior written consent of the Purchaser of the affected Unit, but Sponsor reserves the right to terminate or cancel a lease in accordance with its terms (e.g., based on non-payment of rent) without Purchaser's consent and to lease an office space then vacant or thereafter becoming vacant on the following terms. Sponsor shall first offer in writing to lease such vacant space to said Purchaser at such rent and other terms as they may mutually agree upon for the interim period prior to closing of title. If the parties fail reach a mutual agreement within 30 calendar days after the offer to lease is given to Purchaser or Purchaser declines to enter into said interim lease, Sponsor shall have the unfettered right to lease such vacant space at not less than the rent and other material terms last offered by Sponsor to Purchaser, except the lease may be for a term of not more than ten (10) years, unless Purchaser agrees in writing to a longer term.

K-27. **Unit and Contents Sold "AS IS"**. Each Unit includes only the equipment, fixtures and other personal property contained therein that are owned by Sponsor. SPECIAL RISK: Each Unit and its personal property are being offered and sold by Sponsor in the condition disclosed in the architect's report (DOCUMENT 4 of Part II) and in their then existing "AS IS" condition at the time of closing title, subject only to Sponsor's obligation to obtain a new or amended Certificate of Occupancy of the Building to authorize the Commercial Unit for the permitted retail and office uses set forth in this Plan and to change the designation of the caretaker's apartment on a portion of Unit 500 to "office" so as to allow all of such Unit to be used as offices, and subject further to Sponsor's obligation to maintain and repair the Unit and said personal property if and to the extent required by the then existing lease(s) for office space(s) comprising the Office Unit, but otherwise without any obligation of Sponsor to make any other repairs, corrections, additions or improvements, and without abatement in the Purchase Price, set-off or recourse of any kind against Sponsor based on any defects, faults, damages, violations, required inspections, open applications or other conditions requiring correction or repair. There are no express or implied warranties with respect to the sale of a Unit or the condition of the Common Elements. See Section A, subsection A-18 above.

The Roof Terrace Unit is being offered and sold in its current "AS IS" state as unimproved Roof space (see said architect's report). In order to use the Roof as a Roof Terrace Unit, the Purchaser of the Roof Terrace Unit shall be responsible, at Purchaser's sole Cost and Expense, to install the materials comprising the Roof Terrace Unit (i.e., decking, pavers or other protective flooring, supporting pedestals and required guard rails) on a specified portion of the main Roof reserved for such purpose (see SPECIAL RISKS Section A, subsections A-2.1 and A-2.19.11 above) for estimated costs and requirements to install the Roof Terrace Unit.

K-28. **Personal Property Included in Sale.** The sale of a Unit includes only the equipment, fixtures and other personal property contained therein that are owned by Sponsor as set forth in the Description of Property and Building Condition (DOCUMENT 4 in Part II). Each Unit is being sold without finishes, furnishings, decorations, additions or improvements of any kind. Furniture, floor coverings, wall coverings, furnishings and other decorations, finishes and treatments in or about any model or hallway are for display purposes only and are not included in the sale. There will be no modifications or extras unless agreed to in writing by Sponsor. Units used from time to time as sales offices or models (if any) are not being offered and are reserved

for future sale. In addition, Sponsor reserves the right to sell a model Unit (if any) with its furnishings. The Plan will be amended to disclose the additional price to purchase the furnishings once Sponsor determines to offer a model Unit for sale.

K-29. Pre-Closing Inspection of the Unit By Purchaser.

K-29.1. Vacant Unit. If prior to the closing of title a Unit or an office space comprising an Office Unit is vacant, the Purchaser thereof and its representatives may inspect such vacant Unit or office space (as applicable) a reasonable number of times and at reasonable hours, including within forty eight (48) hours prior to closing. Purchaser must give Sponsor reasonable advance written or oral notice of each inspection. Purchaser will not be entitled to delay or adjourn the closing to make an inspection so long as Purchaser is given reasonable access to said vacant Unit or office space (as applicable) within forty eight (48) hours prior to closing to ascertain the condition of the Unit and its contents

K-29.2. Occupied Office Unit. If prior to the closing of title, an Office Unit or an office space comprising an Office Unit is leased or occupied by other than the Purchaser thereof, the inspection of such occupied Unit or office space (as applicable) shall be subject to the rights of the tenant and the terms of the lease. If the lease permits inspection by Purchaser as a prospective purchaser of the Unit, Sponsor will endeavor in good faith to use reasonable efforts to gain access for inspection by Purchaser and its representatives. Sponsor, however, will not be obligated to commence litigation or otherwise incur legal or other expenses. In no event will the refusal of the tenant to permit inspection excuse Purchaser from consummating the closing of title without delay and without abatement in the Purchase Price, set-off, provision for escrowing monies or recourse of any kind against Sponsor by reason thereof.

K-29.3. Prohibitions. Purchaser's right to inspect does not entitle Purchaser or Purchaser's representatives: (a) to probe, penetrate or disturb the surfaces of the walls, floors or ceilings of the Unit or any portion of the Building; or (b) to make any alterations or changes to the Unit; or (c) to store any furniture, fixtures or other personal property in the Unit or elsewhere in the Building prior to closing.

K-30. Prices and Price-Related Terms are Negotiable. The offering price and price-related terms of the Purchase and Sale Agreement are negotiable (see Section G, subsection G-2 above for full discussion).

K-31. Broker. Sponsor shall be responsible for the fee or commission of the broker (if any) identified in the Purchases and Sale Agreement pursuant to separate agreement with such broker and shall indemnify Purchaser with respect to all Claims and Liabilities and Expenses arising therefrom. Purchaser shall be responsible for the fee or commission of any other broker not identified in the Purchase and Sale Agreement with whom Purchaser dealt or is alleged to have dealt and shall indemnify Sponsor with respect to all Claims and Liabilities and Expenses arising therefrom. Each party's indemnity shall survive the closing of title to the Unit or the termination or cancellation of the Purchase and Sale Agreement (as applicable).

K-32. Abandonment of Plan. Sponsor has the exclusive right and absolute discretion to abandon the Plan at any time before Sponsor declares the Plan effective or (under certain very limited circumstances) thereafter (see Section L, subsections L-6 and L-7 below for discussion). If Sponsor elects to abandon the Plan, all Purchase and Sale Agreements will automatically be

cancelled and the Deposits refunded to Purchasers together with any earned interest and any Net Refundable Special Work Payment (if and to the extent applicable).

K-33. **Sponsor's Representations**. In addition to the representations contained in this Plan, Sponsor represents as follows: (a) the Purchase and Sale Agreement is legal and valid, has been duly authorized by all requisite organizational action, is being executed by a duly authorized signatory, and is binding upon and fully enforceable against Sponsor in accordance with its terms, without set-off, defense or counterclaim and may be so relied upon by the Purchaser; and (b) the only leases affecting an Office Unit at the date of this Plan are those identified in Section I, subsection I-2 above, subject to the right reserved to Sponsor to modify, amend and terminate or cancel existing leases and to enter into new leases for vacant office space as set forth in subsection K-26 above.

K-34. **Purchaser's Representations**. Each Purchaser will represent in the Purchase and Sale Agreement that: (a) Purchaser is a bona fide Purchaser; (b) Purchaser is not related to the Sponsor or the proposed Managing Agent, or to any of their respective principals, by blood, marriage or adoption or as a business associate, an employee, a shareholder or a limited partner; (c) Purchaser is not purchasing as an accommodation to, or for the account or benefit of, Sponsor or a principal of Sponsor; and (d) (if Purchaser is an Entity) the Purchase and Sale Agreement is legal and valid, has been duly authorized by all requisite organizational action, is being executed by a duly authorized signatory, and is binding upon and fully enforceable against Purchaser in accordance with its terms, without set-off, defense or counterclaim, and may be so relied upon by Sponsor.

K-35. **Purchaser's Due Diligence**. Purchaser acknowledges and agrees that: (a) before entering into the Purchase and Sale Agreement: (a-1) Purchaser has fully investigated and examined, or has been afforded a reasonable opportunity to investigate and examine, the lease(s) of the office space(s) comprising the Office Unit to be purchased by it; and (a-2) Purchaser has inspected or has been afforded a reasonable opportunity to inspect the Unit being purchased (other than an office space therein, if any, leased to other than Purchaser whose tenant has refused to permit inspection) and the Building; (b) Purchaser is thoroughly acquainted and/or satisfied with the condition and the permitted uses of the Unit, its equipment, fixtures and other personal property included in the sale, and the Building; (c) Purchaser has independently investigated, analyzed and appraised the value, profitability, adequacy, fitness and suitability of the said Unit and personal property for Purchaser's intended purposes to its satisfaction and no representation, warranty, certification or statement, whether oral or written, express or implied, with respect thereto has been made by Sponsor or any employee, agent, broker or other person representing or purporting to represent Sponsor; and (d) Purchaser has not been induced to purchase nor relied upon any representations, warranties, statements or certifications, whether oral or written, express or implied, made by Sponsor or any employee, agent, broker or other person representing or purporting to represent Sponsor which are not contained in this Plan or the Purchase and Sale Agreement.

K-36. **Lawsuits**. Any Lawsuits arising out of the Purchase and Sale Agreement shall be governed by the internal Laws of New York, shall be brought in New York County and shall be determined by the judge presiding at the trial without a jury (which the parties waive).

K-37. **Purchase and Sale Agreement Is Not a Lien**. Neither the Purchase and Sale Agreement nor the Deposit or any payment given for special work is a lien against the Property or the Unit. Purchaser may not record the Purchase and Sale Agreement and will be in default if Purchaser attempts to record it.

K-38. **Prohibition Against Advertising**. Until title closes, Purchaser is prohibited from advertising or publicizing the availability of the Unit for sale or lease. Any violation of this prohibition shall be a material event of default by Purchaser under the Purchase and Sale Agreement.

END OF SECTION K

SECTION L. EFFECTIVE DATE

L-1. **Requirement of Effectiveness**. Sponsor's offer to sell and obligations are contingent upon the Plan being declared effective by Sponsor and upon compliance with the relevant conditions and time periods described below. Sponsor must conform to the following provisions in determining whether, when and how the Plan will be declared effective. Until the Plan is declared effective or abandoned as provided in this Section L, Purchasers shall be irrevocably bound to purchase and cannot cancel the Purchase and Sale Agreement based on this contingency.

L-2. **Procedure to Declare Plan Effective**. The Plan may be declared effective by: (a) an Amendment to the Plan; or (b) by notice stating that the Plan is declared effective served on every Purchaser by personal service or by commencement of service by regular mail or registered or certified mail, with or without return receipt requested, in the manner required by Section 20.1(d) of Part 20 of the Attorney General's regulations, and submitting an Amendment to the Department of Law within five (5) days confirming that the Plan was declared effective on a specified date. The Amendment ("**Effectiveness Amendment**") will disclose the names of the Purchasers being counted toward effectiveness, the Office Units for which Purchase and Sale Agreements are in effect and will otherwise conform to Section 20.5(e) of Part 20. The First Unit Closing shall not be fixed until the Plan is declared effective and the Effectiveness Amendment is accepted for filing by the Department of Law.

L-3. **Minimum Percentage of Sales**. This Plan may not be declared effective unless bona fide Purchasers, including investors, have signed Purchase and Sale Agreements for at least fifteen percent (15%) of the Units offered for sale under this Plan, or two (2) Units (7 Units x 15%, rounded up).

L-4. **Purchase and Sale Agreements Excluded from Effectiveness**. The Plan will not be declared effective based on Purchase and Sale Agreements:

(a) signed by Purchasers who have been granted a right of rescission that has not yet expired or been waived in writing; or

(b) if the Purchaser was not afforded the protections required by Section 20.3(o)(10) of said Part 20, which provides for a minimum period of not fewer than three (3) business days for a Purchaser to review the Plan and Amendments before signing a Purchase and Sale Agreement or (if fewer than three (3) business days is given) not fewer than seven (7) calendar days after delivering a Purchase and Sale Agreement to rescind said Agreement and recover the full Deposit (see Section K, subsection K-10 above); or

(c) 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 or the Selling Agent or the Managing Agent by blood, marriage or adoption or as a business associate, an employee, or a shareholder or a limited partner of a privately held company; except that such a Purchaser other than the Sponsor or a principal of the Sponsor may be included if Sponsor has submitted proof satisfactory to the Department of Law establishing that the Purchaser is bona fide.

L-5. **Effective When 80% Sold**. The Plan must be declared effective when Purchase and Sale Agreements with bona fide Purchasers have been accepted by Sponsor for eighty percent (80%), or 5 Units (6 Units x 80%, rounded up) of the Units offered under the Plan.

L-6. **Abandonment Prior to Effectiveness**. Sponsor has the exclusive option to abandon this Plan any time before it is declared effective. If Sponsor (in its sole and absolute discretion) elects to abandon the Plan, then within five (5) calendar days after Sponsor receives the letter from the Attorney General accepting the Filing of an Amendment abandoning the Plan, all monies paid by Purchasers toward the Purchase Price shall be refunded to them in full, together with any interest earned thereon and any Net Refundable Special Work Payment (if and to the extent applicable). Sponsor shall promptly following Sponsor's election to abandon the Plan submit for filing an Amendment abandoning the Plan together with form RS-3 as required by Section 20.1(l)(2) of Part 20 of the Attorney General regulations.

L-7. **Abandonment After Effectiveness**. Sponsor may not abandon the Plan after effectiveness for any reason other than:

(a) a defect in title which cannot be cured without litigation or cannot be cured for less than $217,500 (as reasonably estimated by Sponsor), which is not less than one-half of one percent of the total offering amount in SCHEDULE A (see Section E);

(b) substantial damage or destruction of the Building by fire or other casualty which cannot be cured for less than $217,500 (as reasonably estimated by Sponsor), which is not less than one-half of one percent of said total offering amount; or

(c) the taking of any material portion of the Property by condemnation or eminent domain.

The above stated dollar amount relied upon as a basis for abandonment after effectiveness must exclude any attorney fees or any such title defects or determinations of any authority or regulatory association which exist on the date of presentation of the Plan and are either known to Sponsor or are a matter of public record.

END OF SECTION L

SECTION M. TERMS OF SALE

M-1. **Deed**. SPECIAL RISK: The type of deed given to Purchasers shall be a bargain and sale deed with covenant against grantor's acts. The form of Unit deed is contained in Part II of the Plan as DOCUMENT 3.

M-2. **Risk of Loss**. Prior to closing of title, the risk of loss or damage to a Purchaser's Unit and its contents from casualty or other cause is assumed by Sponsor, unless Purchaser is in possession or given possession pursuant to an Interim Lease or other agreement or is at fault for causing the loss or damage, in which case Purchaser shall assume the risk of loss and damage. Sponsor's assumption of the risk does not obligate Sponsor to repair the loss or damage or restore a Purchaser's Unit or its contents. If Sponsor elects to repair, or if the First Unit Closing has occurred and the Board is obligated to repair the loss or damage, the closing of title will be postponed a reasonable period to permit the repairs to be completed. Purchaser shall not be required to close title until the Unit and its contents are in the condition required in the Purchase and Sale Agreement and the Unit has all essential Building services (e.g., heat and utilities) and a reasonable means of access to and from the street. If Sponsor elects not to repair, the Purchase and Sale Agreement will be canceled and the Deposit returned to Purchaser together with any earned interest thereon and any Net Refundable Special Work Payment (if and to the extent applicable).

SPECIAL RISK: If Purchaser is in possession or given possession under an Interim Lease or is at fault for causing the loss or damage, then Purchaser must consummate the closing of title on the date set by Sponsor in accordance with the Purchase and Sale Agreement, without delay, and pay the full Purchase Price without abatement, set-off or credit, and without recourse against Sponsor by reason thereof. See Section A, subsection A-17 above.

M-3. **Certificate of Occupancy**. All Office Units offered for sale are authorized for the intended use set forth in this Plan on the current Certificate of Occupancy for the Building, except a portion of Office Unit 500 is listed for use as a caretaker's apartment. The Commercial Unit is not listed on the Building's Certificate of Occupancy. Sponsor has undertaken to obtain a new or amended Certificate of Occupancy to change the designation of said caretaker's apartment for use as an office so as to allow all of Office Unit 500 to be used as offices, and to authorize the Commercial Unit for permitted retail and office uses under the current zoning Law applicable to the Property as set forth in this Plan. A Purchaser of Office Unit 500 or the Commercial Unit (as applicable) shall not be required to close title until said amended or new temporary or permanent Certificate of Occupancy is issued. The Roof Terrace Unit is not listed on the Certificate of Occupancy and will not be listed on said proposed new or amended Certificate of Occupancy since it is not required to be authorized for use on the Certificate of Occupancy.

M-4. **Title Exceptions**. Title to each Unit and its appurtenant interest in the Common Elements and the Association's Properties will be conveyed at the closing free and clear of all liens, encumbrances and title exceptions other than those described in this Plan (including the Purchase and Sale Agreement contained in Part II as DOCUMENT 1) and the proposed Unit Deed (contained in Part II as DOCUMENT 3). A summary of all leases, mortgages, liens, encumbrances and title exceptions that will affect the Unit and Property after closing is set forth below. See also EXHIBIT A to the Purchase and Sale Agreement (DOCUMENT 1), which recites the permitted title exceptions set forth below. Each Unit will be conveyed and purchased

(without abatement in the Purchase Price or recourse against Sponsor), subject to the following permitted title exceptions, which shall not be objections to title:

(a) Building restrictions and zoning laws and other regulations, resolutions and ordinances, and any amendments thereto, provided they do not prevent the use of a Unit for the purposes set forth in the Plan.

State of facts shown on survey by S.P. Belcher dated April 9, 1928, which covers the subject premises and more, last updated by visual examination on 8/3/2006 by Earl B. Lovell-S.P. Belcher, Inc., and shows the following:

A. Survey includes premises adjoining on the east designated as Lot 10 on Block 597, which is not covered herein.

B. Projections and/or encroachments over or onto Van Dam Street:

Water Table	0 Feet 2 Inches
Ledge	0 Feet 6 Inches
Fire Escapes	3 Feet 0 Inches
Pilasters	1 Foot 0 Inches
Bricks At Roof	0 Feet 10 Inches
Vent Pipes	1 Foot 3 Inches
Stand Pipes	1 Foot 4 Inches
Iron Grating	4 Feet 0 Inches
Brick from 2nd Floor to Roof of 5-Story Brick Building	0 Feet 4 Inches

6 Brick Piers project 1 Foot 0 Inches at Basement, plus 0 Feet 4 Inches at 1st Floor of the 5-Story Brick Building.

C. Independent Wall of 5-Story and Basement Brick building on the subject premises encroaches as much as 0 Feet 1 Inch onto the premises adjoining on the east. Notwithstanding said encroachment policy will insure that the same may remain undisturbed for as long as it stands.

D. Door in Basement of 5-Story and Basement Brick building on the subject premises located along the easterly record line. Policy excepts the possible rights and easements of others on the premises adjoining on the east in, to and over the subject premises.

E. Projections from 5-Story and Basement Brick building on the subject premises over the premises adjoining on the south:

Shutter Eyes	0 Feet 2 Inches
Window Sills	0 Feet 2 Inches
Tie Rods	0 Feet 4 Inches

F. Projections and/or encroachments over or onto Greenwich Street:

Water Table	0 Feet 2 Inches
Ledge	0 Feet 6 Inches
Fire Escapes	3 Feet 0 Inches
Brick at Roof	0 Feet 10 Inches
Cemented Area	Extends 4 Feet 0-¾ Inch
Iron Fence	4 Feet 9 Inches
Vault	12 Feet 11-3/4 Inches
Stand Pipe	1 Foot 8 Inches
Brick from 2nd Floor to Roof of 5-Story Brick Building	0 Feet 4 Inches

4 Brick Piers project 1 Foot 0 Inches at Basement, plus 0 Feet 4 Inches 1st Floor of the 5-Story Brick Building.

Any additional state of facts that an accurate survey or personal inspection of the Land and Building would show, including encroachments of the Building on adjoining property and/or streets, and encroachments of adjoining buildings on the Property, provided that Purchaser's title insurer or agent, or any of the title insurers comprising the Title Insurance Company listed in Section B, subsection B-11 above, will insure, at its regular rate, without additional premium, in a fee title policy that such encroachments may remain for so long as the Building shall stand, and provided further that such state of facts would not prevent the use of Purchaser's Unit for the purpose set forth in this Plan.

(b) Any state of facts an accurate survey of the Unit would disclose, including: (b-1) encroachments by the Unit on adjoining Units and on Common Elements; and (b-2) encroachments by adjoining Units or Common Elements on the Unit, provided Purchaser's title insurer or agent, or any of said title insurers comprising the Title Insurance Company, will insure, at its regular rate, without additional premium, in a fee title policy that any encroachments of a portion of the Unit upon any other Unit or the Common Elements, or vice versa, may remain for so long as the Building shall stand.

(c) The terms, provisions, burdens, covenants, restrictions, conditions, options, duties, limitations, licenses, powers, easements, encroachments and rules and regulations set forth in, or permitted by, the Declaration, the By-Laws (and the Rules and Regulations made thereunder), Purchaser's Unit Owner's Power of Attorney and the Floor Plans, as any of the foregoing might be amended from time to time, provided that the title insurance policy will insure against loss or damage occasioned by the Unit not being part of a condominium validly created pursuant to Article 9-B of the Real Property Law, as amended.

(d) Consents by Seller, the Condominium Board or any former owner of the Land, for the erection of any structure or structures on, under or above any street or streets on which the Land abuts.

(e) Sewer, water, electric, plumbing, heating, gas, telephone, cable and other utility easements and any and all rights of use in favor of any utility company for construction, use, maintenance, repair, removal, relocation and replacement of utility lines, wires, terminal boxes, mains, pipes, cables, conduits, poles, connections and other equipment and facilities on, under and across the Land and Building.

(f) 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 as provided in the Condominium's By-Laws).

(g) Encroachments of stoops, areas, cellar steps or doors, trim, copings, retaining walls, bay windows, balconies, sidewalk elevators/hatches, fences, fire escapes, cornices, ledges, sills, foundations, footings, chutes, fuel oil lines, drainage, vent and stand pipes, shutters 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.

(h) Leases and service, maintenance, management, employment, concessionaire and license agreements, if any, of portions of the Common Elements or made with or assumed by the Condominium Board, as disclosed or permitted in the Plan or a Plan Amendment or made after the end of the Sponsor Board Control Period.

(i) The lien of any unpaid Common Charge and real estate taxes, which shall be apportioned at the closing of title as set forth in the Purchase and Sale Agreement. The lien for any unpaid water charges and sewer rents are payable by the Condominium Board and included in the Common Charges, and thus are deemed apportioned as part of the Common Charges.

(j) The lien of any unpaid assessment payable in installments, except that: (j-1) Sponsor will pay all such assessments due prior to the Closing Date; and (j-2) Purchaser will pay all assessments due from and after such date. However, the then current installment of an assessment will be appropriately apportioned at closing. The term "assessments" as used herein includes both a real estate tax assessment and a Condominium Board Special Assessment.

(k) Unpaid fees or charges of any Governmental Authority for inspections, reinspections, examinations, services, permits and licenses, which shall be apportioned between Sponsor and the Condominium Board as provided in this Plan or, if arising after the First Unit Closing, shall be payable by the Condominium Board and included in the Common Charges, and thus are deemed apportioned as part of the Common Charges (all such unpaid fees or charges due and payable prior to the First Unit Closing shall be paid by Sponsor as provided in this Plan).

(l) Unpaid costs, charges and amounts owed by the Condominium Board after the First Unit Closing for work performed by a Governmental Authority, including the New York City Department of Health (all such unpaid costs, charges and amounts owed prior to the First Unit Closing shall be paid by Sponsor pursuant to this Plan).

(m) Any encumbrance as to which any of said title insurers comprising the Title Insurance Company or Purchaser's title insurer or agent would be willing to insure, at Purchaser's expense, at its regular rate and without additional premium, in a fee policy issued by it to Purchaser: (m-1) will not be collected out of, or enforced against, the Unit or its Common Interest if it is a lien; or (m-2) will not prevent the use of the Unit for the purpose set forth in this Plan, whichever is applicable. Any exception that any of said title insurers comprising the Title Insurance Company has omitted or insured at its regular rates and without additional premium will not be collected out of, or enforced against, another Unit, in a fee title insurance policy for such other Unit, regardless of which title insurer or agent Purchaser uses, will not be a valid objection to title.

(n) Existing lease or leases (as applicable) of Purchaser's Unit and any renewals or extensions thereof, and modifications, amendments, terminations or cancellations thereof, and new leases of vacant spaces (if any) comprising Purchaser's Unit, all as and to the extent provided in Section I above, and rights of tenants thereunder, as tenants only.

(o) Leases and rights of tenants and occupants of other Units, as tenants only.

(p) The following title conditions:

(p-1) Railroad Easement Agreement recorded on 02/24/1914 in Section 2, Liber 227 Cp 473 (affecting streets).

(p-2) Railroad Easement Agreement recorded on 05/06/1914 in Section 2, Liber 231 Cp 195 (affects streets only).

(p-3) Declaration of Zoning Lot Restrictions and Reciprocal Easement Agreement (see DOCUMENT 9 in Part II), to be recorded prior to recording the Declaration.

(q) Any declaration or other instrument affecting the Property that the Condominium Board considers 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 or quasi-public Governmental Authority in connection with the demolition, construction, Alteration, Repair, use, occupancy, Operation or restoration of the Building.

(r) Any easements, covenants, declarations, restrictions or agreements, whether of record or unrecorded, affecting the Property or any portion thereof, and the title exceptions set forth in the title report issued by any of said title insurers comprising the Title Insurance Company, provided they do not prevent the use of a Unit for the purpose set forth in the Plan, and excluding: (r-1) any title exception to be removed in order to insure the valid establishment of the Condominium as provided in this Plan; and (r-2) the lien of any mortgage or UCC-1 financing statement, which are to be released or terminated, respectively, from the Unit.

(s) SPECIAL RISK: Any violations against the Property (including the Unit and the Common Elements), other than the violation issued with respect the elevator, which Sponsor shall cure, at its sole Cost and Expense (see Section A, subsection A-18 above).

(t) The Certificate of Occupancy or a temporary or permanent (at Sponsor's exclusive option) new or amended Certificate of Occupancy of the Building, provided it authorizes use of the Unit being sold for the purpose set forth in this Plan.

(u) Any lien (including any mortgage lien) or other encumbrance granted, created or obtained by Purchaser.

(v) Easements for ingress and egress for construction, installation, operation and maintenance of municipal service facilities and utilities.

(w) Any easement or right of use in favor of Sponsor or its designee as provided in this Plan, the Declaration or the By-Laws. Any other covenants, restrictions, easements or other encumbrance (other than for the payment of money), provided that they do not prohibit the existence and use of a Unit for the purpose set forth in this Plan.

(x) Any lien, encumbrance or lis pendens either: (x-1) for which the instrument required to remove said encumbrance of record is delivered at or prior to the Closing Date to the proper party or to Purchaser's title insurer or agent together with the required recording or filing fee; or (x-2) as to which Purchaser's title insurer or agent, or any of said title insurers listed in the Purchase and Sale Agreement, will insure that the lien, encumbrance or lis pendens will not be collected out of, or enforced against, the Unit.

(y) Party walls and party wall agreements, if any.

(z) Judgments, bankruptcies or other returns against other persons having names the same as or similar to Sponsor or any of Sponsor's principals, provided Sponsor or any such principals, as the case may be, deliver to Purchaser or Purchaser's title insurer or agent, or any of said title insurers comprising the Title Insurance Company, an affidavit showing that such judgments, bankruptcies or other returns are not against Sponsor or any such principals, as the case may be.

(aa) Uniform Commercial Code financing statements or conditional bills of sale, provided that: (aa-1) such statements were filed on a date more than five (5) years prior to the Closing Date; (aa-2) Sponsor executes and delivers to Purchaser an affidavit setting forth that the property covered thereby is no longer in the Unit or is fully paid for; or (aa-3) a tenant is the debtor thereunder.

(bb) Service, labor, concessionaire and maintenance agreements with the Condominium Board as disclosed or permitted in the Plan or a Plan Amendment, or made after the end of the Sponsor Board Control Period.

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

(dd) Franchise taxes and New York City business corporation taxes of any organization in the chain of title, provided that Purchaser's title insurer or agent, or any of said title insurers or agent comprising the Title Insurance Company, would be willing to insure at its regular rate, without additional premium, in a fee policy that such taxes will not be collected out of the Unit.

M-5. **Personal Property**. All personal property owned by Sponsor that is located within the Unit on the date the Purchase and Sale Agreement is signed is included in the conveyance in "AS IS" condition existing at closing of title to the Unit (see SPECIAL RISKS Section A, subsection A-18 and Section K, subsection K-27 and K-28 above). All personal property owned by Sponsor that is located in the Common Elements on the date the Declaration is filed is part of the Common Elements.

M-6. **Condominium Documents**. The Declaration, By-Laws and Floor Plans for the Condominium and such other documents as required by Law, will be recorded or filed by Sponsor, at its expense, prior to the first conveyance of title to a Unit in accordance with the New York Condominium Act. The place of recording or filing is the Register's Office of the borough of Manhattan, in the City, County and State of New York.

M-7. **Existing Mortgages**. If the existing mortgages held by Anglo Irish Bank Corporation PLC, with offices at 222 East 41st Street, 24th Floor, New York, NY 10017 are not satisfied at or prior to the First Unit Closing, then at the time of first conveyance of the Unit, said mortgagee will either: (a) consent to the formation of the Condominium and acknowledge that its lien will be limited to unsold Condominium Units; (b) subordinate the lien of its mortgage to the Declaration of Condominium; or (c) release its lien on the Condominium Unit being conveyed.

END OF SECTION M

This Page Intentionally Left Blank

SECTION N. UNIT CLOSING COSTS AND APPORTIONMENTS

N-1. Closing Costs and Apportionments

N-1.1. Purchaser's Closing Costs. The closing costs, fees and charges to be paid by Purchaser and their estimated amounts based on an assumed Purchase Price of $7,000,000, an assumed mortgage loan of $5,600,000 (i.e., 80% of the Purchase Price) and rates in effect on December 11, 2008 are as follows (amounts are rounded):

(a) New York State transfer tax (at the rate of 0.4% x the "Adjusted Purchase Price" (defined below), rounded up to the nearest $500	$	28,735.00
(b) New York City transfer tax (at the rate of 1.425% of the Adjusted Purchase Price of $500,000 or less, or at the rate of 2.625% of an Adjusted Purchase Price of more than $500,000) plus $165 EA 5217 filing fee	$	188,738.44
(c) estimated governmental recording fees and charges for the Unit Deed (assuming 8 pages plus cover page), Unit Owner's Power of Attorney (assuming 7 pages plus cover page) and Purchaser's mortgage (assuming 20 pages plus cover page) (fees at the rate of $42 per instrument and $5 a page, the UCC-1 Financing Statement (filing and service fees of $50), New York State equalization and assessment form ($75), ACRIS and title insurer's service fees and miscellaneous recording fees (estimated at $250)[1]	$ (estimated and approximate)	690.00
(d) mortgage recording tax at the rate of 2.05% of the mortgage (if less than $500,000) or 2.80% of the mortgage (if $500,000 or more)	$	156,800.00
(e) municipal charge to record the mortgage tax credit affidavit	$	50.00
(f) premium for simultaneous fee and mortgage title insurance	$	30,925.00
(g) projected mortgage loan fees and costs (based on the following assumptions and estimates): $56,000 for loan commitment fee (at 1% of loan amount); $1,500 for appraisal; $1,000 for loan application; $100 for UCC-1 filing fee; $3,500 for lender's legal fee; and $1,000 allowance for contingencies and miscellaneous expenses)	$ (estimated)	63,100.00
(h) Working Capital Fund Payment (equal to two month's Common Charges)	$ (estimated average)	8,100.00
(i) legal fee to Sponsor's designated attorneys[2]	$	4,500.00

---

[1] Governmental recording fees and charges may vary from time to time. Title insurer's service charges may vary, depending upon the title insurer or agent.

[2] $3,500 per Unit plus $500 if financed, plus potential $500 for services to omit a title objection (see SPECIAL RISKS Section A, subsection A-11.1 above).

and

(j) allowance for gratuity to closer for title insurer and contingencies	$ 250.00
Total Projected closing costs	$ 481,888.44

Purchaser's actual closing costs, fees and charges will be based on the applicable governmental and title insurer rates in effect on Purchaser's Closing Date. The foregoing projections are believed to be reasonable, but are not assured or guaranteed. A number of unknown and varying factors (e.g., mortgage financing costs and escrows if Purchaser is obtaining financing) will affect the actual closing costs, fees and charges, which may vary, perhaps substantially, from the above projections.

The state and city transfer taxes are the statutory obligation of Sponsor as seller. Sponsor is transferring this statutory obligation to Purchasers under the Purchase and Sale Agreement. When so doing, the taxing authorities increase the Purchase Price by the amount of the transfer tax ("**Adjusted Purchase Price**") and compute the transfer tax on the Adjusted Purchase Price. The effect is to pay a transfer tax on the transfer tax. Expressed as a formula, the Adjusted Purchase Price equals the sum of (a) the Purchase Price plus (b) the product of the Purchase Price x 0.01425 (if the Purchase Price is $500,000 or less) or the Purchase Price x 0.02625 (if the Purchase Price is more than $500,000). The combined rates for the New York State and New York City transfer taxes are: 1.425% if the Adjusted Purchase Price is $500,000 or less; or 2.625%, if the Adjusted Purchase Price is above $500,000.

Owner's and mortgage lender's title insurance policy rates as at this writing are as follows:

Amount of Insurance		Owner's Policy*	Loan Policy*
First $35,000 or less		$402	$344
Each additional $1,000 (or fraction thereof)			
From	To		
$35,001	$50,000	$6.67	$5.55
50,001	100,000	5.43	4.54
100,001	500,000	4.36	3.64
500,001	1,000,000	3.98	3.31
1,000,001	5,000,000	3.66	3.05
5,000,001	10,000,000	3.25	2.71
10,000,001	15,000,000	3.07	2.55
Over 15,000,000		2.76	2.31

When an owner's policy and a loan policy are issued simultaneously covering identical property, the rate for the owner's policy shall be the applicable owner's rate. The rate on the amount of the loan policy that does not exceed the amount of the owner's policy shall be calculated at thirty percent (30%) of the loan rate. The rate on the amount of the loan policy in excess of the amount of the owner's policy shall be calculated at the full loan rate.

SPECIAL RISK: If Purchaser's Institutional Lender or its attorney refuses to hold the closing at the office of Sponsor's attorney, Purchaser will pay a travel fee to Sponsor's attorney of $350 (if the closing is held in Manhattan) or $500 (if the closing is held elsewhere in New York City). See Section A, subsection A-11 above.

SPECIAL RISK: If Purchaser is at fault for not closing title on the date set by Sponsor in accordance with this Plan and the Purchase and Sale Agreement, Purchaser will pay the following additional "delinquency closing costs" at closing of title: (a) Purchaser will pay Sponsor per diem interest on the Purchase Price at the rate of 12% per annum, prorated for each day's delay from the date set for closing through the end of the day prior to the actual Closing Date, to compensate Sponsor for loss of potential earnings on the Purchase Price; (b) Purchaser will reimburse Sponsor for the Unit's Common Charges and real estate taxes for the period of such delay, after deducting any rent received and collected from tenants of Purchaser's Unit; and (c) Purchaser will pay Sponsor's designated attorney $250 for each default notice, and $250 for each time the closing is rescheduled through no fault of Sponsor. See Schedule A, subsection A-11 above.

N-1.2. Sponsor's Closing Costs. Sponsor's closing costs, fees and charges shall include all fees and governmental charges to record the Declaration of Condominium and file the tax lot Floor Plans establishing the Condominium regime on the Property and the payments to the lender holding a mortgage on the Property to obtain a release of the mortgage lien from the Unit being conveyed and the related UCC-3 Termination Statement releasing the lien on fixtures in the Unit (Purchaser, however, will pay the governmental fees or charges to record such mortgage-related instruments). Sponsor will also pay all other amounts as required elsewhere in this Plan (see Section O, subsection O-2 below).

N-1.3. Closing Apportionments with Purchasers. At closing, Purchaser and Sponsor shall apportion as of end of the preceding day: (a) real estate taxes for the Unit for the tax period within which the closing occurs; (b) Common Charges; (c) the rent payable for the Unit for the month of closing (based on the actual number of days in such month); (d) utility charges and deposits; and (e) such other items as are customarily apportioned for closing of similar properties in New York county. Common Charges will commence at the First Unit Closing. Accordingly, Common Charges will not be apportioned for only a Unit that closes on the day of the First Unit Closing; however, the Purchaser of such Unit may be required to pay at closing the Common Charges for the Unit (including real estate taxes, if the Unit is not separately assessed and billed) for the remaining days of the month in which the closing occurs. Until the Units are separately assessed and billed by the taxing authority for real estate taxes, each Unit's "Tax Share" (as defined in Section S, subsection S-1.2 below) of the Property's real estate taxes will be paid to the Condominium Board as part of the Unit's Common Charges (see Section S, subsection S-1 for full discussion). If title closes before said separate assessment and billing for real estate taxes, the apportionment for real estate taxes will be based on the Unit's "Tax Share" of the Property's real estate taxes or, if paid to the Condominium Board as part of the Unit's Common Charges, the apportionment of real estate taxes will be based on the amount so paid to the Board (see below for requirement to adjust any overpayment or underpayment of the amount so apportioned).

The net amount resulting from these apportionments will be paid to the proper party at title closing. If the payment is to be made to Sponsor, it will be in addition to Purchaser's payments for the Purchase Price and closing costs.

Installments for any Special Assessments for real estate taxes or for Common Expenses will be paid by the party owning the Unit at the time the installments are payable. However, the then current installment of any Special Assessment for real estate taxes or Common Expenses for the period in which the closing occurs will be equitably apportioned as of the end of the day preceding the closing (based on the actual number of days in the installment period) and paid to the appropriate party at closing.

The "Customs in Respect of Title Closings" recommended by The Real Estate Board of New York, Inc., as amended to date, will apply to all apportionments, except as may otherwise expressly be provided in this subsection N-1.3. Any errors or omissions in computing the apportionments discovered after closing will be corrected and payment made to the proper party promptly after receipt of a written notice detailing the calculation of the amount owed, provided notice is given within six (6) months following the Closing Date. SPECIAL RISK: The six (6) months period to send such notice is a "TIME OF THE ESSENCE", or deadline, period (see Section A, subsection A-6 above). See Section A, subsection A-6 above. This provision will survive the closing of title.

If at closing of title the Unit is not separately assessed and billed for real estate taxes, Purchaser and Sponsor will adjust any overpayment or underpayment of the real estate taxes apportioned at closing when the Unit is so separately assessed and billed by the taxing authority. The adjustment shall be based on difference between a Unit's Tax Share at closing of title and the product of: (a) the Property's taxable assessed valuation (excluding any real estate tax benefits); multiplied by (b) the ratio that the Unit's initial separate actual assessed valuation bears to the aggregate initial separate actual assessed valuations of all Units (in each case exclusive of any real estate tax benefits); multiplied by (c) the tax rate applicable to the Unit at closing of title.

The amount of the overpayment or underpayment is required to be paid within fifteen (15) calendar days after Purchaser (in the case of an underpayment by Purchaser) or Sponsor (in the case of an overpayment by Purchaser) is sent written notice detailing the calculation of the amount owed, provided such notice is sent within a deadline of 60 calendar days after the Unit is separately assessed and billed for real estate taxes. SPECIAL RISK: The 60 calendar day period to send such notice is a "TIME OF THE ESSENCE", or deadline, period (see said subsection A-6 above). This means that if notice is not sent within such 60 day deadline, no adjustment will be made. The notice must be accompanied by suitable proof of the real estate tax for the Unit (such as a real estate tax bill or title report). If the amount due is not paid within said fifteen (15) calendar day period, then the party owed payment will be reimbursed: (a) per diem interest on the unpaid amount at the rate equal to the lower of sixteen percent (16%) a year or the highest rate allowed by Law to be charged to individuals, computed from the end of the fifteen (15) calendar day period until payment is received (to compensate for loss of potential earnings on the amount past due); and (b) the Costs and Expenses of collection. The obligation to adjust the apportionment for real estate taxes and to pay the appropriate party will survive closing of title.

N-1.4. Closing Apportionments with Condominium Board. At the First Unit Closing, Sponsor and the Condominium Board will apportion as of the end of the day immediately preceding the First Unit Closing, all Building expense items customarily apportioned in New York City by a seller and purchaser of a commercial property (apart from real estate taxes), including: (a) all payments and obligations relative to the Building's staff; (b) the cost of fuel

(including sales tax), if any; (c) the payments under any assignable service, maintenance and concessionaire agreements; (d) the premiums for transferable insurance policies; (e) the water charges, sewer rents and vault charges (if any) based on the fiscal or calendar year for which assessed; (f) the cost of unused Building supplies on hand, at Sponsor's cost (including sales tax) (the Managing Agent will verify the inventory of such supplies); (g) the charges for electricity and gas for the Common Elements and deposits with utility companies; (h) the fees of any Governmental Authority for inspections, permits and licenses; (i) the management fee; and (j) the fee to the Realty Advisory Board on Labor Relations, Inc. or similar real estate industry group (if any).

The "Customs in Respect to Title Closings" recommended by The Real Estate Board of New York, Inc., as amended to date, will apply to these apportionments, except as may otherwise expressly be provided in this subsection N-1.4. Any error or omission in computing the apportionments discovered after the First Unit Closing will be corrected and payment made to the proper party promptly after receipt of a written notice detailing the calculation of the amount owed, provided such notice is sent within six (6) months following the election of an Independent Board Member. SPECIAL RISK: The six (6) month period to send such notice is a "TIME OF THE ESSENCE", or deadline, period (see said subsection A-6 above). This provision will survive the First Unit Closing.

If the closing apportionments results in a "net amount" to be paid by the Condominium Board to Sponsor, the Condominium Board will pay such net amount to Sponsor at the First Unit Closing from the Initial Working Capital Fund and (if insufficient) the balance owed shall be paid, without interest, in 12 equal, consecutive monthly installments on the first day of the month, starting the first calendar month after the First Unit Closing, or sooner as and when the first Working Capital Payments paid by Purchasers are delivered to the Board, all pursuant to a promissory note to be signed and delivered by the Condominium Board at said First Unit Closing. If the net amount of the closing apportionments is in favor of the Condominium Board: (a) Sponsor's payment of the Initial Working Capital Fund will be credited against the net amount owed and (if insufficient) the deficiency will be paid by Sponsor to the Condominium Board at the First Unit Closing and added to the Working Capital Fund; and (b) an amount equal to such credit that otherwise is to be reimbursed to Sponsor from the first Working Capital Fund contributions of Purchasers of Units will not be paid to Sponsor and instead will be paid to the Condominium Board.

N-2. Mortgage Tax Credit. A mortgage tax credit is provided in RPL §339-ee and is calculated on the mortgage recording taxes (except for a certain special additional mortgage recording tax) paid on a blanket mortgage whose proceeds were applied (for example) to capital expenditures or expenses or to purchase the Property. The statutory credit applicable to each Unit is prorated in accordance with the Unit's percentage of Common Interest. The statutory credit is not available where the first Unit is sold more than two years after the blanket mortgage is recorded.

Under the Plan and the Purchase and Sale Agreement, Purchaser is required to reimburse Sponsor at closing of title an amount equal to any savings on the mortgage recording tax resulting from such mortgage tax credit available to Purchaser with respect to any purchase money mortgage on the Unit obtained by Purchaser at closing of title. The net result to Purchaser of such payment (if any) to Sponsor is to eliminate any benefit to Purchaser for the statutory mortgage tax credit and, in effect, for Purchaser to pay overall an amount equal to the

mortgage recording tax on Purchaser's mortgage as though there were no such credit. See subsection N-1.1(d) above for illustration of estimated mortgage recording tax.

N-3. **Fees of Sponsor's Attorney and Lender's Attorney**. SPECIAL RISK: At closing, Purchaser will pay Sponsor's attorney, Seyfarth Shaw LLP, a fee of $3,500 per Unit (if Purchaser closes without a mortgage loan) or $4,000 per Unit (if Purchaser closes with mortgage financing) for services in connection with the closing (including preparation of the notice scheduling the date of closing of title, calculating the Unit closing apportionments, preparing or obtaining applicable Unit closing documents and arranging and coordinating the attendance at closing of all applicable parties). See Section A, subsection A-11 above. A potential additional fee of $500 also will be payable to Sponsor's attorney for any services required to omit a title objection from Purchaser's title insurance policy. If Purchaser is obtaining financing, Purchaser's lender likely will require Purchaser to pay the fee of lender's attorney, which may vary widely. An estimated fee of $3,500 is projected to be paid by Purchaser for the legal fee to Purchaser's lender in subsection N-1.1(g) above, but may be considerably higher depending upon, among other things, the amount of the loan, the complexity of the mortgage loan documents, the lender's attorney and whether or not lender is a bank or other institutional lender. A Purchaser who is contemplating financing should inquire with Purchaser's proposed lender for this and other loan fees and charges before entering into the Purchase and Sale Agreement.

N-4. **Real Estate Taxes**. Until the Units are separately assessed and billed for real estate taxes, the real estate taxes assessed to the Property shall be included in the Common Expenses and allocated and assessed to the Units on the basis set forth in footnote (6) to SCHEDULE A (in Section D) and Section E, subsection E-3.1 above. After the Units are separately assessed and billed for real estate taxes, Unit Owners will be reimbursed for any overpayment of taxes or assessed for an underpayment. See SPECIAL RISKS Section A, subsection A-27 above, Section S, subsection S-1.3 below and Article 9, Section 9.1 of the Declaration (DOCUMENT 6 in Part II) for discussion.

END OF SECTION N

SECTION O. RIGHTS AND OBLIGATIONS OF THE SPONSOR

O-1. **Rights of Sponsor**. This Section O summarizes many of the more important Sponsor's Rights under this Plan and the Condominium Documents and apply to all Units owned by Sponsor at the time in question, including Unsold Units and Units reacquired by Sponsor or Sponsor's designee, whether such reacquisition results from the exercise of a right of rescission or a right to sell back to Sponsor or a mortgage foreclosure or a deed given in lieu of such foreclosure or otherwise. However, such reacquired Units shall not be regarded as Unsold Units for purposes of determining the expiration Sponsor Board Control Period or the Sponsor Veto Control Period.

Sponsor's Rights shall inure to the benefit of each and every Unsold Unit Owner, who will succeed to all of Sponsor's Rights with respect to each Unsold Unit owned by such Owner upon being designated an Unsold Unit Owner by Sponsor in writing or an Amendment. All of Sponsor's Rights shall be binding upon, and enforceable by Sponsor and Unsold Unit Owners against, the Condominium Board and all Unit Owners. The summary is not intended to be exhaustive and should be read in conjunction with the other Sections of this Plan. All references to Sponsor in this subsection O-1. shall include each and every Unsold Unit Owner with respect to the Unsold Units owned by such Owner, unless otherwise expressly stated.

O-1.1. Status of Unsold Unit. An Unsold Unit shall retain its status and character as an Unsold Unit until it is conveyed to a bona fide Purchaser under this Plan.

O-1.2. Sponsor's Right to Change Prices, Units and Common Elements. Sponsor has the right to change the asking prices, the Units and the Common Elements on the terms and conditions stated in "Section G. Changes in Prices and Units".

O-1.3. Sponsor's Rights to Sell, Lease and Mortgage. Sponsor shall have the right, Freely and Without Consent, Payment or Restriction: (a) to sell and convey Units to Purchasers for personal occupancy by Purchaser or a Related Party to Purchaser or for rental investment; (b) to lease and rent occupied and vacant spaces comprising Unsold Units from time-to-time; and (c) to mortgage Unsold Units with one or more mortgages.

With respect to each Unit mortgaged to Sponsor or a Sponsor Related Party ("**Sponsor Mortgagee Unit**"), Sponsor or said Sponsor Related Party (as applicable) or its designee shall have the right, Freely and Without Consent, Payment or Restriction, to acquire a Sponsor Mortgagee Unit following a foreclosure of said mortgage or a deed in lieu thereof given to Sponsor or said Sponsor Related Party or its designee (as applicable), and thereafter to sell, convey, lease, sublease and mortgage (with one (1) or more mortgages) from time to time, such Sponsor Mortgagee Unit.

The right of Sponsor and a Sponsor Related Party, and said designee, to sell, convey, lease and mortgage Unsold Units and Sponsor Mortgagee Units, Freely and Without Consent, Payment or Restriction, include:

(a) without the consent or approval of the Condominium Board or Unit Owners;

(b) without complying with any kind of condition, requirement or restriction, without offering the Condominium Board the right of first or last refusal to purchase or lease or sublease the Unit on the same terms offered by a proposed purchaser or tenant or subtenant, respectively, and without complying with any requirements as to the form or content (including the term or other provisions) of a lease, sublease, mortgage or other instrument (except each lease and sublease must expressly provide that it is subordinate to the Condominium Documents);

(c) without paying any fee, charge, "flip tax", imposition or expense of the Condominium Board or its Managing Agent or attorneys (however, this will not excuse the payment of any applicable governmental taxes by the party charged by Law, such as the New York City and New York State transfer taxes); and

(d) without the proposed purchaser, Owner, tenant or subtenant (as applicable) submitting an application, financial or bank statement, copies of income tax returns, references or other documents or attending an interview.

The lien in favor of the Condominium Board for unpaid Common Charges or other indebtedness under the By-Laws and the Condominium Act shall be subordinate to, and shall not affect the priority, validity or enforceability of, a prior recorded first mortgage on an Unsold Unit.

Within ten (10) calendar days after written notice of a proposed sale, conveyance, lease or mortgage of an Unsold Unit or a Sponsor Mortgagee Unit is hand delivered or mailed to the Condominium Board or its Managing Agent, the Condominium Board shall duly sign and return to Sponsor or the appropriate Unsold Unit Owner (as applicable), and Sponsor or such Unsold Unit Owner (as applicable) shall receive:

(a) (in the case of a proposed sale or lease) a certificate that the transaction is not subject to a right of first or last refusal in favor of the Condominium Board or other Unit Owners; and

(b) a certificate as to: (b-1) the status and amount of payment of Common Charges, Special Assessments and other payments (if any) for the applicable Unsold Unit or Sponsor Mortgagee Unit, or of any other indebtedness of Sponsor or Unsold Unit Owner (as applicable) to the Condominium Board; (b-2) whether a notice of default under, or violation of, the Condominium Documents by the Sponsor or such Unsold Unit Owner (as applicable) has been given and (if given) whether or not it has been corrected; and (b-3) whether an event is known to have occurred which with notice or the passage of time or both would constitute a default under, or violation of, the Condominium Documents by Sponsor or such Unsold Unit Owner (as applicable).

Each such certificate must be satisfactory in form and content to, and will be prepared by an attorney designated by, Sponsor or such Unsold Unit Owner (as applicable).

O-1.4. Sponsor's Right to Alter Unsold Units. Sponsor shall have the right to Alter its Unsold Units before and after the First Unit Closing ("**Sponsor's Right to Alter**"), and each and every first Owner of a Sold Unit who has been so expressly authorized in writing by Sponsor shall have the right to Alter the Owner's Sold Unit ("**Authorized First Sold Unit Owner**"), Freely and Without Consent, Payment or Restriction, other than the requirement to comply with

the applicable Work Requirements set forth in the Declaration. Sponsor's Right to Alter includes the right to make all Unit Changes in accordance with the provisions set forth in Section G, subsection G-2 above.

O-1.5. Sponsor's Right for Use and Occupancy of Unsold Units. Unsold Units are exempt from all restrictions and requirements in the Condominium Documents as to use and occupancy of Units, other than the requirement to comply with applicable Laws and the restriction against Prohibited Uses (see SPECIAL RISKS Section A, subsection A-2 above for changes in use of the Commercial Unit). Accordingly, Unsold Units may be used as models and offices for the sale, rental, management, Operation, marketing, advertising and Promotion of Unsold Units and for any other lawful purpose, other than Prohibited Uses. Such permitted uses of Unsold Units may be noisy, emit odors, involve heavy traffic and cause other effects that need not necessarily be compatible with the primary use of the Building as offices. Sponsor reserves the right (but has no present intention) to obtain a new or amended Certificate of Occupancy of the Building or obtain a zoning variance or special permit to authorize a different use of any one (1) or more Unsold Units. Moreover, Sponsor Units may be leased and occupied by any Person or Persons approved by Sponsor, regardless of any relationship or lack of relationship with Sponsor.

O-1.6. Sponsor's Rights to Access and Use Common Elements and Units.

O-1.6.1. General Right of Access and Use. Sponsor shall have the right, Freely and Without Consent, Payment or Restriction (other than the requirement to comply with the applicable Work Requirements set forth in the Declaration) to access and use the Common Elements (including in particular, but not limited to, the Building Walls, the 100 Vandam Street Public Areas, the public halls, corridors and the elevator), the sidewalks immediately adjacent to the Property (hereafter sometimes "**Sidewalk Areas**") and (to the extent necessary to meet Sponsor's Obligations) the Units in connection with the following (among others):

(a) the sale, rental, Promotion, Operation, management, use, occupancy or ownership of Unsold Units, including: (a-1) to install, erect, Maintain and Repair furnishings, wall and floor coverings and other Decorations in the public and common areas, such as the 100 Vandam Street Public Areas, the public corridors and hallways, and other portions of the Common Elements; (a-2) to station sales and rental staff in the 100 Vandam Street Public Areas, including the lobby area, and all other public portions of the Common Elements; (a-3) to erect, Maintain, Repair and Alter one or more Signs of any size, content, composition, material, design, illumination, character, color and/or appearance deemed appropriate by Sponsor: on the Building Walls, and the adjacent Sidewalk Areas; and in or on the 100 Vandam Street Public Areas, the public corridors, the hallways, the elevator and other portions of the Common Elements; (a-4) to provide access to: sales and rental personnel, outside brokers, prospective Purchasers and renters, contractors and their subcontractors and workers, architects, engineers, decorators and other Persons authorized by Sponsor; and (a-5) to install, erect, Maintain, Repair, Alter and otherwise Operate Communications Equipment and Other Installations on Roofs and Roof Structures and in Equipment rooms and non-public portions of the Common Elements and to permit licensees to so do (as provided in Section 11.14 of the Declaration);

(b) the Alteration and Repair of Unsold Units;

(c) the performance of any Work undertaken by Sponsor in this Plan, a Plan Amendment or a Purchase and Sale Agreement (whether performed before or after the First Unit Closing or the closing of title under the applicable Purchase and Sale Agreement);

(d) the performance of any obligations to a tenant or occupant of an Unsold Unit or pursuant to a lease or otherwise; and

(e) the transportation and storage of materials, Equipment and supplies, and the temporary interruption of elevator, water, plumbing, electric and other Building services, in connection with the performance of: (e-1) the Alteration or Repair of Unsold Units; (e-2) the obligations or Work undertaken by Sponsor in this Plan or a Plan Amendment or a Purchase and Sale Agreement; or (e-3) the obligations of Sponsor to tenants or occupants of Unsold Units.

The Condominium Board and Unit Owners may not impose any fees, charges, impositions, restrictions, requirements, work rules or other limitations on, nor prevent or unreasonably impede or interfere with, the foregoing access to, and uses of, the Common Elements (including the 100 Vandam Street Public Areas, the public halls and corridors, and the elevator), the adjacent Sidewalk Areas or the Units by Sponsor or its Agents, Employees and Contractors, or any Disposition of an Unsold Unit. Nevertheless, such access to, and uses of, the Common Elements, the adjacent Sidewalk Areas and the Units must comply with all applicable Laws and may not unreasonably interfere with the quiet enjoyment of a Unit or the permitted use of a Sold Unit for the purpose set forth in this Plan. In addition, when such access or use ends, Sponsor must Repair all damages caused by Sponsor's access or use and restore the affected Common Elements, the adjacent Sidewalk Areas or the Units (as applicable) to as near as reasonable and economically practical to their condition existing immediately prior to such access or use.

O-1.6.2. Specific Rights of Access and Use of Common Elements. In order to permit Sponsor to complete construction necessary for the issuance of said permanent new or amended Certificate of Occupancy authorizing the Commercial Unit for permitted retail and office uses and to change the caretaker's apartment on a portion of Office Unit 500, and perform other work undertaken under the Plan or a Purchase and Sale Agreement, Sponsor and Sponsor's contractors, subcontractors, construction workers and representatives shall have the following rights and easements, among others, with respect to the Common Elements after the First Unit Closing: (a) a right and easement of access to, and use of, the Common Elements (including preferential and priority use of the elevator); (b) a right and easement to transport on, across and through the Common Elements, and to temporarily store construction equipment, materials, supplies and debris on portions of the Common Elements considered appropriate by Sponsor or Sponsor's contractors; and (c) the right to temporarily interrupt Building services (including water, heating, cooling, electric, gas, ventilation, plumbing and other Building Systems). Sponsor will endeavor to minimize inconveniencing residents of the Building.

Hours: Sponsor's contractors, subcontractors and construction workers shall have the right to perform Work on Mondays to and including Fridays, from 8:00 a.m. to 5:00 p.m., except that especially noisy Work will not begin before 8:30 a.m., and on Saturdays from 9:00 a.m. to

5:00 p.m., provided, however, Work may be performed at any time and on any day in the case of an emergency or to correct a condition that threatens the life, health, safety or security of Building occupants or to protect property or to provide a required Building service.

Disruptions: The electrical, plumbing, elevator and other HVAC/Mechanical/Utility/Building Systems may be temporarily disrupted from time to time as work is performed or Systems are balanced and adjusted.

Inconveniences: During the course of completing the construction and other work undertaken by Sponsor, Unit Owners in occupancy may experience construction noise, dust, debris, temporary interruptions in service and other inconveniences from time to time. In addition, portions of the Common Elements, including the lobby and elevator cab may be covered with padding or other protections for this interim period.

See SPECIAL RISKS Section A, subsection A-30 above.

O-1.7. Sponsor's Right to Obtain Cooperation of Condominium Board. The Condominium Board shall fully cooperate with Sponsor in connection with the exercise of Sponsor's Rights, including any Disposition of any one (1) or more Unsold Units (i.e., all Office, Commercial and Roof Terrace Units used or owned by Sponsor at the time in question) or the Unused Development Rights of the Property, Freely and Without Consent, Payment or Restriction, except those out-of-pocket costs set forth below in connection with a Government Document or Litigation Document. In furtherance of such cooperation, within ten (10) calendar days after written request therefor is hand delivered or mailed to the Condominium Board or its Managing Agent, the Condominium Board shall properly complete, sign and return to Sponsor, and Sponsor shall receive, any requested Government Document or Litigation Document. In connection therewith:

(a) Sponsor shall pay or reimburse the Condominium Board for the governmental fees and charges or court costs in connection with a Government Document or Litigation Document, respectively, executed at the request of Sponsor under this subsection O-1.7;

(b) Sponsor shall have the exclusive right to conduct and make all decisions in connection with the Lawsuit which is the subject of the Litigation Document, including the rights to select the attorney and to negotiate and determine the terms of settlement;

(c) Sponsor shall pay all legal fees and disbursements (other than those of any separate attorney the Condominium Board may retain), court costs and other expenses of such Lawsuit; and

(d) Sponsor shall indemnify the Condominium Board, and its officers, Board Members, employees and agents, and all Unit Owners from and against all Claims resulting from the Condominium Board's execution of a Government Document or Litigation Document, and from and against any authorized Work performed by contractors or other workers engaged by Sponsor pursuant to a Government Document, and from and against any action or inaction taken or omitted at the request of Sponsor in accordance with this subsection O-1.7.

O-1.8. Sponsor's Right of Board Control and Representation. During only the Sponsor Board Control Period, Sponsor, as Owner of Unsold Units, shall exclusively appoint and designate two (2) Sponsor Board Members, who will constitute a majority of all three (3) Board Members and thereby have voting control of the entire Condominium Board. At all elections held after the end of the Sponsor Board Control Period, for so long as there is at least one Unsold Unit, Sponsor (as Owner of one or more Unsold Units) shall exclusively appoint and designate one (1) Sponsor Board Member. At such time, two (2) Board Members, constituting a majority of the Condominium Board, must be Independent Board Members (i.e., Sold Unit Owners, or their respective Related Parties or Sold Unit Owner Affiliates who are not related to Sponsor or its principal, whether by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner), thereby giving Sold Unit Owners voting control of the Board. These provisions are explained more fully in "Section P. Control By The Sponsor". See also Section Q, subsection Q-5.1 below for exclusive right of the Sponsor Board Member(s) to appoint and designate officers of the Board (such officers may only act in connection with the Operation and affairs of Unsold Units). Sponsor Board Members may be removed "with" or "without cause" by only Sponsor. Any vacancy by a Sponsor Board Member (whether resulting from removal, resignation, death, incompetency, incapacity or otherwise) shall be filled by only Sponsor.

O-1.9. Sponsor's Right of Veto Control. Sponsor shall have the right to veto certain actions of the Condominium Board (including decisions made by the Independent Board Members) during only the Sponsor Veto Control Period ("**Sponsor's Right to Veto**"), which will end on the *earlier* of: (a) the date that the Common Interests appurtenant to the Unsold Units constitute less than 25% of the aggregate Common Interests of all Units; or (b) the fifth (5th) anniversary of the First Unit Closing. Sponsor's Right to Veto applies generally to Board actions to raise Common Charges (including Special Assessments) or to borrow money for non-essential purposes as explained more fully in Section P, subsection "P-2. Sponsor's Veto Control" below.

O-1.10. Sponsor's Right For Tenants of Unsold Units To Receive Building Services. The Condominium Board shall provide to each tenant, occupant and visitor of an Unsold Unit, and such tenant, occupant and visitor shall receive, without discrimination, all of the same Building services, amenities and facilities as are provided to all Sold Unit Owners and the tenants, occupants and visitors of their respective Units. No fee, charge, impositions or Cost or Expense (other than regular Common Charges payable by all Unit Owners) shall be assessed by the Condominium Board against the Owner, tenant, occupant or visitor of an Unsold Unit for Building services, amenities and facilities if: (a) such applicable Building services, amenities or facilities are being provided to Owners, tenants, occupants and visitors of Units at the date of First Unit Closing without fee, charge or other imposition; or (b) such assessment is expressly not permitted under this Plan or the Condominium Documents; or (c) the Owner, tenant, occupant or visitor of an Unsold Unit is expressly exempted therefrom under this Plan or the Condominium Documents; or (d) the Owners, occupants and visitors of Sold Units are not similarly assessed. Building services, amenities and facilities include the services of the superintendent, all Building Systems serving the Unsold Units (such as heat, electricity, gas, ventilation, elevator, intercom and plumbing), and the lobby directory listing, if any.

The Condominium Board shall diligently and in good faith remove any violation noted or issued against the Building if failure to do so: (a) prevents Sponsor from obtaining a rent increase or a

desired amended or new Certificate of Occupancy; or (b) is grounds to reduce or withhold the rent of a tenant or occupant of an Unsold Unit. The Condominium Board shall also be obligated to Maintain and Operate the Building after the end of the Sponsor Board Control Period in substantially the same or better manner and condition as Maintained and Operated during the Sponsor Board Control Period (subject to Sponsor's Right to Veto during only the Sponsor Veto Control Period).

If a tenant, occupant or visitor of an Unsold Unit violates any of the provisions of the Condominium Documents, the sole right and remedy of the Condominium Board shall be to enjoin the continuation of such violation by appropriate Lawsuit, but in no event shall Sponsor be liable for any damages, Costs or Expenses based thereon.

Any permitted fee, charge, imposition or Cost and Expense properly assessed by the Condominium Board against a tenant or occupant of an Unsold Unit in accordance with this Plan and the Condominium Documents shall be the personal responsibility of such tenant or occupant. In no event shall the Condominium Board have any recourse against Sponsor or an Unsold Unit, and Sponsor shall not be liable and no lien against an Unsold Unit shall arise, by reason of non-payment thereof by such tenant or occupant. Nothing herein will excuse Sponsor, as Owner of Unsold Units, from paying the Common Charges levied against all Unit Owners to pay the Common Expenses.

O-1.11. Sponsor's Rights of Indemnity and Self-Help. If the Condominium Board violates any of Sponsor's Rights or fails to perform or comply with its obligations under this Plan, an Amendment or the Condominium Documents, including those relating to the Repair, Maintenance, Alteration or restoration (after a casualty or a taking by eminent domain or condemnation of the Building or any portion thereof), then: (a) the Condominium Board shall indemnify Sponsor from and against any resulting Claims and all Liabilities and Expenses in connection therewith; and (b) Sponsor shall have the right (but not the obligation) and an irrevocable power of attorney ("coupled with an interest") to correct such violation or perform such defaulted obligation in the name, and at the Cost and Expense, of the Condominium Board, as a Common Expense charged to all Unit Owners Pro Rata to their respective Common Interests.

This indemnity and right of self-help will apply only if: (a) the Board's violation or failure to perform occurs while the Independent Board Members constitute a majority of the Board Members; and (b) (in the case of a violation issued or noted by a Governmental Authority against the Building) Sponsor is not obligated to correct the violation under this Plan.

In addition, before Sponsor undertakes any Work to be paid or reimbursed by the Condominium Board:

(a) Sponsor must first send to any Independent Board Member written notice ("**Self-Help Notice**") of Sponsor's election to do the Work at the Cost and Expense of the Condominium Board; and

(b) the Condominium Board must be given the following period to commence the Work: (b-1) thirty (30) calendar days from sending the Self-Help Notice (if, in Sponsor's reasonable judgment, the Work will cost under $100,000); (b-2) sixty (60) calendar days

from sending the Self-Help Notice (if, in Sponsor's reasonable judgment, the Work will cost $100,000 or more); or (b-3) ninety (90) calendar days from receipt of any proceeds of insurance (in the case of a casualty) or of any award (in the case of a taking by eminent domain or condemnation); and

(c) the Condominium Board must be allowed to complete the Work with reasonable diligence and continuity.

In the event the Condominium Board does not begin the Work within the applicable time period or the Condominium Board does not complete the Work with reasonable diligence and continuity, Sponsor may (but shall not be obligated) to proceed to do the Work in the name, and at the Cost and Expense, of the Condominium Board as a Common Expense to be charged to all Unit Owners Pro Rata to their respective Common Interests. In the event Sponsor elects to do the Work, the Condominium Board shall reimburse Sponsor, promptly after written demand is made, for Sponsor's Costs and Expenses. Sponsor's demand must be accompanied by a detailed statement of the Costs and Expenses to be reimbursed and copies of any supporting bills. If full payment is not received by Sponsor within ten (10) business days after sending the demand, the Condominium Board shall pay Sponsor per diem interest on the amount owed at the annual rate of sixteen percent (16%) (computed from the first day following the ten (10) business day period through the date payment is received by Sponsor) to reimburse Sponsor for loss of potential earnings thereon. In addition, the Condominium Board shall reimburse Sponsor for the Costs and Expenses incurred to collect the amount owed.

O-1.12. Sponsor's Rights To Amend, and to Approve Amendments to, the Condominium Documents. Sponsor shall have the right to amend the Condominium Documents without the consent or approval of the Condominium Board or representatives of Unit mortgage lenders, and without the express consent or approval of other Unit Owners (who automatically and irrevocably shall be deemed to have given their consent or approval), in order to:

(a) reflect Unit Changes to Unsold Units or to a Unit whose Owner has been transferred certain rights in the Declaration;

(b) apportion the Common Interests of the Unsold Units or other Unit affected by such Unit Changes whose Owner has consented thereto; and

(c) conform to objections made by: (c-1) an Institutional Lender in connection with an existing or proposed Unit mortgage; or (c-2) a Governmental Authority having jurisdiction over the Condominium Association or the Property; or (c-3) a title insurance company insuring title to a Unit.

However, such Amendment may not change the Common Interest of a Sold Unit, or require a Sold Unit to be physically modified, nor adversely affect the priority or validity of the lien of any purchase money mortgage or Institutional Lender's mortgage on a Sold Unit, unless the Owner of the affected Sold Unit or said mortgage lender (as may be appropriate) consent in writing to the Amendment.

So long as there is an Unsold Unit, Sponsor's prior written Discretionary Consent is required for any Amendment of any one (1) or more provisions of the Condominium Documents that would with reasonable likelihood: (a) unreasonably interfere with any Disposition of an Unsold Unit;

(b) adversely affect any of Sponsor's Rights; (c) impose any new or discriminatory fee, charge, imposition or Cost and Expense against Sponsor or a Purchaser, tenant, occupant or visitor of an Unsold Unit; or (d) change the permitted use, occupancy, Common Interest or value of an Unsold Unit.

O-1.13. Sponsor's Right to Grant Easements, Licenses and Leases. For so long as Sponsor owns any Unit, Sponsor will have the right, in behalf of all Unit Owners, to grant easements, licenses and leases (collectively, "**Easements**" and individually, "**Easement**") to all or any portion of the Property as Sponsor deems necessary or desirable for: (a) the proper Operation and Maintenance of all or any portion of the Building; (b) the general life, health, safety, security, protection or welfare of Owners or occupants of one (1) or more Units; (c) compliance with applicable Laws or requirements of Governmental Authorities having jurisdiction (including requirements to obtain a governmental permit to Operate any Building Equipment); or (d) the erection, installation, Maintenance and Operation of Communications Equipment and Other Installation and other "utility services" (as defined and provided in Section 11.11 of the Declaration).

This Sponsor's Right includes: (a) granting of Easements for: (a-1) telephone, electricity, gas, cable or wireless satellite television or other media, water, storm, sewer, drainage and other utilities; (a-2) a right of way; (a-3) ingress and egress; and (a-4) support or necessity; and (b) relocating Easements. However, no Easements may be granted that would with reasonable likelihood unreasonably interfere with the use or occupancy of a Unit for its permitted purposes under this Plan or the Operation of, or business conducted in, a Unit or any portion thereof. A utility company or other Person who is granted an Easement ("**grantee**"), and such grantee's Agents, Employees and Contractors, shall have and be given reasonable access to, from, through, across and on the Units and Common Elements in connection with Work to be performed in furtherance of the Easement.

O-1.14. Sponsor's Right to Approve Certain Sold Unit Alterations. During only the Sponsor Veto Control Period and until issuance of said permanent Certificate of Occupancy changing the caretaker's apartment for use as an office and authorizing the Commercial Unit for the permitted retail and office uses set forth in this Plan, no Sold Unit Owner may Alter (including replace, furnish, landscape, paint or otherwise Decorate) the windows, skylight (if any) or street entrance doors (if any) of the Owner's Sold Unit or any other portions or areas of such Unit exposed to public view, without obtaining the prior written Discretionary Consent or Approval of Sponsor in each instance.

O-1.15. Sponsor's Right to Enter into Agreements Binding on Association. Sponsor reserves the right, prior to the First Unit Closing, to renew, extend and modify existing employment, service, management, maintenance, utility and telecommunications agreements, leases and licenses (collectively, "**Service Agreements**"), and to enter into new Service Agreements, for the Building on such terms as Sponsor deems desirable. All such Service Agreements shall be binding on the Condominium Association, but the Plan will be amended to disclose any Service Agreements that will materially increase the projected Common Charges or are for a term longer than five (5) years, other than utility, telecommunications and similar Service Agreements that customarily are for terms longer than five (5) years. See Section W, subsection W-3 below for discussion.

O-1.16. Sponsor's Right to Control Work on Building Walls. The Building Walls are a part of the Common Elements and the Costs and Expenses to Maintain, Repair and otherwise Alter the Building Walls shall be part of the Common Expenses charged to all Unit Owners Pro Rata to their respective Common Interests. All Work to be undertaken affecting the Building Walls shall be determined by the Condominium Board. Sponsor, while it owns the Commercial Unit, however, shall exclusively control and make all determinations concerning the timing, duration, specifications and manner of performance of all Work involving or affecting the portions of the Building Walls that requires the erection or use of a sidewalk bridge, scaffolding or other structure, or a scaffold hanging from the Building's Roof (collectively "**Sidewalk Structure**"), above or in front of the Commercial Unit or a portion thereof on Greenwich Street, but shall proceed to perform the Work and to erect, use and remove the Sidewalk Structure in a commercially reasonable and timely manner and in accordance with all applicable Laws.

Such determinations to be made exclusively by Sponsor shall include the following: (a) choosing the contractors and approving all subcontractors engaged in the Work, but subject to obtaining the prior written Reasonable Approval or Consent of the Condominium Board; (b) approving the specifications (including the height and design) of the Sidewalk Structure and all other terms of all contracts for such Work, which are to be made in the name of, and signed by, the Condominium Board or (at the exclusive option and discretion of Sponsor, as Owner of the Commercial) shall be executed by Sponsor on behalf, in the name and for the account of, the Condominium Board, subject to obtaining the prior written Reasonable Approval or Consent of the Condominium Board; (c) the commencement date and duration of the Work, including the erection and removal of any Sidewalk Structure, except that in the case of an emergency requiring immediate remedial action to avoid bodily injury or substantial property damage, the Work is to commence with commercially reasonably prompt diligence as required by the circumstances; (d) the progress of the Work, which is to be under the exclusive supervision of Sponsor; and (e) the Signage on the Sidewalk Structure for the store or tenant of the Commercial Unit affected by the Sidewalk Structure (such Sign is to be of such size, material, fabrication, color, composition and appearance as shall be determined exclusively by Sponsor or at its sole option, the affected tenant or operator of the Commercial Unit), which is to be designed, fabricated, installed and removed at the sole Cost and Expense of the Condominium Board as part of the Common Expenses charged to all Unit Owners Pro Rata to their respective Common Interests. Sponsor, as Owner of the Commercial Unit, shall receive no compensation in connection with the foregoing, but all out-of-pocket Costs and Expenses incurred or paid by Sponsor to unrelated third parties with respect thereto shall be paid by the Condominium Board (as directed by Sponsor) or (if paid by Sponsor) reimbursed to Sponsor by the Condominium Board promptly following written demand accompanied by copies of bills or other appropriate proof of payment or other proof of such Costs and Expenses (as applicable). Any dispute with respect to these provisions shall be submitted to arbitration pursuant to Article 19 of the By-Laws (see SPECIAL RISKS Section A, subsection A-2.3 above and Section R, subsection R-9 below).

The foregoing right of Sponsor to control Work on said portions of the Building Walls shall inure to the benefit, and be enforceable by, an Unsold Commercial Unit Owner, but shall not benefit or be enforceable by a bona fide Purchaser of the Commercial Unit under this Plan.

O-1.17. Sponsor's Right of Exclusive Use and Disposition of the Unused Development Rights. All Unused Development Rights of the Property associated with its unused floor area or unimproved air space, whether now existing or hereafter acquired or available, shall be owned exclusively by Sponsor and shall be part of any Unit owned by Sponsor from time to time, but only while such Unit is owned by Sponsor, and shall continue to be owned exclusively by Sponsor after it no longer owns any Unit. Sponsor shall have the exclusive right, Freely and Without Consent, Payment or Restriction, except as herein expressly limited, to make any use or Disposition of the Unused Development Rights as it determines, including selling, assigning, transferring and conveying all or a portion of the Unused Development Rights to a Unit Owner or to an adjacent or nearby property owner under a so-called "zoning lot merger agreement", and/or granting a so-called "easement of light and air" to an adjacent property owner, and/or otherwise, but may not use the Unused Development Rights to add new Units to the Building or elsewhere on the Property.

Pursuant to the Declaration, each and every Unit Owner shall appoint Sponsor as the Owner's attorney-in-fact, "coupled with an interest", for valuable consideration, to make any use or Disposition of the Unused Development Rights as Sponsor shall see fit, but Sponsor may not use the Unused Development Rights to add new Units to the Building or elsewhere on the Property (see Article 17 of the Declaration included as DOCUMENT 6 in Part II of this Plan). In addition, the Condominium Board shall fully cooperate with Sponsor with respect to any such use or Disposition of the Unused Development Rights, including the execution in recordable form of such instruments and documents as Sponsor may request in connection with said use and Disposition of the Unused Development Rights (see Article 20 of the Declaration).

Any proceeds realized by Sponsor from the use, sale, assignment, transfer or other Disposition of the Unused Development Rights of the Property shall belong entirely to Sponsor. The Condominium Board and the other Unit Owners shall have no interest in the Unused Development Rights, shall have no control over the Disposition of the Unused Development Rights, and shall not share in any proceeds realized from any use, sale, assignment, transfer or other Disposition of the Unused Development Rights, and shall not be regarded as a "party in interest", as such quoted term is defined under the definition of "Zoning Lot" in Section 12-10 of the Zoning Resolution of The City of New York. No Disposition of the Unused Development Rights is being planned by Sponsor at the date of this Plan. See SPECIAL RISKS Section A, subsection A-1 above for discussion and potential impact on Units of a transfer of the Unused Development Rights to an adjacent property. See also Section BB below.

O-2. Obligations of Sponsor. All of Sponsor's Obligations set forth in this Section O and elsewhere in the Plan (collectively, "**Sponsor's Obligations**") are contingent upon Sponsor declaring the Plan effective, the Effectiveness Amendment being duly accepted and filed by the Attorney General and the Plan being consummated with the First Unit Closing (see "Section L. Effective Date"). The foregoing shall not excuse Sponsor from Sponsor's obligations to comply with Article 23-A of the General Business Law or Part 20 of the Attorney General's regulations. The Condominium Board shall have the exclusive right to enforce Sponsor's obligations, other than those of Sponsor's Obligations that the Attorney General has the exclusive right to enforce under said Article 23-A and Part 20. The foregoing, however, shall not preclude or prevent a Purchaser from separately enforcing any violation or default by Sponsor under the Purchase and Sale Agreement that involves only Purchaser's Unit.

O-2.1. Sponsor's Obligation to Defend and Indemnify Condominium Board and Unit Owners. Sponsor shall defend (with an attorney selected by Sponsor) and indemnify the Condominium Board and Unit Owners from and against any suits or proceedings arising out of Sponsor's acts or omissions, provided and on condition that any Independent Board Member on behalf of the Condominium Board or the affected Unit Owner ("**Indemnified Party**") shall promptly notify Sponsor in writing of any suit or proceeding for which indemnity is sought, but in no event shall Sponsor receive such notice, together with any complaint or petition (as applicable) as to which Sponsor is not directly served with process therein, later than five (5) full business days before an answer is required to be served or filed in such suit or proceeding. SPECIAL RISK: Said five (5) business day period is a deadline or "TIME OF ESSENCE" period (see SPECIAL RISK Section A, subsection A-28 above). Sponsor shall have the exclusive right to control the defense, compromise and settlement of the suit or proceeding. The Indemnified Party shall fully cooperate and make available to Sponsor and Sponsor's attorneys such information, documents and witnesses under the control or in the possession or employ of the Indemnified Party as are reasonably related to the defense of the suit or proceeding. Failure of the Indemnified Party to strictly comply with the foregoing shall release and discharge Sponsor from Sponsor's obligation to defend and indemnify the Indemnified Party.

O-2.2. Survival of Sponsor's Representations and Obligations. 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 First Unit Closing or the closing of title under a Purchase and Sale Agreement will survive delivery of the deed.

O-2.3. Sponsor's Obligation for Carrying Costs of Unsold Units. Sponsor agrees to pay all Common Charges, Special Assessments (if any) and real estate taxes with respect to its Unsold Units (see Section R, subsection R-3.4 below for the Board's statutory lien on each Unit for unpaid Common Charges and the Board's remedies, including foreclosure of such lien). Sponsor represents that it has the financial resources to meet its obligations with respect to Unsold Units and will fund its financial obligations to the Condominium Association from sales of Unsold Units, the net avails from rentals of Unsold Units, and existing cash reserves and/or payments from Sponsor's members, if and to the extent made available. No bond or other security has been or will be furnished to secure Sponsor's obligations.

O-2.4. No Obligation for Damages to a Unit. If a Purchaser's Unit is damaged from a casualty or other cause occurring before title passes to Purchaser, Sponsor will have the right, but will not be obligated, to repair the damage. If the damage is not repaired by Sponsor or the Condominium Board (if the First Unit Closing has occurred and the Board is responsible to repair) and Purchaser is not responsible to repair as provided below, the Purchase and Sale Agreement will be cancelled and the Deposit returned to Purchaser together with any earned interest and any Net Refundable Special Work Payment (if and to the extent applicable). Purchaser shall not have the right to cancel the Purchase and Sale Agreement or recover the Deposit if Sponsor or the Board repairs the damage or if Purchaser is in possession or is given possession of the Unit prior to closing of title pursuant to an Interim Lease, or Purchaser is at fault for causing the loss or damage. See Section M, subsection M-2 above for full discussion.

O-2.5. Sponsor's Obligation for Property Insurance. Sponsor shall procure at the expense of the Condominium Board fire and casualty insurance pursuant to an "agreed amount replacement value" policy as reflected in SCHEDULE B (in Section E above). The effect of an

agreed amount replacement value policy is to waive any co-insurance claim of the insurer, but does not mean that the Condominium Association would necessarily realize sufficient insurance proceeds to rebuild or restore the Building in the event of a substantial or total destruction. The insurance provided in SCHEDULE B to be maintained by the Condominium Board does not include coverage for: (a) fire or casualty losses to Unit contents, replacements, additions, improvements or fixtures; or (b) liability for occurrences within or on a Unit. Unit Owners should consider the desirability of obtaining, at their own cost and expense, such coverages and liability coverage for their respective undivided interest in the Common Elements to the extent the insurance maintained by the Board for incidents in, on or caused by the Common Elements is inadequate or the risk is not insured. See the "Insurance" footnote to SCHEDULE B for all insurance coverages to be obtained.

O-2.6. Sponsor's Obligation on Dissolution or Liquidation. In the event of the dissolution or liquidation of Sponsor or the transfer of ten (10) or more Units or twenty percent (20%) or more of the total number of Units in the Condominium, whichever is less, the principals of Sponsor will provide financially responsible entities or individuals who will assume the status and all of the obligations of Sponsor for those Units under the Plan, applicable Laws or regulations and in the event of dissolution or liquidation, the principals of Sponsor shall guarantee the performance of such obligations.

O-2.7. Certificate of Occupancy. The current Certificate of Occupancy for the Building authorizes the use of the Office Units as offices, except a portion of the Office Unit 500 is listed for use as a caretaker's apartment. The Commercial Unit is not listed on the Building's Certificate of Occupancy. Sponsor undertakes to obtain a new or amended Certificate of Occupancy to change said caretaker's apartment designation for use as an office so as to allow all of Office Unit 500 to be used as offices, and to authorize the use of the Commercial Unit for the permitted retail and office uses under the current zoning Law applicable to the Property as set forth in this Plan. The Purchaser of Office Unit 500 or the Commercial Unit (as applicable) shall not be required close title before a new or amended Certificate of Occupancy (whether temporary or permanent) is issued allowing all of Office Unit 500 to be used as offices or the Commercial Unit to be used for said permitted retail and office uses (as applicable). See SPECIAL RISKS Section A, subsections A-2.1 and A-2.5 above. The Roof Terrace Unit is not listed on the Certificate of Occupancy and will not be listed on said proposed new or amended Certificate of Occupancy since it is not required to be authorized for use on the Certificate of Occupancy.

O-2.8. "AS IS" Sale. SPECIAL RISK: Each Office and Commercial Unit and its equipment, fixtures and other personal property contained therein that are owned by Sponsor are being offered and sold by Sponsor in the condition disclosed in the architect's report (see DOCUMENT 4 in Part II) and in their then existing "AS IS" condition at the time of closing title, subject only to said Sponsor's obligation to obtain a new or amended Certificate of Occupancy changing the caretaker's apartment for use as an office and authorizing the Commercial Unit for permitted retail and office uses set forth in this Plan, and subject further to Sponsor's obligation to Maintain and Repair the Unit and said personal property if and to the extent required by the then existing lease(s) for office space(s) comprising the Office Unit or applicable Law, but otherwise without any obligation of Sponsor to make any other Repairs, corrections, additions or improvements, and without abatement in the Purchase Price, set-off or recourse of any kind against Sponsor based on any defects, damages, violations, required inspections, open applications or other conditions requiring governmental sign-offs, correction or

Repair. The Roof Terrace Unit is being offered and sold in its current "AS IS" state as unimproved Roof space (see said architect's report). In order to use the Roof as a Roof Terrace Unit, the Purchaser of the Roof Terrace Unit shall be responsible, at Purchaser's sole Cost and Expense, to first install the material comprising the Roof Terrace Unit (i.e., decking, pavers or other protective flooring, supporting pedestals and required guard rails) on a specified portion of the main Roof reserved for such purpose (see SPECIAL RISKS Section A, subsections A-2.1 and A-2.19.11 above) for estimated costs and requirements to install the Roof Terrace Unit.

Similarly, the Condominium Board and all Unit Owners shall accept the Common Elements in the condition disclosed in said architect's report and in their then existing "AS IS" condition at the time of First Unit Closing, and the Board shall assume full and sole responsibility, as a Common Expense, for the Maintenance and Repair thereof without any obligation of Sponsor to make any repairs, corrections, additions or improvements (unless otherwise expressly provided in this Plan), and without recourse of any kind against Sponsor, based on defects, faults, damages, violations, required inspections, open applications or other conditions requiring governmental sign-offs, correction or repair. There are no express or implied warranties with respect to the sale of a Unit or the condition of the Common Elements. Sponsor shall have no obligation to Maintain or Repair Units, their personal property or the Common Elements, except to the extent expressly contained in this Plan. See Section A, subsection A-18 above.

O-2.9. Assignment of Warranties. Any transferable and unexpired warranties of manufacturers, contractors or material suppliers: (a) with respect to appliances or Equipment installed in a Unit, will be assigned by Sponsor to the Purchaser of such Unit at title closing; or (b) with respect to appliances or Equipment installed in, and part of, the Common Elements, will be assigned by Sponsor to the Condominium Board at the First Unit Closing or (if installed thereafter) with reasonable promptness after installation. Such assignments by Sponsor to a Purchaser and the Condominium Board will be made (and will so expressly state are being made) without any kind whatsoever of guaranty, warranty or representation by, or recourse against, Sponsor, and subject to all faults, defects, risks, damages, conditions and need for repairs or corrections.

O-2.10. Sponsor's Obligation to Pay for Work and to Remove Mechanics' Liens. Sponsor agrees to pay for the authorized and proper Work undertaken by Sponsor under this Plan, the establishment of the Condominium and the sale of the Units and will cause mechanics' liens with respect to such Work to be promptly discharged or bonded. Alternatively, at Sponsor's option, Sponsor may cause a Purchaser's title insurer to affirmatively insure Purchaser and Purchaser's mortgage lender (if any), without additional premium, that any such mechanics' liens shall not be collected from, or enforced against, Purchaser's Unit and its appurtenant Common Interest.

O-2.11. Sponsor's Obligation to Deliver "As Built" Plan to Condominium Board. With reasonable promptness after the closing of title to the Commercial Unit, Sponsor will deliver to the Condominium Board or its Managing Agent a set of "as built" floor plans of the Commercial Unit (no alterations to other Units or the Common Elements have been undertaken by Sponsor under this Plan).

O-2.12. No Bond or Security for Sponsor's Obligations. SPECIAL RISK: No bond or other security has been, nor will be, furnished to secure Sponsor's Obligations, including

Sponsor's Obligations for any Work undertaken by Sponsor pursuant to this Plan (see Section A, subsection A-15 above).

O-2.13. Sponsor's Obligation to Repair Damages. Sponsor has a right of access to the Common Elements and Units to complete any Work undertaken by Sponsor pursuant to this Plan or a Purchase and Sale Agreement, but Sponsor may not unreasonably interfere with the quiet enjoyment of a Unit or the permitted use of a Unit set forth in this Plan. When such access or use ends, Sponsor must repair all damages caused by Sponsor's access to or use of the Common Elements or Units so as to restore the affected Common Elements or Units (as applicable) to as near as reasonable and economically practical to their condition existing immediately prior to such access or use (see subsection O-1.6 above for full discussion).

O-2.14. Sponsor's Working Capital Fund Obligation. Sponsor will advance the Initial Working Capital Fund in accordance with "Section V. Working Capital Fund".

O-2.15. Sponsor's Obligation for Offering and Sales Expenses. Sponsor will pay all expenses in connection with the preparation, filing and distribution of this Plan and all Amendments promulgated by Sponsor, and the offering for sale of Sponsor's Unsold Units. These expenses include: (a) the filing fees of the Department of Law; (b) fees and disbursements of Sponsor's attorneys, architect, engineer and other professionals; (c) printing costs; (d) commissions earned by the Selling Agent and any participating broker Sponsor may engage; and (e) all title closing expenses to be paid by Sponsor under the Purchase and Sale Agreement (if any).

O-2.16. Sponsor's Obligation for Establishing the Condominium. Prior to the First Unit Closing, Sponsor will pay all expenses to prepare, record and file the Condominium Documents with the appropriate Governmental Authorities. See Section M, subsection M-6 above.

O-2.17. Sponsor's Obligation for First Unit Closing. Sponsor will fulfill all obligations to be paid or performed by Sponsor at or prior to the First Unit Closing as set forth in this Plan, including the following: (a) obtaining, at the expense of the Condominium Association, the insurance coverages set forth in SCHEDULE B (in Section E); (b) establishing the Condominium (see subsection O-2.16 above); (c) obtaining the consent and limitation of lien, or subordination of lien, or release of lien from holders of existing mortgages not satisfied at the First Unit Closing, as provided in Section M, subsection M-7 above; (d) advancing the Initial Working Capital Fund; (e) apportioning Building expenses with the Condominium Board and (if in favor of the Board) paying the net amount owing to the Condominium Board (see Section N, subsection N-1.4 above); and (f) assigning to the Condominium Board on behalf of Unit Owners (without guaranty, warranty or representation, without recourse against Sponsor, and subject to all faults, risks, damages, conditions and need for repairs, unless otherwise expressly provided in the Plan) the following: (f-1) all personal property and Equipment comprising the Common Elements; (f-2) all service, maintenance and employment agreements for the Building ("**Building Agreements**") in accordance with SCHEDULE B – First Year's Budget in Section E (the Condominium Board shall sign and deliver to Sponsor an agreement (prepared by Sponsor's attorney and in substance satisfactory to Sponsor) assuming all Building Agreements and indemnifying Sponsor from and against all Claims and Liabilities and Expenses arising under them for events accruing on or after the First Unit Closing); and (f-3) any warranties, guaranties

or bonds of third parties relating to the Common Elements that are transferable and have not yet expired.

O-2.18. Sponsor's Obligation on Documents for Inspection and Delivery to Condominium Board. Sponsor will comply with the requirements of "Section Z. Documents on File". These include: (a) the requirement for six (6) years from the First Unit Closing to make available for public inspection (without charge) and copying (at a reasonable charge) the Plan, Plan Amendments filed by Sponsor and certain other documents and exhibits referred to in the Plan or filed with the Department of Law; and (b) the requirement to deliver to the Condominium Board a copy of the recorded Declaration (and By-Laws) establishing the Condominium.

O-2.19. Sponsor's Obligation for Violations. SPECIAL RISK: Sponsor will not be obligated to correct any violation noted or issued against the Units or the Common Elements that are outstanding at the First Unit Closing, except Sponsor will cure the violation issued in respect to the elevator (which was the only violation listed as outstanding with respect to the Common Elements as at the dates indicated in the architect's report (DOCUMENT 4 of Part II). Apart from said elevator violation, the Units and Common Elements are being sold, and shall be accepted by Purchasers and the Condominium Board on an "AS IS" condition at the time of closing, subject to all violations noted or issued. See Section A, subsection A-18 and subsection O-2.8 above.).

O-2.20. Sponsor's Obligation for Official Inspection Certificates, Permits and Reports. Sponsor will not be obligated to obtain any required official inspection certificate or permit for the Building's Equipment, nor to update those thereof that expire at or prior to the First Unit Closing, including (to the extent applicable) those with respect to air resources, oil storage, elevator, sprinkler system, boiler and fire protection. Sponsor will not be obligated to pay or perform any Work required to obtain such new or updated official inspection certificates and permits. The Condominium Board, as a Common Expense charged to all Units Pro Rata to their respective Common Interests, will be responsible to pay and perform these obligations with respect to official inspection certificates and permits that expire both before and after the First Unit Closing. As at July 10, 2008, approximately 25 open applications and amendments were listed in the Department of Buildings summary appended to the architect's report in DOCUMENT 4 of Part II. The cost of a filing consultant to process the sign-offs for said open applications at the Building Department is estimated by Sponsor's architect, Marc Kemeny, R.A., of K Square Designs, Inc., at approximately $3,000, assuming that the work is completed and the responsible parties are available to sign-off their work. Any open applications with respect to a Unit shall be the responsibility of the Owner of such Unit. See SPECIAL RISKS Section A, subsection A-19.7 above.

END OF SECTION O

SECTION P. CONTROL BY THE SPONSOR

P-1. Sponsor's Voting Control.

P-1.1. Voting Control Period. SPECIAL RISK: Sponsor, as Owner of Unsold Units, shall have "voting control" (defined below) of the Condominium Board for five (5) years from the First Unit Closing or whenever the Unsold Office, Commercial and Roof Terrace Units constitute less than 50% in number and Common Interest of all Office, Commercial and Roof Terrace Units (excluding a Unit, if any, re-acquired by Sponsor or a Sponsor-Related Party from the count and the base number of Units), whichever is sooner (i.e., the Sponsor Board Control Period). See Section A, subsection A-7 above. The term "**voting control**" means Sponsor's exclusive right during only the Sponsor Board Control Period, as Owner of Unsold Units: (a) to appoint and designate two (2) Sponsor Board Members, who will constitute a majority of all three (3) Board Members; and (b) to both nominate and vote for all Independent Board Members. At all elections held after the end of the Sponsor Board Control Period, Sponsor will no longer have the right to nominate candidates to serve as the Independent Board Members (who will then constitute a majority of the Board Members) and thus Sponsor cannot exercise voting control of the Condominium Board, although Sponsor shall continue to have the right, for so long as Sponsor owns at least one (1) Unsold Unit, to vote for all Independent Board Members and to exclusively appoint and designate one (1) Sponsor Board Member. In order to assure, however, that Sold Unit Owners will have voting control of the Board when Sponsor's voting control ends, the By-Laws require a majority of the Condominium Board to be Sold Unit Owners or their respective Related Parties having no relationship to Sponsor or its principal (whether by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner) at all elections held after the end of the Sponsor Board Control Period. See Section Q, subsection Q-1 below for discussion of number, composition and election of the Board Members.

Sponsor will cause the Condominium Board to call a special meeting of Unit Owners to be held within approximately 30 calendar days after the expiration of the Sponsor Board Control Period. At such meeting, one (1) additional Independent Board Member (i.e., an individual who is unrelated to Sponsor and Sponsor's principal) will be elected to replace one (1) Sponsor Board Member (who will resign effective at the date of such election), except a new three (3)-member Condominium Board will be elected if this is the first meeting of Unit Owners (see Section Q, subsection Q.1.5 below). At such time, the Independent Board Members will constitute a majority of all Board Members. See Section Q, subsection Q-1.2 below for requirement of a majority of the Board Members to be Sold Unit Owners or their respective Related Parties who are not related to Sponsor or its principals at all elections held after the end of the Sponsor Board Control Period.

P-1.2. Consequences of Sponsor's Voting Control. As a result of Sponsor's voting control of the Board during only the Sponsor Board Control Period, Sponsor will be able to control the decisions to be made by the Board Members, including those concerning:

(a) the Building's Operations and services, which are, nonetheless, to be Maintained and provided in accordance with the Building's Maintenance Standard and the level of standards, quality and requirements of Sponsor in accordance with, and as stated in, this Plan;

(b) the amount of the Common Charges, which, nonetheless, are to be in an amount sufficient to provide the level of Building services, amenities and Facilities in accordance with, and as stated in, this Plan; and

(c) the expenditures of the Working Capital Fund (which may be used for Operating or working capital and to defray increases in Common Charges payable by Unit Owners, but may not be used to reduce Common Charges below the projected Common Charges in SCHEDULE B, the First Year's Budget), as explained in "Section V. Working Capital Fund".

P-2. Sponsor Veto Control.

P-2.1. Veto Control. During only the Sponsor Veto Control Period (defined in subsection P-2.3 below), the Condominium Board and the Unit Owners (as to any vote or action by them) must obtain Sponsor's prior written Discretionary Approval or Consent to do any of the following:

(a) to raise Common Charges or levy a Special Assessment for any of the following purposes:

(a-1) to make an Alteration to the Common Elements, the Association's Properties (the latter includes any Unit owned, leased or otherwise held or Operated by the Board, or its nominee or designee) or to make any new or change in use of the main Roof;

(a-2) to create a reserve fund for Repairs, Alterations, unanticipated expenses and/or contingencies which, in the aggregate, exceed five percent (5%) of the projected annual Common Expenses for any Budget Year of Condominium operation;

(a-3) to increase, decrease, eliminate or otherwise change the number, type, classification or working hours of the Building's service staff from those set forth in the First Year's Budget (SCHEDULE B in Section E above);

(a-4) to increase, decrease or eliminate Building services by (for example) entering into contracts for new or additional services or maintenance work not included in said First Year's Budget, or failing to provide for any service or maintenance contract set forth in said First Year's Budget or otherwise; or

(a-5) to increase, decrease, eliminate or otherwise change the amounts or types of insurance coverage from those set forth in said First Year's Budget; or

(b) to borrow money on behalf of the Condominium Association.

See subsection P-2.2 below for limitation on Sponsor's veto control.

Sponsor, however, will give its Discretionary Approval or Consent if the Costs and Expenses (as determined by Sponsor, in its sole and absolute judgment) of the proposed action requiring Sponsor's Discretionary Approval or Consent, when added to all other budgeted Common Expenses, will not increase the Common Charges, inclusive of any Special Assessments of the Condominium Board, for any Budget Year of the Condominium, by more than five percent (5%) above the Common Charges for the immediately preceding Budget Year of the Condominium Association.

Sponsor will have the exclusive right to exercise veto control during only the Sponsor Veto Control Period while Sponsor owns one (1) or more Unsold Units. If Sponsor no longer owns any Unsold Units, each successor Unsold Unit Owner (if any) will have the same right of veto control as Sponsor during only the Sponsor Veto Control Period.

P-2.2. Limitations on Veto Control. Sponsor may not exercise veto control over expenses described in the First Year's Budget (SCHEDULE B in Section E) or over expenses required: (a) to comply with applicable Laws or regulations; (b) to remedy a governmental notice or violation; or (c) to remedy a Work order by an insurer of the Building.

P-2.3. Veto Control Period. The Sponsor Veto Control Period will end on the *earlier* of: (a) the date that the Common Interests appurtenant to the Unsold Office, Commercial and Roof Terrace Units constitute less than 25% of the aggregate Common Interests of all Office, Commercial and Roof Terrace Units; or (b) the fifth (5th) anniversary of the First Unit Closing under this Plan.

END OF SECTION P

This Page Intentionally Left Blank

SECTION Q. BOARD OF MANAGERS

The affairs of the Condominium will be governed and administered by the Condominium Board. This Section discusses the number, composition, eligibility, elections, term, indemnity, compensation and removal of Board Members and officers, the voting rights of Unit Owners, the requirements to amend the Declaration and By-Laws, the requirements for Board meetings, and the requirements for quorum and decisions of the Board and Unit Owners. The powers and duties vested in the Condominium Board in the Declaration, the By-Laws and the Condominium Act are discussed in "Section R. Rights and Obligations of the Unit Owners and the Board of Managers".

Q-1. Condominium Board; Elections; Term; Unit Owner's Meetings.

Q-1.1. Number and Composition. Initially, the Condominium Board will consist of one (1) Board Member, who will be appointed and designated exclusively by Sponsor and will conduct all business and affairs of the Condominium Association until the first meeting of Unit Owners is held to elect a three (3)-member Condominium Board. The three (3) Board Members shall consist of two (2) Sponsor Board Members and one (1) Independent Board Member during only the Sponsor Board Control Period. At all elections held after the end of the Sponsor Board Control Period, the Independent Board Members will comprise a majority of all three (3) Board Members, and Sponsor shall exclusively appoint and designate one (1) Sponsor Board Member for so long as Sponsor owns at least one (1) Unsold Unit. Sponsor will cause the Board to call a special meeting of Unit Owners to be held within approximately 30 calendar days after the end of the Sponsor Board Control Period to elect one (1) additional Independent Board Member who will replace one (1) Sponsor Board Member (see Section P, subsection P-1.1 above).

Q-1.2. Eligibility. Each Independent Board Member must be either a Sold Unit Owner, a Related Party to such Sold Unit Owner or any of the following (each, a "**Sold Unit Owner Affiliate**"): (a) a Sold Unit mortgage lender; (b) an officer, director, shareholder, partner, member, principal, employee, trustee, executor, administrator or beneficiary of a corporation, partnership, company, trust, estate or other Entity that owns a Sold Unit or is a Related Party to a Sold Unit Owner or is a Sold Unit mortgage lender; (c) an individual designated by a sovereign government, consulate or other governmental instrumentality that owns a Sold Unit; (d) a tenant of a Sold Unit; or (e) an adult member of the immediate family of a Sold Unit Owner or a Related Party to a Sold Unit Owner or any of the foregoing. In addition, in order to assure that Sold Unit Owners will have voting control of the Board when Sponsor's voting control ends, the By-Laws contain a provision pursuant to which a majority of the Condominium Board must be Sold Unit Owners, their respective Related Parties or Sold Unit Owner Affiliates who have no relationship to Sponsor or its principal (whether by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner) at all elections held after the end of the Sponsor Board Control Period (see Article 2, Section 2.6.6 of the By-Laws and Section A, subsection A-7 above). There is no eligibility requirement for a Sponsor Board Member, who may be anyone at least 18 years old, regardless of relationship or lack of relationship to Sponsor.

Q-1.3. Board Elections. During only the Sponsor Board Control Period, the Independent Board Member will be *nominated* and *voted* by all Sold and Unsold Unit Owners, including Sponsor as Owner of Unsold Units. At all elections held after the end of the Sponsor Board Control Period, the Independent Board Members will be *nominated* by only Sold Unit Owners, but all Sold and Unsold Unit Owners shall *vote* (without restriction or limitation) for the Independent Board Members.

Sponsor, as Owner of an Unsold Unit, shall always have the right to *vote* (without restriction or limitation) for the Independent Board Members, but may not *nominate* any candidates to serve as Independent Board Members at all elections held after the end of the Sponsor Board Control Period. Since Sponsor cannot nominate candidates for the election of Independent Board Members at all elections held after the end of the Sponsor Board Control Period, Sponsor will lose voting control of the Condominium Board at such time. Sponsor may choose not to nominate or vote for the Independent Board Members at a meeting of Unit Owners to elect new Board Members without waiving or otherwise prejudicing Sponsor's right to nominate or vote for the Independent Board Members at future elections of the Board Members.

The Sponsor Board Member(s) shall be appointed and designated exclusively by Sponsor as Owner of one (1) or more Unsold Units.

Q-1.4. Term. All Board Members elected at and after the first meeting of Unit Owners following the First Unit Closing will serve for a term of one (1) year. There is no limit on the number of terms, successive or otherwise, a Board Member may serve.

Q-1.5. First Meeting of Unit Owners. Sponsor will cause the Condominium Board to call the first meeting of Unit Owners to be held no later than approximately sixty (60) calendar days after the first anniversary of the First Unit Closing. If prior thereto, the number and Common Interest of the Sold Units constitute more than fifty percent (50%) in number and Common Interest of all Units, such first meeting will be called to be held within approximately thirty (30) calendar days after such fifty percent (50%) threshold is exceeded (see Section P, subsection P-1.1 above). At such first meeting, the Unit Owners will elect a new three (3)-member Condominium Board.

Q-1.6. Annual Meetings. Each annual meeting of Unit Owners is to be called to be held within approximately thirty (30) calendar days of the anniversary of the previous annual meeting of Unit Owners, unless changed by the Condominium Board to be held on a different date chosen by the Board, in its sole judgment.

Q-1.7. Special Meetings. Under the By-Laws (see Section 4.2), 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 any two (2) Board Members or by the Owners of not less than twenty-five (25%) percent of the Common Interest of all Units. Within ten (10) business days after receipt of such resolution or petition (as applicable), the President shall call such special meeting to be held within the next twenty (20) business days, unless the purpose of a meeting (whether regular or special) is to consider an amendment to the Declaration or the By-Laws or to remove a Board Member, in which case the following shall apply. Notice of such meeting shall be given to all Unit Owners at least thirty (30) calendar days prior to the date fixed for such meeting, which notice shall be accompanied by a copy of the text of said proposed amendment or the basis of removal of the Board Member (as applicable). The President shall call such meeting to be held not sooner than thirty-one (31) calendar days nor later than sixty (60) calendar days following receipt by the Secretary of a Board resolution or a petition signed by the requisite percentage of Unit Owners. If the President fails to so timely call such special meeting, then any Board Member who voted for such resolution or any Unit Owner who signed such petition (as applicable) may so call such meeting by a notice of meeting in accordance with the requirements of Section 4.4 of the By-Laws, except that such notice need not be given by the Secretary. No business shall be transacted at such special meeting except business reasonably related to purposes stated in the notice of special meeting or said petition.

Q-2. **Initial Board Member and Officers**. The initial Board Member and officers of the Condominium, who will be appointed and designated exclusively by Sponsor, will be a principal of Sponsor or will have an employment, business or family relationship to Sponsor or Sponsor's principal and will serve at the will of Sponsor. Sponsor's current intention is to designate the following persons as the initial Board Member and officers of the Condominium:

Kevin Comer* - President and Treasurer/Board Member

Patrick Flynn** - Vice President and Secretary

---

* Principal of Sponsor.

** Employee of Sponsor or a Sponsor Related Party.

Sponsor reserves the right to appoint and designate different individuals to serve as the initial Board Member and/or officers of the Condominium Board and to remove them and substitute other individuals without prior notice or Amendment. Any other individual so appointed and designated or substituted by Sponsor will likely have an employment, business or family relationship to Sponsor or a principal of Sponsor.

The initial Condominium Board Member (and any substitute Board Member appointed and designated by Sponsor) will conduct all affairs of the Condominium until the three (3)-member Condominium Board is duly elected and (as to a Sponsor Board Member) appointed and designated, at the first meeting of Unit Owners. Only Unit Owners (that is, Purchasers who close title and Sponsor, as Owner of an Unsold Unit shall be entitled to attend and vote at the meeting.

Q-3. **Indemnification and Personal Liability**. The Unit Owners shall jointly indemnify the Board Members and officers of the Condominium Association from and against all Claims and Liabilities and Expenses arising from their acts or omissions in their capacity as Board Members and officers. However, a Board Member or officer will not be indemnified for Claims or Liabilities and Expenses arising from the bad faith, self-dealing, gross negligence or willful misconduct of such Board Member or officer. The liability of each such Unit Owner under said indemnity is non-recourse (i.e., without recourse for personal liability), and limited to that portion of the total liability as the Common Interest of such Owner's Unit bears to the total Common Interests of all Unit Owners. All amounts payable under this indemnity (including legal fees and expenses) are to be paid in advance as part of the Common Expenses and directly from the Common Charges paid by the Unit Owners if and to the extent not covered by insurance or the insurance proceeds are insufficient.

A Board Member or officer will not be liable to the Unit Owners for errors of judgment, ordinary negligence or otherwise, but will be liable for bad faith or self-dealing action or inaction, gross negligence or willful misconduct. A Board Member (including a Sponsor Board Member or officer will not be regarded as having acted in bad faith or self-dealing or having committed willful misconduct because of any contract or transaction entered into by the Condominium Board with such Board Member or officer or a person related to, or affiliated with, such Board Member or officer (including Sponsor) if such contract or transaction is: (a) disclosed in this Plan or an Amendment; or (b) approved by a majority of non-interested Board Members and is at competitive or lower rates for goods sold or services rendered in the same county as the Property.

Each contract or other document executed by the Condominium Board will provide (if obtainable and not prohibited by Law) that: (a) the liability of each Unit Owner will be in the proportion that the Common Interest of the Owner's Unit bears to the total Common Interests of all Units; (b) the liability will be non-recourse and limited further to the Owner's interest in the Unit and its appurtenant Common Interest; and (c) no Board Member or officer will be liable thereunder except as a Unit Owner in accordance with the foregoing.

No Board Member or officer will be liable for interruption of any Building services or for any injury, loss or damage to person or property occurring in or on the Common Elements, the Association's Properties or a Unit and caused by the elements, a Unit Owner or any other Person, or resulting from water leaks, theft or otherwise.

Q-4. **Compensation**. No Board Member or officer will be paid any compensation by the Condominium Association for serving as a Board Member or officer, or on any committee of the Condominium Association.

Q-5. **Election and Removal of Officers; Removal of Board Members.**

Q-5.1. Officers.

Election: The officers of the Condominium Association shall consist of the following: (a) the President, Vice President, Secretary and Treasurer elected by vote of a majority of those Board Members attending a duly constituted Board meeting at which a quorum is present; (b) a co-Vice President and an Assistant Secretary appointed or designated exclusively by the Sponsor Board Member(s). Additional and other officers and assistant officers may also be elected by the Board Members and the Sponsor Board Member(s), respectively.

The officers will be elected or (as to the exclusive right of the Sponsor Board Member(s)) appointed and designated annually at the organizational meeting of each new Condominium Board. The President must be a Board Member. There are no qualifications to be met by the other officers who need not be Board Members. No officer is required to be a Unit Owner or have any interest in a Unit.

Generally, each of the officers will have all of the same powers and duties of the equivalent officer of a stock corporation organized under the Business Corporation Law of the State of New York. However, the officers appointed and designated exclusively by the Sponsor Board Member(s) may act only in connection with the Operation and affairs of the Unsold Units.

Removal: An officer may be removed at any time "with" or "without cause" by an affirmative vote of a majority of those Board Members who attend a duly constituted Board meeting at which a quorum is present, except an officer appointed and designated exclusively by the Sponsor Board Member(s) may be removed "with" or "without" cause by only the Sponsor Board Member(s).

Resignation: Each officer may resign at any time by giving written notice to the Condominium Board (or to a Sponsor Board Member, in the case of the officers appointed and designated exclusively by such Board Member(s)). The President will be regarded as having resigned whenever such officer ceases to be a Board Member.

Vacancy: Any vacancy in an office will be filled by vote of a majority of the Board Members in attendance at a regular or special meeting of the Board called for such purpose (in the case only of an officer elected by the Board Members) or filled exclusively by the Sponsor Board Member(s) with respect to a vacancy of an officer appointed and designated exclusively by such Board Member(s).

Q-5.2. Board Members. All references to Unit Owners in this subsection shall exclude from the count of the base number of Unit Owners and Common Interests for quorum and voting purposes: (a) those Units (if any) owned by the Condominium Board or its nominee or designee, who shall have no voting rights with respect to any Unit each of them may own; and (b) those Unit(s) and Common Interest(s) owned by the Independent Board Member, or a Related Party to such Independent Board Member, to be removed, who shall not have the right to vote on the issue of such Board Member's removal.

Removal: An Independent Board Member may be removed "with" or "without cause" only by a vote of a majority in number and Common Interest of Sold and Unsold Unit Owners cast at a duly constituted meeting of Unit Owners at which a quorum is present. A Sponsor Board Member may be removed "with" or "without cause" by only Sponsor or the Owner of the Unsold Unit(s) who exclusively appointed and designated such Board Member to be removed (as applicable).

Resignation: A Board Member may resign at any time by giving written notice to: (a) the Board (in the case of a resignation by an Independent Board Member); or (b) the Sponsor or appropriate Unsold Unit Owner (in the case of a resignation by a Sponsor Board Member).

Vacancy: A vacancy on the Condominium Board, whether resulting from removal, resignation, death, incompetency, incapacity or otherwise, will be filled as follows: (a) (in the case of a vacancy of an Independent Board Member), a majority in Common Interest of those Unit Owners attending a duly constituted special meeting of Unit Owners called for such purpose at which a quorum is present (such special meeting is to be called to be held not less than ten (10) calendar days nor more than thirty (30) calendar days after such vacancy occurs) will elect a new Independent Board Member; or (b) (in the case of a vacancy of a Sponsor Board Member) Sponsor or other appropriate Unsold Unit Owner who originally appointed and designated the vacating Sponsor Board Member will have the exclusive right to appoint and designate a new Sponsor Board Member to fill such vacancy. However, in the case of a removal of an Independent Board Member by the Owners of the Sold and Unsold Units, such Owners will have the right to elect the replacement at the same meeting the removal is voted upon or at a subsequent special or annual meeting of the Unit Owners called for such purpose.

The person elected (in the case of an Independent Board Member) or appointed and designated (in the case of a Sponsor Board Member) to fill the vacancy will serve as a member of the Condominium Board for the remainder of the term of the Board Member being replaced.

Q-6. **Computation of Votes**. Each Unit Owner will have one (1) vote for each 0.0001% of Common Interest. For example, if the Unit Owner's Common Interest is 16.9961% he or she will have a total of 169,961 votes. When voting for the election of Board Members, each candidate for whom a Unit Owner votes will receive the total number of votes that such Unit Owner is entitled to cast, or 169,961 votes per candidate in the preceding example. Unit Owners may not cumulate, split or otherwise transfer votes from one candidate to another.

The election of the Independent Board Members will be determined by "plurality" of the votes cast by the Owners of the Sold and Unsold Units (including Sponsor as Owner of one (1) or more Unsold Units) at a duly constituted meeting of Unit Owners at which a quorum is present. Thus, the candidates receiving the highest number of votes at the meeting will be elected to serve as the Independent Board Member(s) even though one (1) or more of them may receive less than a majority of the votes cast. The Sponsor Board Member(s) shall be appointed and designated in a writing delivered either at the meeting of Unit Owners or in advance of the meeting to the Managing Agent or any officer of the Condominium Board.

SPECIAL RISK: No Unit Owner may nominate or vote for the election of Board Members during the period the Condominium Board has perfected a lien against such Owner's Unit for unpaid Common Charges or Special Assessments. However, such Owner will resume these rights upon satisfying such indebtedness or discharging the lien by bond or otherwise. In addition, if such Unit Owner is a Board Member, his or her Board membership will automatically be suspended upon perfection of the lien and unless the lien is satisfied or discharged, will automatically cease 30 calendar days thereafter. See Section A, subsection A-12 above.

Q-7. **Amendments to Declaration or By-Laws**

Q-7.1. Requirements. Subject to the following clauses (d) through (g) and the restrictions in subsection Q-7.2 below, the requirements to amend the Declaration or By-Laws are as follows (all references to Unit Owners in this subsection shall exclude from the count of the base number of Unit Owners and Common Interests for quorum and voting purposes those Units (if any) owned by the Condominium Board or its nominee or designee, who shall have no voting rights with respect to any Unit each of them may own; underscoring is intentional for clarity only):

(a) in the case of an Amendment affecting only the Common Elements, the Association's Properties, the Common Expenses or the Common Charges: the Amendment may be made by the Condominium Board: (a-1.1) if approved and adopted by a majority of those Board Members attending a duly constituted Board meeting at which a quorum is present; and (a-1.2) if approved or consented to by vote or in writing by at least two-thirds (2/3rds) or (in specified cases) 95% in number and Common Interest of all Unit Owners;

(b) in the case of an Amendment affecting only one (1) or more Unsold Units (including any Office or Commercial Unit owned by Sponsor at the time in question) or a Unit Change to an Unsold Unit: the Amendment may be made alone by Sponsor or the Owner or Owners of such Unsold Units, as applicable, without the approval or consent of the Condominium Board and without the express approval or consent of other Unit Owners, who automatically and irrevocably shall be deemed to have approved and consented to such Amendment;

(c) in the case of an Amendment to reflect changes required by either an Institutional Lender holding, or having issued a written commitment for, a Unit mortgage, a

Governmental Authority having jurisdiction over the Property or the Condominium Association, or a title insurer of a Unit: the Amendment may be made alone by Sponsor so long as Sponsor owns a Unit, without the approval or consent of the Condominium Board and without the express approval or consent of other Unit Owners, who automatically and irrevocably shall be deemed to have approved and consented to such Amendment, or may be made by the Condominium Board (subject to obtaining the prior written Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period, but without obtaining the express approval or consent of other Unit Owners, who automatically and irrevocably shall be deemed to have approved and consented to such Amendment);

(d) in the case of an Amendment to reflect only the permitted subdivision of a Sold Unit and the proper apportionment of the Common Interest of the Sold Unit being subdivided, or the permitted combination of a Sold Unit with all or part of one or more other Sold Units and the proper apportionment of the Common Interests of the Sold Units involved in such combination: the Amendment may be made by the Owner of the Sold Unit being subdivided or by the Owner or Owners of the Sold Units involved in the combination, as applicable, subject to obtaining the prior written Reasonable Approval or Consent of the Condominium Board (except no Board approval or consent shall be required in the case of an Authorized First Sold Unit Owner who is authorized in writing by Sponsor or an Unsold Unit Owner (as applicable) to make such Unit Change), but without obtaining the express approval or consent of other Unit Owners, who automatically and irrevocably shall be deemed to have approved and consented to such Amendment; and

(e) in the case of an Amendment affecting a Unit's Common Interest, size or configuration: the prior written Discretionary Approval or Consent of the Owner of the affected Unit must be obtained for such Amendment.

Q-7.2. Restrictions. No Amendment to the Condominium Documents may be made that would with reasonable likelihood affect the priority or validity of the lien of a purchase money mortgage or a mortgage held by an Institutional Lender on a Unit without obtaining the prior written Discretionary Approval or Consent of the Owner of such Unit and such Owner's mortgage lender.

No Amendment to the Condominium Documents may be made that would with reasonable likelihood: (a) unreasonably interfere with a potential, proposed or pending sale, lease, mortgage or other Disposition of an Unsold Unit without obtaining the prior written Discretionary Approval or Consent of the Owner of the affected Unit; (b) abridge, modify, suspend, eliminate or otherwise affect any of Sponsor's Rights (i.e., any right, power, easement, license, privilege, indemnity, exemption, remedy or other benefit of Sponsor or an Unsold Unit Owner under this Plan, a Plan Amendment or the Condominium Documents) without obtaining the prior written Discretionary Approval or Consent of such affected Owner; (c) impose any charge, fee or other imposition against or on Sponsor, an Unsold Unit Owner, or a tenant, occupant or visitor of an Unsold Unit, without obtaining the prior written Discretionary Approval or Consent of the Owner of the affected Unsold Unit; (d) change or restrict the permitted use or occupancy of an Unsold Unit; or (e) adversely affect the value, marketing, Promotion or other Disposition of an Unsold Unit.

Q-7.3. Filing with Condominium Association. A conformed copy of an Amendment to the Condominium Documents shall be filed promptly with the Secretary or an Assistant Secretary of the Condominium Association or the Condominium Association's Managing Agent by the

applicable Party recording the Amendment and shall be made available by the Condominium Board at the Property or the office of the Managing Agent for inspection (without charge) and copying (at a reasonable charge) by all: Unit Owners; Unit mortgage lenders; authorized tenants of Units; authorized prospective Unit purchasers, mortgage lenders and tenants; and authorized representatives of each of the foregoing.

Q-8. Board Meetings.

Q-8.1. Regular Meetings. The Condominium Board is to hold at least four (4) regular meetings each Budget Year, but a majority of the Board Members may determine to meet more often. The date, time and place of each regular meeting will be fixed by a majority of the Board Members.

Q-8.2. Special Meetings. The President of the Condominium Association may call a special meeting of the Condominium Board, but must call a special meeting on the written request of two (2) or more Board Members. Written notice of a special meeting is to be given to each Board Member at least two (2) business days (in the case of notice sent by hand, telecopier or telegram) or five (5) business days (in the case of a notice sent by mail) prior to the meeting. A Board Member may waive this notice requirement and will be considered to have waived the notice by attending the meeting.

Q-9. Quorum. The quorum requirements to transact business are as follows:

(a) attendance (in person or by telephone or electronic mail) of a majority of all Board Members will be required for any business relating solely to one or more of the following: (a-1) the Common Elements; (a-2) the Association's Properties; (a-3) the Common Expenses; or (a-4) the Common Charges; or

(b) attendance of only the Sponsor Board Member(s) will be required for any business relating solely to all or a portion of only an Unsold Unit.

In the case of attendance by telephone or electronic mail, all Board Members attending the meeting (whether in person, by telephone or electronic mail) shall be in voice or electronic mail (as applicable) communication of each other.

Q-10. Requirements for Board Decisions. A majority of those Board Members attending a duly constituted Board meeting at which a quorum is present will decide all matters relating solely to one (1) or more of the following: (a) the Common Elements; (b) the Association's Properties; (c) the Common Expenses; or (d) the Common Charges.

The Sponsor Board Member(s) will decide any business relating solely to the Unsold Units.

Each Board Member shall have only one (1) vote on any matter to be voted by such Board Member.

SPECIAL RISKS: The decisions and transactions of the Condominium Board shall have the equivalent status of the decisions and transactions of a cooperative housing corporation as to which the so-called "business judgment rule" articulated in Levandusky v. One Fifth Ave Corp. (75 NY2d 530 [1990]) ("**Levandusky**") shall apply, except said "business judgment rule" shall not apply to any decisions or transactions affecting, directly or indirectly, the Sponsor or other Owner of an Unsold Unit, the Sponsor's Rights or an Unsold Unit. Instead, the decisions and transactions of the

Condominium Board that affect, directly or indirectly, the Sponsor or other Owner of an Unsold Unit, the Sponsor's Rights or an Unsold Unit shall be subject to scrutiny and determined solely on the merits by a court, arbitration panel or other forum having jurisdiction, without any deference, weight or favorable assumption being given to the Condominium Board. See Section A, subsection A-25 above.

Q-11. **Requirements for Unit Owners' Decisions**. At any meeting of Unit Owners at which a quorum is present, the vote of a majority in number and Common Interest of those Unit Owners attending the meeting (in person or by proxy) will constitute the decision of the Unit Owners, unless a different number and/or percentage is required by the Declaration or By-Laws or the Condominium Act. The Condominium Board and its nominee or designee shall have no voting rights with respect to any Units owned by each of them and such Parties and Units shall be excluded from the base number of Owners, Units and Common Interests for quorum and voting purposes in determining any matter to be voted upon by Unit Owners.

END OF SECTION Q

This Page Intentionally Left Blank

SECTION R. RIGHTS AND OBLIGATIONS OF THE UNIT OWNERS AND THE BOARD OF MANAGERS

R-1. **Sale or Lease of Units by Unit Owners**. This subsection summarizes the material rights and obligations of Unit Owners and the Condominium Board with respect to the sale or lease of Units by Unit Owners under the By-Laws (see Article 16, Sections 16.1 to 16.12 for all applicable rights and obligations).

R-1.1. Rights and Restrictions on Sale or Lease. Each Unit Owner has the right to sell its Unit at any price or to lease the Unit at any rent, but must comply with certain restrictions under the By-Laws, including the following:

(a) a Sold Unit Owner must give the Condominium Board written notice (by certified or registered mail, return receipt requested) of the proposed sale or lease accompanied by a fully executed original of the sale or lease agreement (see subsection R-1.2 below for Board's Right of First Refusal);

(b) a Sold Unit Owner may not consummate the transaction unless it is current in the payment of Common Charges and Additional Common Charges (if any), and all unpaid liens on the Unit (other than a Permitted Mortgage) are satisfied or bonded;

(c) a sale or conveyance must include the entire Unit and its appurtenant Common Interests (this, however, will not prohibit a Unit Owner from subdividing its Unit in compliance with the terms and conditions contained in the Declaration);

(d) a Sold Unit Owner must pay the Condominium Board for the reasonable fees and expenses incurred on the transaction, including those of the Board's Managing Agent and/or attorney, unless the transaction is exempt from the Board's Right of First Refusal (see Section W, subsection W-1.3 below for the fees payable by a Sold Unit Owner to the Managing Agent, which are conclusively deemed to be reasonable);

(e) apart from such fees and expenses, the Condominium Board may collect a security deposit from an Owner or tenant of a Sold Unit when moving into or out of the Building, which is to be applied by the Board to pay for any damage to the Common Elements caused by such move and any unapplied amount will be refunded after the move is completed (the amount of the security deposit will be set by the Condominium Board and may change from time to time, but may not exceed $5,000 without obtaining the prior written Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period; see Section 12.8 of the Declaration for discussion);

(f) at the closing of title on a sale, the purchaser (at its expense) must duly sign and record a Unit Owner's Power of Attorney in favor of the Condominium Board, the Sponsor, the Upper Owner and other persons on the form contained in Part II of this Plan as DOCUMENT 2 (or, if there are no longer any Unsold Units, on the form then approved for use by the Condominium Board);

(g) the sale or lease agreement for a Sold Unit must contain a certain provision subjecting the agreement to the Board's Right of First Refusal;

(h) each deed shall expressly provide that its acceptance by the grantee shall constitute grantee's acceptance, ratification and assumption of all the terms of the Condominium Documents;

(i) each lease entered into after the establishment of the Condominium must contain certain provisions subordinating the lease: (i-1) to the Condominium Documents, which are paramount and shall govern any inconsistency between the terms of the lease and the Condominium Documents; and (i-2) (with respect only to a lease of a Sold Unit, but not an Unsold Unit) to the powers of the Board to terminate the lease and evict the tenant for violating the Condominium Documents or following a foreclosure of the Condominium Board's lien on the Unit for unpaid Common Charges;

(j) the lease of a Sold Unit shall not be for a term of less than one (1) year, shall not be extended or amended and shall not be assigned or sublet by the tenant, without obtaining the prior written Discretionary Approval or Consent of the Board in each instance (see SPECIAL RISK Section A, subsection A-24 above); and

(k) access to the elevator will be during such hours and days, and limit on duration, as may be determined by the Board from time to time.

Unsold Units. The restrictions in the preceding clauses (a), (b), (c), (d), (e), (g), (i-2), (j) and (k) do not apply to the Sponsor or the Unsold Unit Owners, who may sell and lease their respective Units Freely and Without Consent, Payment or Restriction, other than the restrictions in the preceding clauses (f) *[recording of the Unit Owner's Power of Attorney by purchaser]*, (h) *[grantee's acceptance, ratification and assumption of all the terms of the Condominium Documents]*, and (i-1) *[subordinating the lease to Condominium Documents]*.

Rent Laws Inapplicable. The terms of the lease of a Sold Unit, including the rent, will not be subject to any existing state or local law regulating rent or rights of tenants for continued occupancy.

Right of First Refusal. The Condominium Board shall have a Right of First Refusal (or Match Offer Right) to purchase or lease a Sold Unit on the same terms set forth in a fully executed agreement to purchase or lease such Unit, unless the proposed sale or lease is exempt from the Right of First Refusal (see paragraph (i) below). The material terms of the Board's Right of First Refusal are as follows:

(a) Notice Period. Within 20 business days after the Condominium Board receives the fully executed purchase or lease agreement together with such documents required by the Board relating to the rental, credit, net worth, income taxes and business history of the purchaser or tenant, the Condominium Board is to notify the Sold Unit Owner in writing whether or not it intends to exercise the Right of First Refusal. The Board may not elect to purchase or lease a Unit unless approved in writing by a majority in Common Interest of all Unit Owners or by vote of a majority in Common Interest of those Unit Owners attending a duly constituted meeting called for such purpose at which quorum is present. If the Board declines to exercise its Right of First Refusal or fails to send notice of its election to purchase or lease within said 20 business day period, the Sold Unit Owner shall have 90 calendar days thereafter to consummate the transaction, failing which the Condominium Board will again have the Right of First Refusal to purchase or lease the Unit.

(b) Closing Period. If the Condominium Board elects to purchase or lease a Sold Unit pursuant to its Right of First Refusal, the Board will have 60 business days after giving notice of its election within which to consummate the transaction. The Condominium Board may (at its option) purchase or lease in its own name or in the name of its nominee or designee, corporate or otherwise.

(c) Funds to Acquire. The Board may obtain funds to purchase a Sold Unit (including the expenses of closing title) from the following sources, or any combination of them: (c-1) a loan secured by a mortgage on only the Unit to be purchased, provided the prior written Discretionary Approval or Consent is obtained from Sponsor (during only the Sponsor Veto Control Period); and/or (c-2) a Special Assessment imposed on Unit Owners.

(d) Funds to Maintain and Operate. The funds to Maintain, Repair, Alter, and otherwise Operate and make any Disposition of a Unit purchased or leased by the Condominium Board (or its nominee or designee) shall be derived from rents realized from any tenant to whom such Unit is leased or subleased, if any. If no such rents are realized or are insufficient, such funds or any deficit shall be derived and paid from the Common Charges assessed to all Unit Owners Pro Rata to their respective Common Interests.

(e) Permissible Uses. A Unit purchased or leased by the Condominium Board, or its nominee or designee, may be used only for the same intended use set forth in this Plan.

(f) Resale or Leasing of Unit Held by Board. The Condominium Board shall make all decisions as to the resale or leasing of a Unit purchased by the Board (or its nominee or designee) or the subleasing of a Unit leased by the Board (or its nominee or designee), as well as all decisions concerning the use, occupancy, Operation and mortgaging of such Unit while owned or leased by the Board (or its nominee or designee); subject, however, to compliance with the same restrictions on use and occupancy applicable to Sold Units (see subsection R-7 below) and the requirement to obtain the Discretionary Approval or Consent of Sponsor as to borrowing set forth in subsection R-1.2(c) above. The Condominium Board and its nominee or designee shall have no voting rights with respect to any Units owned by each of them and such Parties and Units shall be excluded in the base number of Owners, Units and Common Interests for quorum and voting purposes.

(g) Proceeds on Disposition. All rents and any other revenues derived from a Unit while owned or leased by the Condominium Board (or its nominee or designee), after paying the Costs and Expenses to own or lease and Operate such Unit, and all proceeds realized on the resale of a Unit owned by the Board (or its nominee or designee) shall be applied to defray the Common Expenses.

(h) No Discrimination. The Condominium Board may not discriminate against any person on the basis of race, creed, color, national origin, sex, sexual orientation, age, disability, marital status or other ground prohibited by Law, whether in connection with the exercise of the Board's Right of Refusal, the leasing or subleasing of any Unit purchased or leased, the resale of any Unit purchased, or otherwise.

(i) Exempt Transactions. The following sales, transfers, conveyances and leases are exempt from the Condominium Board's Right of First Refusal:

(i-1) a sale, transfer, conveyance or lease of a Sold Unit from its Owner to the following: (a) (if Offeree Unit Owner is an individual) to an adult member of such Owner's immediate family or to a trust for the benefit of said Owner or a member of said Owner's immediate family; or (b) (if Offeree Unit Owner is an entity) any Entity in which such Owner owns more than 50% of the legal and beneficial interests or (if the Owner is a corporation, partnership, limited liability company, trust or other Entity) a sale, transfer, conveyance or lease from such Owner to any individual or other Entity who owns more than 50% of all legal and beneficial interests in said Entity;

(i-2) a transfer, conveyance or lease of a Sold Unit from its Owner to any Person who acquires title or leases the Unit as a gift or as an heir or distributee under the Owner's will or by intestacy;

(i-3) a transfer or conveyance to the shareholders, partners, members or other equity owners of a Sold Unit Owner in partial or full liquidation or dissolution of such Owner;

(i-4) a sale, transfer or conveyance of any Unit, or a lease (including any sublease) of all or part of any Unit to Sponsor or an Unsold Unit Owner or any such transaction of an Unsold Unit from Sponsor or an Unsold Unit Owner to any Person;

(i-5) a sale, transfer or conveyance of any Unsold Unit, or a lease (including any sublease) of all or part of any Unsold Unit, to any Person;

(i-6) a sale, transfer, conveyance of any Unit or a lease (including any sublease) of any Unit to the Condominium Board (or its nominee or designee) or from the Condominium Board (or its nominee or designee) to any Person;

(i-7) a sale, transfer or conveyance of any Unit from an officer or other Person conducting a mortgage or other lien foreclosure sale to any Person; and

(i-8) a transfer or conveyance of any Unit by deed in lieu of foreclosure to a Permitted Mortgagee or a nominee or designee of a Permitted Mortgagee or a sale, transfer, conveyance or lease from such Permitted Mortgagee or its nominee or designee to any Person.

R-2. **Mortgaging of Units by Unit Owners**. Each Unit Owner shall have the right to mortgage its Unit with one or more mortgages held by any lender or lenders, subject to compliance with the following restrictions and requirements:

(a) the mortgage must cover both the Unit and its appurtenant Common Interest;

(b) the Unit Owner shall give the Condominium Board written notice of the name and address of the mortgage lender and (if requested by the Board) a conformed copy of the executed note and mortgage (failure to do so shall not affect the validity or enforceability of the mortgage, but the mortgage lender shall not have certain protections and benefits with respect to (for example) the right to receive a copy of a default notice for non-payment of Common Charges or the right to cure such default);

(c) the Unit Owner shall give the Condominium Board written notice when a mortgage is satisfied and (if requested by the Board) a conformed copy of the executed satisfaction of mortgage instrument; and

(d) no Unit Owner shall give a mortgage on its Unit unless and until all unpaid Common Charges and Additional Common Charges (if any) are paid and all unpaid liens on the Unit are satisfied or bonded, other than the mortgage liens made in compliance with the By-Laws.

This last restriction in clause (d) shall not affect the validity or enforceability of a mortgage, but to the extent not prohibited by the Condominium Act or other applicable Law shall affect the priority of its lien, which shall be subject and subordinate to all then existing unpaid Common Charges and Additional Common Charges previously assessed against the Unit.

R-3. Common Charges and Additional Common Charges. The Common Charges and Additional Common Charges (including Special Assessments) shall be determined by the Condominium Board, and allocated, apportioned and assessed to the Unit Owners in accordance with the following provisions (see Article 9 of the Declaration and Article 8 of the By-Laws for full discussion of these provisions).

R-3.1. Procedure and Allocation.

R-3.1.1. Procedure. At least ten (10) calendar days before the start of each Budget Year of the Condominium Association, the Condominium Board is to prepare, adopt and distribute to all Unit Owners a Budget of Condominium Operation for the ensuing Budget Year. The Budget shall comply with the Special Allocation and Apportionment Rule and Section 339-m of the Condominium Act, and the procedures, guidelines and requirements set forth in this Plan (see Section B, subsection B-5.3 above and the Condominium Documents (see Article 9 of the Declaration and Article 8 of the By-Laws).

R-3.1.2. Allocation. In accordance with the Special Allocation and Apportionment Rule and said Section 339-m, the projected Common Expenses shall be allocated by the Condominium Board to all Unit Owners and generally apportioned and assessed among them Pro Rata to their respective Common Interests unless the amount of a projected Common Expense item fairly and properly attributable to a Unit would otherwise require, in which case such fair and proper apportionment shall be used.

The Roof Terrace Unit will pay its share of all Common Expenses Pro Rata to its Common Interest, although it does not use any HVAC/Mechanical/Utility Building Systems or any other Building services. Accordingly, the Common Interest of the Roof Terrace Unit reflects its lack of Usage of the Common Elements in accordance with Section 339-i(1)(iv) of the Condominium Act.

R-3.1.3. Payment of Common Expenses. The amount allocated, apportioned and assessed to the Units constitute their Common Charges, which will be payable monthly in advance on the first day of each month, unless otherwise determined by the Board. The Condominium Board has the right to levy Special Assessments to pay Common Expenses, which will be payable in a lump sum or in such periodic installments, with or without interest, as shall be determined in the sole discretion of the Condominium Board.

R-3.1.4. Failure to Adopt Budget. The failure of the Condominium Board to adopt a Budget for a new Budget Year will not be regarded as a waiver of Common Charges nor excuse Unit Owners from their obligation to continue to pay Common Charges and Special Assessments (if any) based on the last adopted Budget pending the adoption of the new Budget.

R-3.1.5. Revised Budget. The Condominium Board may revise a Budget one or more times during any Budget Year, but may not retroactively increase the amount of Common Charges previously billed. The Board, however, may include a deficiency for a prior period (whether in the same Budget Year or a previous Budget Year) in the Common Expenses for the then current Budget Year.

R-3.1.6. Budget Surplus. If the budgeted Common Charges exceed the actual Common Expenses in any completed Budget Year, the Condominium Board will determine whether to apply the surplus to defray the projected Common Expenses of the next succeeding Budget Year or to distribute all or a portion of the surplus to the Unit Owners Pro Rata to the Common Charges assessed to the Unit Owners for such completed Budget Year. If the Condominium Board fails to make such determination within four (4) months after the end of such completed Budget Year in which the surplus was generated, the entire surplus shall be applied to defray the projected Common Expenses of the next succeeding Budget Year.

R-3.2. Reserves for Capital Expenditures and Contingencies. The Condominium Board may include in a Budget a reserve for capital expenditures to make Repairs, Alterations, improvements and other contingencies. During only the Sponsor Veto Control Period, the Board must obtain the prior written consent of Sponsor to any reserves in excess of five percent (5%) of the projected annual Common Expenses, under the terms and conditions explained in Section P, subsection "P-2. Sponsor Veto Control" above.

R-3.3. Liability for Common Charges and Special Assessments. Each Unit Owner shall be personally liable for payment of Common Charges and Additional Common Charges (including Special Assessments) levied against its Unit. Such personal liability shall terminate with respect to only future Common Charges and Additional Common Charges (including Special Assessments) upon: (a) the consummation of a sale or transfer of the Unit in accordance with the provisions of the By-Laws; (b) the acquisition of the Unit by a purchaser at a mortgage or lien foreclosure sale, or by deed given in lieu thereof; or (c) the conveyance of the Unit to the Condominium Board (or its nominee or designee), without consideration, and free and clear of all mortgages, liens, encumbrances, leases and occupancies. None of the foregoing transactions shall terminate an Owner's personal liability for unpaid Common Charges or unpaid Additional Common Charges (including Special Assessments). No Unit Owner will be exempt from such personal liability by waiving the Use and Enjoyment of the Common Elements or by not using or abandoning its Unit.

R-3.4. Board's Lien and Remedies Under RPL §§339-z and 339-aa.

R-3.4.1. RPL §339-z. Pursuant to RPL §339-z:

(a the Condominium Board, on behalf of Unit Owners, shall have a lien on each Unit for unpaid Common Charges and unpaid Additional Common Charges (including Special Assessments), together with interest thereon (see subsection R-3.4.5 below); and

(b) the Board's lien shall be prior to all other liens, except only: (b-1) liens for real estate taxes; and (b-2) a lien for a prior recorded first mortgage.

R-3.4.2. RPL §339-aa. Pursuant to RPL §339-aa:

(a) the lien under RPL §339-z shall be effective from and after the filing of a verified notice of lien in the Register's Office of the County, City and State of New York, and will remain effective for six (6) years or until all unpaid sums with interest thereon have been paid in full, whichever occurs first;

(b) the Condominium Board shall have the right to foreclosure the lien by suit brought in the name of the Board (or its nominee or designee), acting on behalf of the applicable Unit Owners, in like manner as a mortgage of real property;

(c) in such foreclosure suit, the delinquent Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to the sale pursuant to judgment of foreclosure and sale;

(d) the Condominium Board, acting on behalf of the Unit Owners, shall have the power in its name, or in the name of its nominee or designee, to bid on the Unit at foreclosure sale, and to acquire and hold, lease, mortgage (subject to obtaining the requisite Discretionary Approval or Consent of Sponsor as provided in such Section P, subsection P-2 above) the Unit, but not to cast the votes appertaining to the Unit; and

(e) the Condominium Board may also bring suit to recover a monetary judgment for unpaid Common Charges and unpaid Additional Common Charges (including Special Assessments) without foreclosing or waiving the lien, and may pursue both the lien foreclosure and monetary judgment suits at the same time.

See subsection R-3.4.3 below for the obligation of Sponsor, while Sponsor has voting control of the Board, to cause the Condominium Board to file said lien on any Unsold Unit for which Sponsor or the Owner thereof is more than thirty (30) days in arrears of Common Charges or Additional Common Charges.

R-3.4.3. Actions after 30 Days. Pursuant to the By-Laws, the Condominium Board is required to take prompt action to collect any Common Charges or Additional Common Charges (including Special Assessments) that remain unpaid for more than thirty (30) calendar days. During the Sponsor Board Control Period, Sponsor will cause the Condominium Board to file the lien under RPL §339-aa on any Unsold Unit for which Sponsor or the Owner thereof is more than thirty (30) days in arrears of Common Charges or Additional Common Charges (including Special Assessments).

R-3.4.4. 10 Day Grace Period; Delinquency Payments. Common Charges shall be due and payable on the first day of each month, unless otherwise specified by the Condominium Board. If Common Charges are not paid within the first ten (10) calendar days of a month, then the delinquent Sold Unit Owner shall pay on demand the following:

(a) per diem interest on the unpaid amount at the rate of 16% per annum, but not to exceed the highest legal rate, computed from the due date until full payment is received;

(b) a late charge in an amount set by the Condominium Board, but not to exceed $0.05 on each overdue dollar; and

(c) all Costs and Expenses incurred by the Board to collect all amounts owed and to enforce and foreclose its lien and/or recover a money judgment.

The foregoing shall not apply to Unsold Units.

R-4. **Repairs**. The obligation to Repair and Maintain the Units and the Common Elements (and the Association's Properties, if any), the allocation of responsibility among the Unit Owners and the Condominium Board, the requirements and restrictions as to furnishings and painting of Units and to grant access to Units are summarized below and set forth in detail in Articles 10, 12 and 14 of the Declaration and Articles 5, 12 and 13 of the By-Laws.

R-4.1.1. Repairs to Units. Each Unit Owner shall be obligated, at its expense, to Repair (excluding structural or extraordinary Repairs expressly stated to be performed by the Condominium Board under the Condominium Documents) and Maintain its Unit, including such Unit's Equipment and Installations (see Section B, subsection B-5.1 above for summary of included items), in accordance and compliance with the Building's Maintenance Standard, except the Unit 500 skylights (which are part of the Roof Terrace Unit) shall be Maintained and Repaired by the Owner of Office Unit 500 (see SPECIAL RISK Section A, subsection A-2.6.2 above). Pursuant to the Building's Maintenance Standard, each Unit Owner (or the Office Unit 500 Owner in the case of the Office Unit 500 skylights) is required: (a) to Maintain and Repair the Unit in good and proper working order in accordance with good construction practices, free of water leaks and undue air penetration, and otherwise in clean, neat and sanitary condition; and (b) to Maintain and Repair the interior side of a Unit's windows and skylights (if any), the Unit's entrances (including its street entrance doors), and all other areas of a Unit exposed to public view in clean, neat, sanitary, good appearance and first-class condition in accordance with the high quality, character, dignity and standards of the Building, good construction practices and applicable Laws.

R-4.1.2. Repairs to Common Elements, Association's Properties and Sidewalks. The Condominium Board, acting on behalf and for the account of all Unit Owners, shall be obligated to Repair and Maintain the Common Elements, whether within, bordering or adjacent to Units or elsewhere in or on the Building or Property (see Section B, subsection B-5.2.1 above for summary of included items), the Association's Properties (if any) and the sidewalks immediately adjacent to the Property in accordance with the Building's Maintenance Standard (see preceding subsection R-4.1.1 above for such standard). All Costs and Expenses to Repair and Maintain the Common Elements, the Association's Properties (if any) and said adjacent sidewalks shall be included in the Common Expenses and charged to all Units Pro Rata to their respective Common Interests.

R-4.1.3. Repairs to Sidewalks. All Sidewalk Cleaning Obligations and Sidewalk Repair Obligations shall be performed by or on behalf of the Condominium Board as part of the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests (see Section B, subsection B-5.9 above for further discussion).

R-4.2. Furnishings and Painting of Units. Generally, Unit Owners may furnish, paint and Decorate their Units Freely and Without Consent, Payment or Restriction, other than the following restrictions, which are applicable to only Sold Units:

(a) the windows, the skylights (if any), the public side of a street entrance door to a Sold Unit or any portions of a Sold Unit exposed to public view shall not be painted (or otherwise Decorated) without first obtaining the prior written Discretionary Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period) Sponsor;

(b) the interior sides of windows and skylights (if any) are to be washed and cleaned in accordance with applicable Laws (the Condominium Board will be responsible to wash and clean the exterior side of the windows and skylights as a Common Expense charged to all Unit Owners Pro Rata to their respective Common Interests);

(c) all window blinds, shades, curtains and treatments of Sold Units are to be light colored or have light colored backings facing outdoors in accordance with the Condominium Association's rules and regulations, as such rules and regulations may change from time to time by the Condominium Board (any such changes shall be subject to the Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period); and

(d) the Sold Unit's windows, skylights (if any), and the doors to the Sold Unit's street entrance (including hardware and saddles) may not be replaced or Altered without Obtaining the prior written Discretionary Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of a permanent new or amended Certificate of Occupancy changing the caretaker's apartment for use as an office and authorizing the Commercial Unit for the permitted retail and office uses set forth in this Plan) Sponsor, except the Owner of the Sold Roof Terrace Unit shall have the right to remove, seal and deck over its skylights (which serve Unit 500 under a revocable license) subject only to obtaining the prior written Reasonable Approval or Consents of the Condominium Board and (during only the Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy) Sponsor (see SPECIAL RISKS Section A, subsection A-19.12 above).

See Article 10, Section 10.14 of the Declaration and Article 5, Section 5.1 of the By-Laws. The foregoing restrictions and requirements are not applicable to Unsold Units, which may be furnished, painted, Decorated and Altered Freely and Without Consent, Payment or Restriction, except all Units must comply with the applicable Work Requirements contained in Section 15.2 of the Declaration and applicable Laws.

R-4.3. Acts or Omissions. Pursuant to the By-Laws, any Repair or Maintenance to the Common Elements necessitated by the acts, omissions, negligence, misuse, abuse or neglect of an Owner, tenant, or occupant of a Unit, or such Party's Agents, Employees and Contractors, shall be Repaired by the Condominium Board at the expense of such Unit Owner (all amounts expended by the Board for the Repair shall be charged to the Unit as Additional Common Charges). Such Unit Owner's liability, however, shall be reduced by the amount of any insurance proceeds received and collected by the Condominium Board in connection therewith. See Article 5, Section 5.4 of the By-Laws.

R-4.4. Access to Units.

R-4.4.1. All Units. Each Unit Owner must grant access to its Unit by the Condominium Board and its Agents, Employees and Contractors for the following purposes:

(a) to conduct inspections and read meters;

(b) to Maintain, Repair, Alter and otherwise Operate Equipment and Installations comprising the Common Elements and to provide services to the Unit Owners; and

(c) to perform Work necessary: (c-1) to fulfill obligations under the Condominium Documents or applicable Law; (c-2) to prevent damage to another Unit or the Common Elements; (c-3) to remedy violations or conditions that constitute violations; (c-4) to remedy an uncured default by the Unit Owner under the Condominium Documents; or (c-5) to remedy a condition endangering another Unit or the Common Elements or to avoid the suspension of any necessary services.

Access is to be granted on giving the Unit Owner advance written notice of not less than three (3) business days (if served by mail) or two (2) business days (if served by hand delivery), except in an emergency access may be immediate without advance notice. In the case of access to remedy an uncured default or a condition endangering another Unit or the Common Elements or involving a necessary service, if not an emergency, the Unit Owner shall be afforded an opportunity to perform the corrective Work within 10 calendar days from giving of notice thereof (or if not capable of being performed with due diligence and continuity within such 10 day period) such longer period as required to perform the corrective Work with due diligence and continuity (but not longer than 90 calendar days). See Article 12, subsection 12.1 of the Declaration.

R-4.4.2. Commercial Unit. In addition to the foregoing, the Condominium Board, and those Agents, Employees and Contractors who are so expressly authorized in writing by the Condominium Board, shall have an easement and right of reasonable access to, from, through, across and on the Commercial Unit or, to the extent possible and economically practical, only the non-public portions of the Commercial Unit, to inspect, Maintain, Repair, Alter and otherwise Operate any and all Equipment and Installations (including replacements of then existing Equipment and Installations, if any, with new Equipment and Installations) substantially within the confines of their then current spaces and locations in the meter and equipment rooms comprising the Common Elements on the cellar level. In addition, if The City of New York revokes the right or license to use a Vault, the Condominium Board shall have an easement and right to relocate the Equipment, Facilities and Installations then housed therein to other portions of the Common Elements or, if and to the extent economically impractical, to an area of the Commercial Unit as shall reasonably be determined by the Commercial Unit Owner. Such easements and rights may be exercised and performed Freely and Without Consent, Payment or Restriction, other than the following:

(a) the requirement to comply with certain Installation Requirements and Work Requirements contained in the Declaration;

(b) the restrictions and limitations: (b-1) not to unreasonably invade, penetrate or disturb any commercially rentable, exposed indoor public areas of such Commercial Unit other than for a reasonably temporary period; and (b-2) not to permanently prevent, nor unreasonably interrupt or interfere with, the permitted Use and Enjoyment of the

Commercial Unit (or any portion thereof), or the proper and efficient performance, function, capacity or utility of the Commercial Equipment or the Operation or business of the Owner of such Commercial Unit or the tenants or occupants of such Commercial Unit or any portion thereof;

(c) the obligation to Repair any damage to the Commercial Unit caused by the exercise and performance of such easement and right so as to restore the damaged area and any Installations to as near as reasonable and economically practical to the condition existing immediately prior to such exercise and performance (the Costs and Expenses of such Repair shall be part of the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests);

(d) the further obligation of the Condominium Board, as a Common Expense (charged to all Unit Owners Pro Rata to their respective Common Interests), to indemnify the Commercial Unit Owner, and such Owner's agents and employees, from and against all Claims and Liabilities and Expenses arising in connection with the exercise and performance of such easement and right; and

(e) in the event access and entry to any commercially rentable or public area of such Commercial Unit is required: (e-1) such access and entry shall be at such times reasonably convenient and on giving reasonable prior written notice to the Owner of the Commercial Unit, who shall have the right to have a representative present at all times during such entry; and (e-2) such access and entry shall comply with any security and protection procedures and requirements as may be reasonably required by the Commercial Unit Owner, or an affected tenant or occupant of such Commercial Unit, provided such procedures and requirements shall not preclude such entry.

See SPECIAL RISKS Section A, subsection A-2.6 above.

R-4.4.3. Roof Terrace Unit. The skylights of Office Unit 500 are part of the Roof Terrace Unit and provide light to Office Unit 500 under a revocable license (see SPECIAL RISKS Section A, subsection A-19.12 above for the right of the Owner of the Roof Terrace Unit, at any time, to remove, seal and deck over said skylights). Until the Owner of the Roof Terrace Unit revokes said license, the Owner of Office Unit 500 shall have the obligation, at its sole Cost and Expense, to Maintain and Repair said skylights and the right for reasonable access by such Owner and its Agents, Employees and Contractors to, from, over, across and on the Roof Terrace Unit to inspect, Maintain, Repair, Alter and otherwise Operate said skylights.

In addition, the air-conditioning Equipment and related Installations serving, and part of, each of Office Units 400 and 500 are located on portions of the area of the main Roof reserved for installation of the Roof Terrace Unit (see SPECIAL RISKS Section A, subsection A-19.13 above for the right of the Owner of the Roof Terrace Unit, at its sole Cost and Expense, at any time, to relocate said air-conditioning Equipment and related Installations to another area of the Roof Terrace Unit or the common area of the Roof chosen by the Roof Terrace Unit Owner). Until the air-conditioning Equipment and related Installations are so relocated, the respective Owners of Office Units 400 and 500 shall each have a revocable license for the existence of its air-conditioning Equipment and related Installations in their present locations on the Roof Terrace Unit and a right of reasonable access by each such Owner and its Agents, Employees and Contractors to,

from, over, across and on the Roof Terrace Unit to inspect, Maintain, Repair, Alter and otherwise Operate said air-conditioning Equipment and related Installations.

The foregoing rights of access by the respective Owners of Office Units 400 and 500 shall be subject to strict compliance with the Access Requirements, which are as follows:

(a) the requirement to comply with the Installation Requirements and Work Requirements contained in the Declaration;

(b) the restriction and limitation to not unreasonably interrupt or interfere with the permitted Operation, business Use or Enjoyment of the of the Roof Terrace Unit by the Owner, tenants or occupants of the Roof Terrace Unit;

(c) the obligation, at the sole Cost and Expense of the Owner of Office Unit 400 or 500 (as applicable), to Repair any damage to the Roof Terrace Unit caused by the exercise and performance of such right of access so as to restore the damaged area and any Installations thereon to as near as reasonable and economically practical to the condition existing immediately prior to such exercise and performance;

(d) the further obligation of the Owner of Office Unit 400 or 500 (as applicable), at its sole Cost and Expense, to indemnify the Roof Terrace Unit Owner, and such Owner's agents and employees, from and against all Claims and Liabilities and Expenses arising in connection with the exercise and performance of such right of access; and

(e) the requirement to access the Roof Terrace Unit at such times as shall be reasonably convenient and on giving reasonable prior written notice to the Owner of the Roof Terrace Unit, who shall have the right to have a representative present at all times during such access; and

(f) such access shall comply with any security and protection procedures and requirements as may be reasonably required by the Roof Terrace Unit Owner, or an affected tenant or occupant of the Roof Terrace Unit, provided such procedures and requirements shall not preclude such access.

In event of any breach or violation of the foregoing Access Requirements, the Roof Terrace Unit Owner shall all rights and remedies at law and in equity, including the right to enjoin a continuing or future violation of said Access Requirements. See SPECIAL RISKS Section A, subsection A-2.6.2 above.

R-5. Additions, Alterations and Improvements

R-5.1. Terms and Conditions Generally. The rights and obligations of Unit Owners and the Condominium Board with respect to additions, Alterations and improvements, the requirements for consents and for the Work, and applicable aesthetic controls are summarized below.

R-5.1.1. Rights and Obligations of Unit Owners. Each Unit Owner shall have the right to make additions, Alterations and improvements to its Unit and its appliances, Equipment and Installations, but a Sold Unit Owner must obtain the prior written approvals or consents of the Condominium Board and (where indicated) Sponsor for certain Work and comply with certain

requirements summarized in subsection R-5.2 below and set forth more fully in the Declaration (see Article 14, Section 14.3 and Article 15, Section 15.2) and the By-Laws (see Article 5, Section 5.2).

R-5.1.2. Rights and Obligations of Condominium Board. The Condominium Board shall have the right to make all necessary or desirable additions, Alterations and improvements (collectively, "**Board Alterations**") to the Equipment, Systems and Installations comprising the Common Elements or the Association's Properties (if any), but must perform all Work in accordance with the applicable Work Requirements contained in Article 15, Section 15.2 of the Declaration and obtain the following approvals or consents before undertaking certain Board Alterations as provided in the Declaration (see Article 14, Section 14.5.2): (a) all Board Alterations to be paid from an increase in Common Charges or a Special Assessment or loan cannot be undertaken during only the Sponsor Veto Control Period without obtaining the prior written Discretionary Approval or Consent of Sponsor; (b) all Board Alterations that will affect the use, occupancy or Operation of an Unsold Unit or the business of the Owner or a tenant of an Unsold Unit, or any Building service to be provided to the Unsold Unit shall not be undertaken without obtaining the prior written Discretionary Approval or Consent of the Owner of such Unsold Unit; and (c) all Board Alterations that will require a work permit or other governmental authorization shall not be undertaken without obtaining the prior written Discretionary Approval or Consent of Sponsor until the issuance of said permanent new or amended Certificate of Occupancy changing the caretaker's apartment for use as an office and authorizing the Commercial Unit for the permitted retail and office uses set forth this Plan.

The Costs and Expenses of Board Alterations to the Common Elements and the Association's Properties (if any) shall be included in the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests

R-5.2. Consents and Requirements for Unit Additions, Alterations and Improvements.

R-5.2.1. Work Not Requiring Consent. No consent or approval of the Condominium Board or other Unit Owners shall be required with respect to the following Work by a Unit Owner:

(a) furnishing, painting or otherwise Decorating the indoor portions of a Sold Unit that do not involve the Unit's windows or skylights (if any), or the public side of the door to the Unit's street entrance;

(b) any additions, Alterations or improvements to the Unit and its appliances, Equipment and Installations (collectively, "**Unit Alterations**") made by an Authorized First Sold Unit Owner that are approved or consented to in writing by Sponsor (see Section O, subsection O-1.4 above); and

(c) all Unit Alterations to Unsold Units, whether structural or non-structural, extraordinary or ordinary, or otherwise.

R-5.2.2. Consents and Requirements.

Consents. All other Unit Alterations to Sold Units cannot be performed without first obtaining all required approvals, permits and work orders of Governmental Authorities having jurisdiction, and the following approvals or consents:

(a) Unit Alterations or Decorations affecting the Structural Components of the Building or a Sold Unit's windows or skylights, the public side of a Sold Unit's street entrance or any portion of a Sold Unit exposed to public view will require the prior written Discretionary Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy changing the caretaker's apartment for use as an office and authorizing the Commercial Unit to be used for the permitted retail and office purposes contained in this Plan) Sponsor; and

(b) Unit Alterations affecting the HVAC/Mechanical/Utility Building Systems will require the prior written Reasonable Approval or Consent of the Condominium Board.

No approvals or consents of the Board or Unit Owners are required for Unit Alterations or Decorations to Unsold Units.

Requirements. If such approvals or consents are obtained, the Sold Unit Owner must comply with the following requirements as provided in the By-Laws (see Article 5, Section 5.2.4):

(a) before commencing any Work, the Unit Owner, if requested, must sign and deliver to the Condominium Board an alteration agreement (on the standard form for the Building adopted by the Condominium Board with such modifications and otherwise in substance satisfactory to the Board, in its sole judgment) setting forth the terms and conditions of the Work, which typically include the following: (a-1) Work rules; (a-2) insurance requirements; (a-3) an indemnity in favor of the Board, its agents and employees, and Unit Owners against Claims and Liabilities and Expenses arising from the Work; (a-4) a security deposit; (a-5) submission of plans and specifications of the Work prepared by a registered architect and/or licensed engineer for approval of the Board's architect and/or engineer; (a-6) a period within which the Work must be completed or substantially completed; (a-7) rights and remedies of the Board to (among others) suspend the Work and perform corrective Work at the Unit Owner's expense if the Unit Owner violates the alteration agreement; and (a-8) payment of all governmental fees and the costs, expenses and charges of the Board, including any attorney, architect, engineer or other consultant engaged by the Board, and the Managing Agent, whose fee for Unit Alterations set forth in Section W, subsection W-1.3 below shall be deemed reasonable; and

(b) the Unit Alterations must be performed by duly licensed contractors (if and to the extent required by Law) in accordance with the terms and conditions of the alteration agreement, the plans and specifications for the Work, the requirements of Law and all Governmental Authorities having jurisdiction, and the applicable Work Requirements set forth in Article 15, Section 15.2 of the Declaration.

The foregoing requirements are not applicable to Unit Alterations to Unsold Units, which may be made Freely and Without Consent, Payment or Restriction, other than the requirements to comply with applicable Laws and the applicable Work Requirements contained in said Section 15.2 of the Declaration.

R-5.3. Aesthetic Controls and Architectural Requirements. Pursuant to the general powers of the Condominium Board, all determinations as to aesthetics and architectural requirements for the portions of Sold Units, the Common Elements and the Association's Properties exposed to public

view shall be made by the Condominium Board in order to preserve the architectural integrity and appearance of the Building and to maintain the value of all Units. For similar reasons, Sponsor has also reserved the right, during only the Sponsor Veto Control Period and until said permanent new or amended Certificate of Occupancy of the Building is issued, to require all Repairs, Alterations and Decorations affecting the portions of the Sold Units exposed to public view to be approved by Sponsor. See subsection R-4.2(a), (c) and (d) above for aesthetic controls and architectural requirements applicable to Sold Units that are subject to the Discretionary Approvals or Consents of the Condominium Board and (during only the Sponsor Veto Control Period and until said new or amended permanent Certificate of Occupancy of the Building is issued) Sponsor.

R-5.4. Commercial Signage Easement Area. The Commercial Unit Owner shall have the right, Freely and Without Consent, Payment or Restriction, to install, affix, hang, erect, Maintain, Repair, Alter and otherwise Operate all manner of Signs on the portion of the Building Wall that is parallel to the boundary walls of the Commercial Unit and extends from the sidewalk immediately adjacent to the entire frontage of the Commercial Unit on Greenwich Street to a horizontal plane running on, along and immediately below the exterior window sills or (if none) windows of floor 1 (i.e., the construction floor above ground level) and on or immediately adjacent to the Greenwich Street and Vandam Street entrances to the Commercial Unit (i.e., the "Commercial Signage Easement Area"). (See SPECIAL RISKS Section A, subsection A-2.5 above).

R-5.5. Lot Line Windows. Each of the following Office Units has one (1) or more lot line windows located on the south façade of 100 Vandam Street: Office Unit 200 (one lot line window), Office Unit 400 (three lot line windows) and Office Unit 500 (six lot line windows). Lot line windows must be closed and walled-up when a building on an adjacent lot is constructed or altered within a certain distance from them. The removal of an affected lot line window, the closure and sealing of the opening upon such removal, and the covering of the interior side thereof with only the Building standard wall finishing shall be performed by the Condominium Board as a Common Expense and charged to all Unit Owners Pro Rata to their respective Common Interests. The Condominium Board shall not be required to match the finishing on the walls immediately adjacent to the affected lot line window or any finishing that might have been installed by the Owner of the affected Unit, which may be undertaken by said Unit Owner, at its sole Cost and Expense, if desired. Sponsor is not aware of any planned building construction or alteration that would affect the lot line windows, but cannot, and does not, represent, assure or guarantee the continued existence of any lot line windows.

The existing lot line windows are not fire rated and do not have wire glass as is currently required by applicable Law. The Owner of the affected Unit, at its sole Cost and Expense, will be responsible to replace its lot line window(s) with a code-compliant fire-rated window(s), if a violation with respect thereto is issued or noted. In addition, the respective Owners of Units 400 and 500, at each such Owner's sole Cost and Expense, shall have the right to install ventilation fans and related Installations on the common area of the main Roof and through the common areas of floors 4 and 5 Reasonably Approved by the Board in order to provide mechanical ventilation to its Unit in the event its lot line windows are closed.

See SPECIAL RISKS Section A, subsection A-19.5 above for discussion and the estimated current costs of the foregoing work at the date of the architect's Report.

R-6. Insurance. The insurance coverage to be provided by the Condominium Board, the insurance coverage each Unit Owner will be responsible to obtain (if desired), the insurance

coverage to be obtained under the Plan and the allocation of insurance proceeds are summarized below and set forth in detail in Article 6 of the By-Laws.

R-6.1. Insurance Coverage Provided by Condominium Board. Pursuant to the By-Laws (see Article 6), the Condominium Board is required to obtain the following insurance coverages:

(a) "all risk" fire and casualty insurance coverage insuring the Common Elements (including the Party Walls, Base Floors and Base Ceilings enclosing Units) and the Association's Properties (e.g., any Unit owned or leased by the Board or its nominee or designee), and covering the interests of the Condominium Association, the Condominium Board, the Unit Owners and their mortgage lenders, as their respective interests may appear, in an amount sufficient to waive co-insurance or based upon an "agreed amount" replacement cost; containing (to the extent obtainable) waivers of subrogation, any defense based on co-insurance or other insurance, invalidity based on acts of an insured party and pro rata reduction of liability; containing a New York standard mortgagee provision in favor of mortgagees of Units, but subject to the loss payment provisions in favor of the Condominium Board; and requiring at least 10 calendar days' prior written notice to the Condominium Board of cancellation or expiration of the policy;

(b) liability insurance coverage insuring against liability for personal injury or property damage in or upon the Common Elements, the Association's Properties (e.g., any Unit owned or leased by the Board or its nominee or designee), and the sidewalks immediately adjacent to the Property, naming as co-insureds the Condominium Board, its members, officers, agents and employees, and all Unit Owners, as their respective interests may appear, and in such amounts and umbrella coverage as shall be determined in the discretion of the Condominium Board, but not less than the liability coverage provided in the First Year's Budget (SCHEDULE B in Section E above) without obtaining the prior written Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period;

(c) boiler and machinery insurance on Equipment constituting part of the Common Elements or the Association's Properties; and

(d) worker's compensation insurance, New York disability benefits insurance and employer's liability coverage covering the Condominium Association's employee(s).

No coverage will be obtained by the Condominium Board to insure against: (a) loss or damage to the contents of Units (e.g., furniture, furnishings, appliances, equipment, Decorations, business or trade fixtures, records or other personal property); or (b) liability for personal injury or property damage for occurrences in or upon the Unit. Each Unit Owner should consider the desirability of obtaining, at its expense, these insurance coverages and liability coverage for the Unit's undivided interest in the Common Elements, to the extent the insurance maintained by the Board for incidents, on or caused by the Common Elements, is inadequate or the risk is not insured.

R-6.2. Other Available Coverages. The Condominium Board may also obtain such other insurance coverages as the Board shall determine from time to time, including: (a) directors and officers liability insurance; (b) business interruption insurance; (c) elevator collision insurance; (d) water damage legal liability insurance; (e) combination crime insurance; and (f) non-owned and hired automobile liability insurance.

At or prior to the First Unit Closing, Sponsor shall obtain, at the expense of the Condominium Board, the insurance coverages set forth in the First Year's Budget (SCHEDULE B in Section E above). See SCHEDULE B for details of the coverages, deductible amounts and estimated premiums. In subsequent years of Condominium operation, the Condominium Board shall make all determinations concerning insurance to be obtained (including coverages, insured amounts and amounts deductible), subject to compliance with the By-Laws and Sponsor's veto control during only the Sponsor Veto Control Period.

R-6.3. Insurance Proceeds. If less than three-fourths of the Building is destroyed or damaged, the Condominium Board shall promptly arrange to repair and restore the affected Common Elements, and any affected Association's Properties, but not the appliances, fixtures (electric, plumbing or otherwise), equipment, furniture, furnishings, or the other contents or Decorations of Units not owned by the Board or its nominee or designee, which are the sole responsibility of Unit Owners to Repair and restore at their expense.

If three-fourths or more of the Building (including the Units, the Base Floors, the Building Walls, the Roofs and other Common Elements) is destroyed or substantially damaged (i.e., so as to require reconstruction) and 75% or more in number of all Unit Owners (excluding the Units owned by the Board or its nominee or designee for quorum and voting purposes) do not duly and promptly resolve to proceed with the repair or restoration, then the Property or so much thereof as shall remain shall be subject to an action for partition at the suit of any Unit Owner or lienor as if owned in common, in which event the net proceeds of sale and the net proceeds of insurance shall be considered as one fund and shall be divided among all Unit Owners Pro Rata 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 or her share of such fund all liens on his or her Unit. The failure of 75% or more in number of all Unit Owners to promptly resolve to proceed with the repair or restoration shall not result in the termination of condominium ownership of the Property, which may only terminate upon authorization of 95% in number and Common Interest of all Unit Owners to withdraw the Property from the Condominium Act (see section R-12) below). Unless said withdrawal from the Condominium Act is so authorized, in any action for partition, each Unit Owner shall have the right to retain fee title ownership of its Unit in exchange for said Owner's share of the net proceeds of the partition sale and the net proceeds of insurance maintained by the Condominium Board. An Owner who exercises such right, shall be responsible, at its sole Cost and Expense, to repair and restore the Unit and all Common Elements serving and providing a means of ingress to and egress from such Unit. If two (2) or more Unit Owners similarly elect to repair and restore their Units, the Condominium Board will make all determinations with respect to the repair and restoration of said Common Elements. See Article 7 of the By-Laws for discussion.

If the Building is to be repaired or restored, the net proceeds of insurance shall be paid to the Condominium Board or (at the option of the Board if such proceeds exceed $1,000,000) to an Insurance Trustee appointed by the Condominium Board and applied for such purpose. The Board shall allocate the net insurance proceeds to the affected Common Elements and Association's Properties Pro Rata to the costs to repair or restore them. If the net proceeds of insurance shall be insufficient, the Condominium Board may obtain funds to pay the deficit from a Special Assessment levied against all Unit Owners Pro Rata to their respective Common Interests.

R-7. Restrictions on Occupancy and Use.

R-7.1. Restrictions on Use. Sold Office Units are to be used only for standard office uses similar to other Manhattan office buildings in the vicinity of the Building and those uses permitted under existing leases for so long as they remain in effect, and for no other purpose. The Commercial and Roof Terrace Units will not be restricted to any particular use and may be used and changed to be used by the Owner thereof Freely and Without Consent, Payment or Restriction, except as herein expressly provided. No Unit may be used or occupied in a manner that is in violation of the Rules and Regulations appended to the By-Laws (see below) or applicable Laws (including zoning laws and resolutions and the Certificate of Occupancy of the Building) or all or certain (as applicable) of the following Prohibited Uses: (a) any use that impairs or threatens the structural integrity of the Building or the life, health, safety, security or protection of Owners, tenants or occupants of Units; (b) any use of a Sold Office Unit that is an unreasonable nuisance to other Unit Owners or an unreasonable interference with the peaceful possession or proper use of other Units or the Common Elements for their intended or permitted purposes as stated in this Plan and the Condominium Documents (this Prohibited Use does not apply to Unsold Units, the Commercial Unit or the Roof Terrace Unit); (c) any use that violates applicable Laws; or (d) any use that results in the cancellation or a notice of cancellation of insurance maintained by the Condominium Board. In addition, no Unit may be used or occupied in violation of the applicable Offensive Office Uses set forth in Section B, subsection B-5.5.2 above).

R-7.2. Rules and Regulations. The Rules and Regulations annexed to the By-Laws provide, in part, as follows:

1. No Unit Owner shall allow anything whatever to fall from the windows of its Unit or sweep or throw from its Unit any dirt or other substance into or on any of the Common Elements, except for the use of waste lines in the manner for which intended and not prohibited under the Declaration and the By-Laws.

2. Refuse shall be retained within each Unit until the hour of removal by the carting company retained by the Unit Owner. Each Unit Owner shall take its refuse to the sidewalk for pickup by the Unit Owner's private cartage company.

3. Except as otherwise expressly provided in the Declaration and the By-Laws, the Common Elements, including the 100 Vandam Street Public Areas and the elevator, and the sidewalks adjacent to the Building, shall not be obstructed or encumbered by refuse or otherwise (except during the hour of pickup by a Unit Owner's private cartage company), nor used for any purpose other than ingress or egress to and from the Units.

4. Bulky matter of any description, such as freight, furniture and business equipment, shall be delivered to and removed from the Property in the elevator under the supervision of the Building staff, subject to the safety load limit of the elevator. No large quantities of furniture and equipment may be moved into or out of the Building without first making special arrangements therefor with the Condominium Board and obtaining the prior written Reasonable Approval or Consent of the Board.

5. No Office Unit Owner shall cause or permit any disturbing noises or objectionable odors to be produced upon or to emanate from its Unit. No Office Unit Owner shall use, play, operate or permit to be used, played or operated any sound making or sound reproducing

device in its Unit, except in such manner and under such conditions so that the same shall not disturb or annoy occupants of other Units;

6. No Unit Owner shall permit or keep in its Unit any inflammable, combustible or explosive material, chemical or substance, except such products as are required in the normal professional and business use permitted in such Unit.

7. No Unit Owner shall place a load upon any floor of its Unit exceeding the floor load per square foot area which it was designed to carry and which is allowed by Law. The Board shall have the right to prescribe reasonable requirements for the weight and position in any Sold Unit of all unusually heavy objects. All such unusually heavy objects shall be placed and maintained by each Unit Owner at its sole cost and expense in settings sufficient, in the reasonable judgment of the Board, to absorb and prevent vibration, noise and annoyance.

8. No Unit Owner shall permit any individual to enter any telephone or electrical closet within its Unit unless the individual is qualified to do so.

9. Any additional elevator service must be requested in writing by the Unit Owner at least one (1) business day in advance and must be for such minimum number of hours as the Board shall reasonably prescribe or as required by any union contract in effect with respect thereto.

10. Each Sold Unit Owner shall: (a) submit for inspection by the Board and its agents and employees any governmental license or permit required for the lawful conduct of any business carried on in its Unit; (b) keep clean at all times the interior side of windows in its Unit (including the frames thereof); and (c) at no time, either directly or indirectly, use any contractors and/or materials in connection with any Work in its Unit, if the use of such contractors and/or materials would or will create any difficulty with other contractors and/or labor engaged by the Board and/or Sponsor in the maintenance and/or operation of the Building and/or the other Units.

11. Except as otherwise provided in the Declaration and the By-Laws, no Sold Office Unit Owner shall exhibit, inscribe, paint or otherwise affix any Sign outside its Unit or in or on any part of the Common Elements without the prior written Discretionary Approval or Consent of the Board. No Sold Office Unit Owner shall maintain or install Signs it its Unit which are visible from outside of its Unit. In the event that a Sign is installed or maintained in violation of any of the provisions of the foregoing by any Sold Office Unit Owner, the Board may, in addition to any and all other rights provided in the Declaration, the By-Laws and the Rules and Regulations, remove such Sign without any liability therefor, and the expense incurred in such removal shall be assessed as an Additional Common Charge against such Owner's Sold Office Unit and shall be payable by such Sold Office Unit Owner immediately following written demand.

12. The Board shall not be required to establish or maintain a Building directory of tenants or occupants of Units.

13. The Board may prohibit admission to the Building outside of ordinary business hours by any person unless the person (a) is known to the Condominium Association's security guard (if any) in the Building; or (b) has a pass issued by a Unit Owner; or (c) is otherwise properly

identified. The Board may require registration or other recording of all persons admitted to or leaving the Building outside of ordinary business hours.

Further restrictions on the use of Units are set forth in the Declaration, By-Laws and in the Rules and Regulations reproduced in Part II of the Plan.

R-7.3. Aesthetic Controls. Sold Office Units must comply with the following aesthetic requirements: (a) no glass surfaces of a window may be painted, colored or otherwise covered; (b) all window shades, blinds, curtains and other treatments must be light colored or have light colored backings facing the outdoors in conformity with the Rules and Regulations annexed to the By-Laws, and Amendments thereto duly adopted by resolution of the Condominium Board from time to time (said Amendments shall be subject to obtaining the prior written Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy for Unit 500 (to change the caretaker's apartment for use as an office) and the Commercial Unit); (c) no windows or doors to a Unit's entrance (including hardware and saddles) may be replaced or otherwise Altered without obtaining the prior written Discretionary Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy for Unit 500 and the Commercial Unit) Sponsor; (d) no radio antennae, satellite dishes or other communication devices may be installed on, or projected from, a window, Building Wall or Roof (other than a Roof area dedicated by the Board or the Sponsor for such purpose, if any, and subject to obtaining the prior written consent of the Upper Owner) or other area visible from the street; and (e) no "For Sale", "For Rent" or other Signs may be installed on or otherwise displayed from windows or other areas visible from the street. The foregoing restrictions are not applicable to Unsold Units. See Section 10.13 of the Declaration.

R-7.4. Limitation on Business or Professional Use. Sold Office Units are to be used only as standard offices in Manhattan office buildings in the vicinity of the Building and those uses permitted under existing leases for so long as they remain in effect, and for no other purpose. This limitation is more restrictive than that applicable to Sponsor's Unsold Office Units, which may be used for all lawful purposes (other than Prohibited Uses), including as models and offices for the sale, Promotion, rental, Operation and management of Unsold Units.

R-7.5. Occupancy Restriction. There is no restriction on occupancy of Unit other than the requirement to comply applicable Law and the restriction against occupying a Unit in violation of the limitation on permitted uses or the restriction against Prohibited Uses and Offensive Office Uses.

R-7.6. Restrictions on Illegal or Offensive Uses. No Unit may be used for any Prohibited Uses and no Sold Office Unit may be used for Offensive Office Uses (see SPECIAL RISKS Section A, subsection A-26 and subsection R-7.1 above). In addition, no Sold Office Unit Owner shall cause or permit disturbing noises or objectionable odors to emanate from its Unit. No Unit Owner shall place unsafe loads on any floor of its Unit (see subsection 7.2 above for other Rules and Regulations).

R-7.7. Limitations in Utilization of Common Elements. The Common Elements are to be Used and Enjoyed in common by all Unit Owners, and their respective Permitted Tenants/Occupants/Invitees for all purposes for which they are reasonably intended, suited and capable. The Condominium Board shall have the right to determine, and to amend the Rules and

Regulations governing, the use of the Common Elements, provided such uses shall be in accordance and compliance with, and subject and subordinate to the rights and easements provided in, the Declaration and By-Laws. See Section O, subsection O-1.6 for summary of rights and easements of Sponsor to use the Common Elements. See also subsection R-14.12 below for summary of rights and easements of Sponsor and Unsold Unit Owners to use the Common Elements. For applicable provisions, see Articles 10, 11 and 12 of the Declaration and Article 11 of the By-Laws.

R-7.8. Limitations in Certificate of Occupancy and Zoning Law. The Certificate of Occupancy limits the use of Office Units to commercial (including office) and certain manufacturing uses. The foregoing uses are permitted by the current zoning for the Property, which is zoned M 1-6 and permits office, community facility and certain commercial uses as of right. The Commercial Unit is not listed on the current Certificate of Occupancy. Sponsor has undertaken to obtain a new or amended Certificate of Occupancy to authorize the Commercial Unit to be used for permitted retail and office purposes set forth in this Plan and to change the caretaker's apartment for use as an office so that all portions of Office Unit 500 may be used as offices. The Roof Terrace Unit is not listed, and is not required to be authorized for use, on the Certificate of Occupancy.

SPECIAL RISK: The Commercial Unit is not limited to any particular use and may be used and changed to be used as a restaurant, bar, tavern, food store, art gallery, clothing store, bank, office, gym, spa or any other lawful purpose, whether or not similar to the foregoing, but may not be used for applicable Prohibited Uses or Offensive Uses. The use of the Commercial Unit may be noisy, emit odors, involve heavy traffic and cause other effects that need not be compatible with the primary use of the Building for office purposes. See Section A, subsection A-2 above.

R-8. Remedies. The remedies available to the Condominium Board and Sponsor (as Owner of an Unsold Unit) in the event of a violation of the Declaration or By Laws for other than non-payment of Common Charges or Additional Common Charges (including Special Assessments) are contained in Article 17 of the By-Laws and include the following:

(a) Self-Help: if a Unit Owner fails to cure a violation within 30 calendar days (or 90 calendar days in certain cases) after being given written notice of the violation, the Condominium Board or (in its absence and during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy for the Commercial Unit and Unit 500) Sponsor shall have the right (but will not be obligated) to remedy the violation for the account and at the expense of the Unit Owner, who will also be liable for all Costs and Expenses of collection thereof (all amounts owed to the Board shall constitute Additional Common Charges payable by such Unit Owner); provided, however, in an emergency, the foregoing remedy of self-help may be exercised immediately, without prior notice and without allowing the Unit Owner a cure period; and

(b) Abatement and Enjoinment: the Condominium Board or (in its absence and during only the Sponsor Veto Control Period and until issuance of said new or amended permanent Certificate of Occupancy for the Commercial Unit and Unit 500) Sponsor may bring suit to abate, enjoin or remedy the continuance or repetition of any violation by a Unit Owner and to recover from a Unit Owner all Costs and Expenses incurred in connection with such violation and such suit, together with the Costs and Expenses of collection thereof.

R-9. **Arbitration**. Apart from certain matters expressly stated may not be submitted to arbitration, any other matter required or permitted by the Condominium Documents to be determined by arbitration will be submitted to three (3) arbitrators (in the case of claims aggregating in excess of $100,000) or a single arbitrator (in all other cases) in New York City in accordance with the then existing commercial arbitration rules of the American Arbitration Association (or any successor organization). The decision of a majority of the arbitrators or the arbitrator (as applicable) will be binding on the disputants and may be entered into any court having jurisdiction.

The fees, Costs and Expenses of the arbitrator(s) will be paid equally by the disputants, unless otherwise determined by the arbitrator(s). Each disputant will pay the fees, Costs and Expenses of the disputant's attorney and witnesses. All amounts paid by the Condominium Board in an arbitration will constitute a Common Expense and charged to all Unit Owners Pro Rata to their respective Common Interests.

See SPECIAL RISKS Section A, subsection A-32 above.

R-10. **Rules and Regulations**. Unit Owners will be required to comply with the Rules and Regulations attached to the By-Laws (see Addendum to DOCUMENT 7 in Part II of this Plan), as they may be amended from time to time by a majority vote of those Board Members attending a duly constituted Board meeting at which a quorum is present. The Rules and Regulations, including Amendments thereto, may be overruled by vote of a majority in number and Common Interest of those Unit Owners attending a duly constituted meeting of Unit Owners at which a quorum is present. Unit Owners will be given a copy of any Amendment to the Rules and Regulations at least thirty (30) calendar days before it becomes effective.

The Rules and Regulations and any Amendments to them are subordinate to Sponsor's Rights under this Plan, a Plan Amendment and the Condominium Documents. Accordingly, any Rules and Regulations, as they may be amended, which violates the superior rights of Sponsor and Unsold Unit Owners will not be enforceable against them.

R-11. **Successors and Assigns**. The powers and duties of a Unit Owner under the Condominium Documents will pass to the Unit Owner's successors and assigns and (in the case of Sponsor Units, including Unsold Units) Sponsor's designees. However, the Sponsor's Rights (i.e., the rights, powers, easements, licenses, indemnities, privileges, exemptions, remedies, protections and other benefits) reserved exclusively for Sponsor and Sponsor's designee may only be exercised by Sponsor or an Unsold Unit Owner, or a "Designee" or "Involuntary Transferee" of either, or a "Successor in Interest" of any of the foregoing (as said quoted terms are defined in Article 28 of the Declaration). In addition, subject to compliance with the Declaration, a Permitted First Mortgagee or a purchaser at a foreclosure sale of a Permitted First Mortgage or of the Condominium Board's lien under the Condominium Act will not be responsible for any unpaid Common Charges (including unpaid installments of any Special Assessments) of the delinquent predecessor Unit Owner. Rather, such Permitted First Mortgagee or purchaser at a foreclosure sale will be responsible only for the obligations that accrue from and after becoming the Owner of the Unit (including Common Charges, installments for Special Assessments and any other amounts that become due and payable from and thereafter).

R-12. **Termination of Condominium**. The Condominium shall continue until the occurrence of any of the following events ("**Condominium Termination Events**"):

(a) a taking by condemnation or eminent domain of the entire Property; or

(b) a withdrawal of the Property from the Condominium Act authorized by Unit Owners owning more than 95% in number and Common Interest of all Units, in writing or by vote cast by written ballot at a meeting of Unit Owners at which a quorum is present, duly called for such purpose; provided, however, that a vote of a Unit Owner in favor of withdrawal shall not be effective or counted without the prior written consent of the holder of a "Registered Mortgage" (as defined in Section 16.13 of the By-Laws) on such Owner's Unit, if any and if such mortgage so provides (see Section 19.1 of Declaration for details), and provided further that Sponsor or its designee (as applicable), as Owner of Unsold Units, will not vote its interests appurtenant to any Unsold Units for such withdrawal unless more than said 95% in number and Common Interest of all other Unit Owners have voted in favor of such withdrawal, at which time Sponsor or its designee (as applicable) may choose to vote either in favor of, or against, withdrawal from condominium ownership, as it sees fit.

The Condominium Board and its nominee or designee shall have no voting rights with respect to any Units owned by each of them and such Parties and Units shall be excluded from the base number of Owners, Units and Common Interests for quorum and voting purposes in determining whether such 95% threshold is met.

In the event the entire Property is taken pursuant to said clause (a) above, then the award of the taking authority shall be apportioned among all Unit Owners Pro Rata to the respective then existing fair market values of the Units and their respective appurtenant undivided interest in the Common Elements as provided more fully in Article 19 of the By-Laws. In the event of withdrawal of the Property from the Condominium Act, the Property shall be subject to an action for partition by any Unit Owner or lienor as if owned in common. The net proceeds of sale resulting from such action for partition shall be divided among all Unit Owners Pro Rata 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 its share of such funds, such amounts as may be necessary to discharge all unpaid liens on the Owner's Unit in the order of the priority of such liens.

R-13. **Incurring Debt**. The Condominium Board may not borrow any sum during the Sponsor Veto Control Period without first obtaining Sponsor's prior written Discretionary Approval or Consent therefor. Thereafter, the Condominium Board may incur debt without the approval or consent of Sponsor or other Unit Owners. Any debt incurred by the Board in accordance with this Plan and the By-Laws may be secured by the Board as follows: (a) the Board may assign the rights in and to future income and Common Charges; (b) the Board may create a security interest, mortgage or other encumbrance on funds or other real or personal property held by the Board, (c) the Board may agree the Common Charges received and to be received by the Board shall constitute trust funds for the purpose of paying the debt; and (d) the Board may agree to increase Common Charges at lender's direction to the extent necessary to pay any amount when due under the debt instruments, all as provided more fully in Real Property Law Section 339-jj.

END OF SECTION R

This Page Intentionally Left Blank

SECTION S. REAL ESTATE TAXES

S-1. Separate Assessment of Units. Each Unit will be assigned a separate tax lot upon the recording and filing of the Condominium Documents at the Register's Office for Manhattan. After the Units are separately assessed and billed for 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 of, nor will its Unit be subjected to, any lien arising from the non-payment of taxes on other Units.

S-1.1. Delay in Separate Assessments. Generally, the Units will not be separately assessed and billed for real estate taxes by the taxing authority for a period of approximately six (6) months following the recording and filing of the Condominium Documents. Until then, real estate taxes will continue to be assessed to the entire Property, which shall be included in the General Common Expenses and specially allocated and apportioned among the Units by the Condominium Board pursuant to the Special Allocation and Apportionment Rule and RPL Section 399-m as explained below.

S-1.2. Procedure to Pay Real Estate Taxes to Board. While the real estate taxes are assessed to the entire Property, each Unit Owner will pay its share of such taxes ("**Tax Share**") to the Condominium Board as Additional Common Charges of the Unit, which shall be allocated and apportioned among the Units in the same manner used to determine the estimated amount of real estates of each Unit in SCHEDULE A of Offering Prices (see Section D above). In accordance therewith, the Property's real estate taxes will be allocated and assessed to all Units Pro Rata to their respective Common Interests (see subsection S-2 below for discussion).

S-1.3. Adjustments. After the Units are separately assessed and billed for real estate taxes, each Unit Owner whose Unit was not separately billed for real estate taxes at title closing will adjust with the Condominium Board any overpayment or underpayment in the real estate taxes payable to the Condominium Board during the interim period before the Unit is separately assessed and billed for real estate taxes ("**Interim Tax Period**"). The adjustment shall be based on the difference between the Tax Share of the Unit at the time of title closing and the product of:

(a) the taxable assessed valuation of the Property at title closing;

multiplied by

(b) the ratio that the initial actual separate assessed valuation of the Unit bears to the aggregate initial actual separate assessed valuations of all Units;

multiplied by

(c) the tax rate applicable to the Unit during said Interim Tax Period.

Once the Units are separately assessed and billed for real estate taxes, the Condominium Board and each Unit Owner will have the right to adjust any overpayment or underpayment of such real estate taxes based on the formula described above. Written notice setting forth a calculation of the amount due must be sent within a deadline of sixty (60) calendar days after the Unit is separately assessed and billed for real estate taxes. SPECIAL RISK: Such sixty (60) calendar day period is a "TIME OF THE ESSENCE", or deadline, period. If notice is not timely sent, no adjustment will be made. See Section A, subsection A-6 and A-27 above. Any underpayment owing to the Condominium

Board will be regarded as Additional Common Charges and, if not paid, will entitle the Condominium Board to all the rights and remedies in the case of non-payment of Common Charges. Any overpayment to the Condominium Board will be credited against (that is, reduce) the next due payments of Common Charges or (at the sole option of the Condominium Board) refunded to the Unit Owner.

See Section N, subsection N-1.3 above for similar adjustment to be made between Sponsor and Purchaser with respect to the real estate taxes apportioned at closing of title.

S-2. Present and Projected Real Estate Taxes.

S-2.1. Present Real Estate Taxes. Real estate taxes are set by the Department of Finance of The City of New York ("**Department of Finance**"). The real estate tax information for the Property for the current fiscal tax year is as follows:

Tax Year	Actual Assessed Valuation[1]	Transitional Assessed Valuation[1]	Tax Rate per $100 of Assessed Valuation	Real Estate Taxes[2]
7/1/08 to 6/30/09	$1,242,000	$1,125,799	$9.87	$111,116

(1) The amount shown is for land and building. Real estate taxes are based on the lower of the actual or transitional assessed valuation (referred to herein as the "**taxable assessed valuation**").

(2) Rounded

S-2.2. Method to Determine Assessment. Real estate taxes are set by the Department of Finance ("**DOF**") based on its determination of a property's fair market value. Lawrence J. Berger, P.C. ("**Berger**") explains in its opinion letter (reproduced at the end of this Section S) that the "capitalization of income" method should continue to be used by the DOF to determine the Property's assessed valuation after the conversion of the Property to condominium ownership, based on Sponsor's representation that no material renovation to the Property is to be undertaken. See subsection S-4.1 below for restrictions or limitations on assessments of condominium units under state laws.

S-2.3. Projected Real Estate Taxes in SCHEDULE A.

The first year of Condominium operation is projected to begin July 1, 2009 and to end June 30, 2010, which corresponds to the 2009/2010 fiscal tax year. The projected real estate taxes in SCHEDULE A are based on the following projections of Berger of the estimated taxable assessed valuation ("**Taxable A.V.**") and the estimated tax rate (expressed as a percentage) applicable for the July 1, 2009 to June 30, 2010 year:

PROJECTED REAL ESTATE TAXES
FOR THE JULY 1, 2009 TO JUNE 30, 2010 TAX YEAR

	All Units
Estimated 2009/2010 Tax Rate	10.548%
Estimated 2009/2010 Taxable A.V.	$ 1,630,711
Estimated 2009/2010 Real Estate Taxes	**$ 172,007***
	[$1,630,711 x 10.548%]

* Rounded

SPECIAL RISK: For purposes only of presenting an estimate of the real estate taxes of each Unit in SCHEDULE A, the projected real estate taxes of the entire Property, as estimated by Berger, have been apportioned to each Unit in the proportion that each Unit's Common Interest bears to the Common Interests of all Units. The method that may be used by the taxing authority to apportion the Property's real estate taxes among the Units is uncertain. The taxing authority, for example, may apportion the Property's real estate taxes among the Units in proportion to each Unit's Common Interest, or a Unit's initial offering price in SCHEDULE A, or a Unit's actual Purchase Price (which is a truer indicator of value, but not the method necessarily used by the taxing authority), or a Unit's square footage, location, overall size, income potential or other extrinsic factors of value, or some combination of the foregoing. See SPECIAL RISK Section A, subsection A-27 above.

Sponsor, Selling Agent and Berger do not represent, assure or guarantee the actual taxable assessed valuation, tax rate, tax class or real estate taxes for any tax year or the actual apportionment of the taxable assessed valuation or real estate taxes by the taxing authority among the Units or the actual amount of the taxable assessed valuation or real estate taxes of each Unit.

S-3. Changes in Assessed Valuation. A property's actual assessed valuation may change from year-to-year based on: (a) improvements to the property, which would increase its actual assessed valuation and be taxable in full in the year the actual assessed valuation is increased; or (b) an increase or decrease in market value of the property, which would correspondingly increase or decrease its actual assessed valuation. An increase in market value will be phased in over five (5) years in equal annual increments of twenty percent (20%). A property's transitional assessed valuation reflects the then current phased-in assessed valuation. A property's "taxable" assessed valuation on which real estate taxes are determined is the lower of its actual or transitional assessed valuation.

Anticipated Changes in Property's Assessment. At the date of this Plan, the projected changes in the assessed valuation and tax rates which will affect the Units are reflected in SCHEDULE A and footnote 6 thereto (see Section D above). See also discussion in the preceding subsection S-2.

S-3.1. RPL §339-y and RPL §581. The impact on a property's assessed valuation following its conversion to condominium ownership and the sale of units is governed by two statutes. They are: (a) RPL §339-y(1)(b), which prohibits the aggregate of the assessment of condominium units plus their common interests from exceeding the total valuation of the property were it assessed as a single parcel; and (b) Real Property Tax Law §581, which requires a property owned on a condominium basis to be assessed no higher than it would have been had it not been owned on a condominium basis. The intended effect of these laws is to prevent the total assessments of all units and their common interests in a property that is owned as a condominium from exceeding the total valuation of the property had it instead been operated as a rental. Since laws are subject to varying interpretations, Sponsor cannot, and does not, represent, assure or guarantee how these laws will be applied to the assessed valuations of the Units.

S-4. Tax Certiorari Proceedings. Sponsor reserves the right to seek to reduce the Property's real restate taxes for all fiscal tax years that begin prior to the First Unit Closing.

Any refund, reduction or savings in real estate taxes for a tax year preceding the closing of title to a Unit will be paid and belong entirely to Sponsor. Any refund, reduction or savings in real estate taxes for the tax year in which the closing of title to a Unit is consummated, after deducting the Costs and Expenses fairly attributable to the Unit (as reasonably determined by Sponsor) to obtain such refund, reduction or savings, will be apportioned between the Purchaser of such Unit and Sponsor in accordance with the respective portions of the tax year that each owns the Unit. The Costs and Expenses of the application and (if applicable) proceeding to reduce taxes will not be charged to a Purchaser unless the tax year at issue relates to such Purchaser's period of ownership and the Purchaser's taxes are refunded, reduced or otherwise saved. In such case, the amount charged will be based on the amount reasonably determined by Sponsor to be fairly attributable to Purchaser's Unit, but may not exceed the amount of the Purchaser's refund or the amount in taxes not paid based on a reduction or savings in real estate taxes (as applicable).

If Sponsor's application and (if applicable) the proceeding to reduce real estate taxes results in a refund, reduction and/or savings in an Owner's real estate taxes for a tax year subsequent to the tax year title closes, such Owner shall reimburse Sponsor for its Pro Rata share of the Costs and Expenses of said application and (if applicable) proceeding that are fairly attributable to Owner's Unit, as reasonably determined by Sponsor. However, in no event will the amount to be reimbursed exceed the amount of the refund or the amount not paid by reason of such reduction or savings. The Unit Owner is to reimburse Sponsor within ten (10) calendar days after Sponsor sends said Owner a written demand for payment, which will include a detailed statement of all Costs and Expenses incurred and the basis for their apportionment to the Owner.

S-5. By-Law Provision on Review of Assessment. Under the By-Laws (see Article 2, subsection 2.4.2(w)), the Condominium Board is authorized to act as agent for Unit Owners to seek reductions in the tax assessments with the taxing authority. The Board's authority includes applying for administrative and judicial review of the tax assessment and negotiating and settling with the taxing authority. A Unit Owner may revoke the Board's agency by written notice, which must be received before the Board commences any litigation on behalf of the Unit Owner. Sponsor and Selling Agent cannot, and do not, represent, assure or guarantee that the Condominium Board will exercise this authority or the outcome of any tax assessment reduction application or proceeding brought by the Condominium Board.

S-6. **Berger Opinion**. The opinion of Berger on the estimated assessed valuations of the Property and estimated tax rates applicable to the Units for the 2009/2010 fiscal tax year starts on the next page.

END OF TEXT ON THIS PAGE

LAW OFFICES
LAWRENCE J. BERGER, P. C.
200 MADISON AVENUE
SUITE 1902
NEW YORK, N.Y. 10016
(212) 532-0222
FAX (212) 532-0224

LAWRENCE J. BERGER
STEVEN E. RESNICK
HARVEY I. SHIFF

LESLIE R. PERLMAN
SETH J. GOLDBERG

January 9, 2009

Mr. Kevin Comer
100 Vandam, LLC
c/o Beck Street Capital
100 Vandam Street, 4th Floor
New York, New York 10013

Re: Real Estate Tax Opinion Letter
100 Vandam Street
Block: 597 Lot: 7, Manhattan

Dear Mr. Comer:

You ("Sponsor") have requested us to project the real estate tax liability of the above referenced premises for the fiscal period commencing July 1, 2009 through June 30, 2010, after the condominium declaration has been recorded.

It has been the practice of the Property Division of the Department of Finance of the City of New York ("DOF") to review the assessed valuation of each building annually, including those which are converted to condominium ownership (New York City Administrative Code § 11-207). Although New York State Real Property law § 339-y requires that properties held in condominium ownership be assessed on the same basis as comparable properties held in rental ownership, recording of floor plans and Condominium Declaration with the office of the New York City Register (a copy of which is provided to the Property Division by the New York County Surveyor's office) will prompt a review of square footage measurements as well as comparable rental data. While DOF has published data regarding the assessment of such properties in the past, it has not been employed consistently and it is therefore not possible to estimate or determine the post-conversion assessed valuation of this property with any degree of certainty. However, the estimates presented below are based upon current policies and practices of that department and upon analysis of comparable neighboring properties as presently assessed per square foot of gross building area.

All prospective purchasers are advised that although the following estimates of the assessed valuation upon conversion of this property to condominium ownership are good-faith estimates, such assessed valuation, when actually made, may be less or greater than as estimated below.

You have advised us of the following facts, and made the following representations:

1. The existing site is improved with a six (6)-story office building on a land area comprising 6,434 square feet. Upon conversion to condominium ownership, the subject premises will contain a total floor area of approximately 46,689 sf. For real estate tax purposes, DOF assesses enclosed gross floor area, inclusive of common elements and roof bulkhead, but exclusive of below grade mechanical, electrical and plumbing facilities. Therefore, the following deductions were taken from the 46,689 sf. total gross floor area set forth above: roof (6,415 sf.); below grade mechanical space (916 sf.), resulting in a total gross square footage figure for real estate tax purposes, of 39,358 sf. Floors two (2) through six (6) will comprise the office portion of the subject property (the "Office Space or Office Units"), which consists of approximately 33,768 gross sf. when calculated for real estate tax assessment purposes. The cellar will comprise the commercial portion of the subject property (the "Commercial Space or Commercial Unit") and will consist of approximately 5,590 gross sf. when calculated for real estate tax purposes.

2. A portion of the roof, consisting of 5,274 unenclosed gross sf. (the "Roof Terrace Unit") will comprise a separate Unit. Although this Unit is presently unimproved (aside from the roof surface and certain mechanical equipment) the purchaser of such Unit will retain the option to install decking, pavers or other protective flooring;

3. The Office Space will consist of five (5) condominium units, the Commercial Space will consist of one (1) condominium unit and the Roof Terrace Unit will consist of one (1) condominium unit. All units will be offered for sale;

4. The subject property will not undergo any material renovations;

5. Sponsor reserves ownership of any and all unused development rights appurtenant to the site. Such development rights may, in the future, be transferred to an adjacent property or utilized in connection with an alteration on the subject property. In any event, Sponsor will not add units to the building;

6. No application will be filed with the Department of Finance of the City of New York for any real estate tax exemption benefits which may be available pursuant to § 11-256 of the Administrative Code of the City of New York.

ASSESSED VALUATION

The 2008/2009 Final Assessed Valuations[1] for the property are as follows:

	Land	Total	Tax Class
Transitional	$ 393,300	$ 1,125,799	4
Actual	$ 393,300	$ 1,242,000	

There are three recognized appraisal methods which are employed by DOF to determine the full market value of income producing real property. These methods are the original cost method, the capitalization of income approach, and the sales price comparison method.

The original cost method is based on the theory that the value of a given property is reflected by its cost of construction plus the acquisition cost of the underlying land. This method of valuation is considered a highly significant indicator of value with respect to new buildings. Relevant data used in the cost method include material and labor ("hard") costs, and financing, engineering, architectural, testing and professional fees, and construction period taxes ("soft") costs.

The capitalization of income method is based upon the proposition that the annual net income generated by a property, when divided by the rate of return an investor at a given time would accept for his money in a competing investment, yields a close estimate of the market value of the property.

The sales price comparison method is founded upon the belief that value can be ascertained by surveying market prices. Market value has been defined as that price which a property would bring in a competitive and open market, wherein both buyer and seller are acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. However, the addition of sale prices of individual units may not be the basis for arriving at the assessed valuation of a residential condominium or cooperative housing corporation (see New York State Real Property Tax Law ("RPTL") § 581, and Real Property Law § 339-y).

Sponsor has represented that there will be no material renovation of the subject premises prior to conversion to condominium ownership regime other than customary maintenance and repairs. Sales of individual units may not be utilized to arrive at assessed valuation (see statutes set forth above). Accordingly, the capitalization of income approach to valuation should continue to be the methodology utilized by DOF to arrive at the assessed valuation after conversion.

Since tax year 1982/1983, RPTL § 1805 (3) has mandated that increases in assessed valuation due to appreciation in value must be phased in over a five-year period, resulting in a

[1] Taxes are payable based upon the lower of the Transitional or Actual valuation (hereinafter, sometimes, "Taxable Assessed Valuation").

"transitional assessment". However, the statute requires DOF to include all increases in value due to physical changes (new construction, renovation, rehabilitation, or addition of square footage to existing structures) directly into the taxable assessed valuation without the five-year phase-in. The "actual assessment" is the target value which will be reached at the end of the five-year period, assuming the assessment is not increased in the interim.

In arriving at the assessed valuation for each unit in the condominium, the building is first assessed as an entirety. This overall assessment is then apportioned among the respective units, each of which will be assigned a tax lot designation once the condominium declaration has been recorded and the floor plans are filed with the office of the City Register. The apportionment may be based upon the proportion that the common interest percentage for each unit bears to the total common interest percentage of all units. However, the methodology employed by the New York City Department of Finance (hereinafter, "DOF") is uncertain. DOF may apportion based upon common interest percentages, or upon projected offering prices presented in the offering plan, actual prices paid, square footage, taking into account extrinsic indicia of value, including location, square footage, amenities, income producing potential and existing leases on particular units, or a combination of methods (hereinafter, "Proportionate Valuation").

Analysis and review of final 2008/2009 valuations of comparable office buildings in the vicinity of the subject premises justifies an overall assessed valuation for the combined Office Units, Commercial Unit and Roof Terrace Unit for tax year 2009/2010, (including "land" and "building") of $3,799,561, or approximately $95.70 per square foot of gross building area (39,358 sf).

TAX LIABILITY

Real property taxes are payable semi-annually, on July 1 and January 1 (the City operates on a fiscal year commencing July 1 and ending June 30).

Tax Rates for the 2008/2009 fiscal year have been fixed by the New York City Council based upon a rate of 10.241% for commercial (tax class four) properties. For purposes of the ensuing projections, the following *estimated* tax rate has been utilized:

Estimated Tax Rates

Tax Year	Commercial (Class 4)
2009/2010	10.548% (est.)

2009/2010 Tax Year

Est. Actual Total Assessed Valuation (All Units)[2]:	$ 3,766,561
Est. Transitional Total Assessed Valuation (All Units)[3]:	$ 1,630,711
Est. Taxes Payable @ est. 10.548%:	$ 172,007

The tax liability of a particular unit, assuming (a) the overall Taxable Assessed Valuations as estimated above; (b) the Proportionate Valuation calculated in accordance with the guidelines set forth above; and (c) tax rates as estimated above, may be estimated as follows for fiscal year July 1, 2009 through June 30, 2010:

Est. tax liability for individual Unit = $ 172,007 x Proportionate Valuation

This letter was prepared at the Sponsor's request. The figures set forth herein are approximations derived from material submitted by the Sponsor and are subject to variation. We have not passed upon the accuracy of any figures or estimates contained in the Offering Plan.

You should be aware that the laws, regulations and practices of the DOF upon which this opinion is predicated may in the future be revised in a manner adverse to your interests, or that there may be an adverse interpretation of the law or regulations by one or more agencies of the City of New York, or Courts of competent jurisdiction.

The foregoing analysis is based upon our experience with DOF and the Tax Commission of the City of New York, and their assessment policies regarding properties held in condominium ownership. Application of a particular approach to valuation by an individual assessor may yield a different result. This would necessitate commencement of real property tax review proceedings at the Tax Commission or Supreme Court level to bring the assessment in line with the estimates presented herein.

We hereby consent to the inclusion of this letter in the Offering Plan.

Very truly yours,

Lawrence J. Berger, P.C.

\\Dellserver1\datafiles\seth\opinion letter\Comer\100 Vandam\100 vandam.v8.docx

[2] Taxes are paid on the lower of Actual Assessed Value or Transitional Assessed Value.
[3] See footnote 2

END OF SECTION S

SECTION T. OPINIONS OF COUNSEL

T-1. **Tax Deductions to Unit Owners**. Upon recording the Declaration and conveying title to a Unit to Purchaser pursuant to this Plan, the Purchaser will own the Unit and its appurtenant interest in the Common Elements in fee simple like any other parcel of real estate. The Unit will be a separate tax lot for real estate tax purposes and may be separately mortgaged by the Unit Owner, who will be liable for the payment of real estate taxes and the mortgage indebtedness, including interest and any other finance charges. Seyfarth Shaw LLP ("**Seyfarth**"), Sponsor's attorney, has not rendered an opinion on the deductibility of real estate taxes, mortgage interest, Common Charges, depreciation or other expenses of ownership of a Unit. Prospective Purchasers are advised to consult their own tax advisor as to these and other tax consequences of ownership of a Unit before entering into a Purchase and Sale Agreement.

T-2. **Tax Status of Condominium**. Seyfarth advises that the Condominium Board will not qualify as a "homeowners association" for the purpose of Section 528 of the Code and, as a result, it is impossible to predict its income tax reporting status. Seyfarth explains that the Condominium Board could be viewed as an agent or a conduit for the Unit Owners, in which case each Unit Owner would be required to report, for Federal, New York State and New York City income tax purposes, the Owner's proportionate share of the Board's income in excess of any offsetting deductions and credits. Alternatively, the Condominium Board may be viewed as an independent entity, rather than a mere conduit, in which case the Board may be entitled to elect its tax status. In such case, it is impossible to predict the income tax reporting status that will be selected by the Condominium Board and, thus, the tax treatment of its income in excess of any offsetting deductions and credits. If the Condominium Board elects, or is otherwise determined, to be treated as if it were a corporation for Federal income tax purposes, it would be subject to tax on its taxable income. In determining its taxable income, it is not clear whether assessments paid by Unit Owners would be taxable income or non-taxable contributions to capital and whether the Condominium Board's deductions attributable to furnishing services to Unit Owners may be limited to amounts received from such Owners. Certain earnings and profits expended for the benefit of Unit Owners, and possibly rebates (if any) to Unit Owners of excess membership dues, fees or assessments, may be treated as dividends to them. In addition, the Condominium Board would be subject to New York State and New York City income taxes. Conversely, if the Condominium Board elects to be treated as if it were a partnership for Federal income tax purposes, each Unit Owner would be required to report the Owner's proportionate share of the Condominium Board's income (and of any offsetting deductions and credits) directly on the Owner's tax return. See subsection T-6 below for text of Seyfarth opinion.

A small allowance for corporate and franchise taxes is included in the First Year's Budget (see Note 14 to SCHEDULE B in Section E above) and an additional amount, if required, is available from the budgeted item of Reserve for Contingencies to the extent sufficient (see Note 15 to SCHEDULE B).

. A prospective Purchaser is advised to read the tax opinion, preferably with the assistance of its attorney, accountant or tax adviser, for a complete understanding of the tax consequences of owning an Office Unit under this Plan.

T-3. **DISCLAIMER**. THE TAX OPINION OF SEYFARTH SET FORTH BELOW IS BASED ON EXISTING LAW, REGULATIONS AND RULINGS APPLIED TO THE FACTS AND DOCUMENTS REFERRED TO IN THE OPINION. NO ASSURANCE CAN BE GIVEN THAT THE TAX LAWS OR THE REGULATIONS OR RULINGS ISSUED THEREUNDER, OR ANY JUDICIAL INTERPRETATION THEREOF, UPON WHICH SEYFARTH BASES ITS OPINION WILL NOT CHANGE. IN NO EVENT WILL THE SPONSOR, SEYFARTH, THE SELLING AGENT OR ANY OTHER PERSON BE LIABLE IF THERE ARE CHANGES IN THE FACTS ON WHICH COUNSEL RELIED IN ISSUING ITS OPINION.

THE SPONSOR, SELLING AGENT AND SEYFARTH SHAW LLP CANNOT, AND DO NOT, MAKE ANY REPRESENTATION, ASSURANCE OR GUARANTEE WITH RESPECT TO: THE TAX STATUS OF THE CONDOMINIUM; THE TAX TREATMENT OF THE COMMON CHARGES, THE WORKING CAPITAL FUND CONTRIBUTIONS OR OTHER RECEIPTS OF THE CONDOMINIUM BOARD; THE TAX CONSEQUENCES OF THIS PLAN; OR THE TAX CONSEQUENCES OF OWNERSHIP OF ANY UNIT OFFERED UNDER THE PLAN. NO ONE HAS BEEN AUTHORIZED TO MAKE ANY STATEMENTS OTHER THAN THOSE CONTAINED HEREIN.

T-4. **RPL Section 339-i Opinion**. The opinion of Seyfarth Shaw LLP as to assigning the percentage of Common Interest to each Unit in compliance with RPL Section 339-i is set forth in subsection T-7 below.

END OF TEXT ON THIS PAGE

T-5. Opinion on Tax Status of the Condominium

Seyfarth Shaw LLP
620 Eighth Avenue
New York, NY 10018
(212) 218-5500

December 15, 2008

100 Vandam, LLC
c/o Beck Street Capital LLC
100 Vandam Street, 4th Floor
New York, NY 10013

Re: 100 Vandam ("**Condominium**")
100 Vandam Street, New York, NY 10013

Gentlemen:

You have requested our opinion concerning the income tax treatment to the Condominium Board[1] of the assessments ("**Common Charges**") payable by the Unit Owners to meet the Common Expenses of the Condominium Association.

The Condominium Offering Plan for the above-referenced property ("**Plan**") provides for the establishment of condominium ownership of the land and the building erected thereon, as well as the appurtenances thereto, known as 100 Vandam Street, New York, NY 10013 (such land, building and appurtenances are collectively called the "**Property**"). The Condominium will be comprised of the Office Units, a Commercial Unit, a Roof Terrace Unit and commonly owned areas, equipment and facilities (collectively, the "**Common Elements**"). Except where otherwise indicated, the definitions of the terms contained in the Plan shall apply when such terms are used in this opinion letter without express definition.

In connection with rendering this opinion letter, we have reviewed only the Plan (including the Documents in Part II thereof), relevant sections of the Internal Revenue Code of 1986, as amended (the "**Code**"), the New York State Tax Law, the New York City Administrative Code, the regulations promulgated thereunder and such other material as we have deemed relevant. The opinions expressed herein are based upon the assumptions that:

the Plan becomes effective and is consummated in accordance with its terms;

(a) condominium ownership of the Property, including the Office, Commercial and Roof Terrace Units, is established in compliance with all applicable laws;

(b) the legal consequences of the Plan are as described therein; and

---

[1] For purposes of this opinion, the term "Condominium Board" shall include the association of Unit Owners for whom the Condominium Board acts.

(c) the statements and information contained in the Plan are true, accurate and complete in all respects.

(d) We have not investigated or verified the truth, accuracy or completeness of such statements and information.

This opinion letter addresses only the issue of the income tax status of the Condominium Board and the potential treatment of the Common Charges payable by the Unit Owners to meet the Common Expenses of the Condominium Association. We do not address the tax consequences of the ownership of the Office, Commercial or Roof Terrace Units and express no opinion on the deductibility of real estate taxes, mortgage interest, Common Charges, depreciation or other expenses of ownership of a Unit.

Income Tax Status of the Condominium Board

Under the Plan, the Condominium Board will, from time to time, assess Common Charges against the Unit Owners in order to pay the costs and expenses of operating, repairing and maintaining the Common Elements. The Common Charges will be assessed in proportion to their respective percentage interests in the Common Elements or in proportion to the amount fairly attributable to one or more but not all unit owners based on Usage of the Common Elements or services provided specially to such Unit Owner(s).

The Condominium Board will not qualify as a "homeowners association" for the purpose of Section 528 of the Code, which applies only to residential condominiums which meet certain eligibility requirements. As a result, the income tax reporting status of the Condominium Board and the treatment of the Common Charges payable by Unit Owners to the Board to meet the Common Expenses of the Condominium Association is uncertain.

It is possible that the Condominium Board could be viewed as an agent or a conduit for the Unit Owners, and if so viewed for federal, New York State and New York City income tax purposes, each Unit Owner would be required to report, for federal, New York State and New York City income tax purposes, the Owner's proportionate share of the Board's income, deductions and credits. Alternatively, the Condominium Board may be viewed as an independent entity, rather than a mere conduit and, if so viewed for federal, New York State and New York City income tax purposes, the Condominium Board would constitute either an association taxable as a corporation or a partnership (or perhaps even some type of trust) for federal, New York State and New York City income tax purposes.

Accordingly, we render no opinion as to the income tax reporting status of the Condominium Board or the tax treatment of its income, expenses and expenditures. If the Condominium Board were to elect (assuming that such an election were available to it) to be treated as, or were to otherwise constitute, a corporation (with the Unit Owners as its shareholders) for federal income tax purposes (and, in which case, the Condominium Board would also presumably constitute a taxable corporation for New York State and New York City income tax purposes), then the Condominium Board would be subject to federal, New York State and New York City income tax on its taxable income. Moreover, in determining its taxable income, it is not clear whether assessments paid by Unit Owners to the Condominium Board would constitute taxable income or nontaxable capital contributions for the Condominium Board or whether the Condominium Board's deductions attributable to furnishing services to Unit Owners may be limited to amounts received from such

Owners; also, certain "earnings and profits" expended for the benefit of Unit Owners, and possibly rebates (if any) to Unit Owners of excess membership dues, fees or assessments, may be treated as dividends to them.

If, instead, the Condominium Board were to elect (assuming that such an election were available to it) to be treated as, or were to otherwise constitute, a partnership (with the Unit Owners as its partners) for federal income tax purposes, then the Condominium Board would in general not be subject to an entity-level tax on its income; however, each Unit Owner would be required to report its allocable share of the Condominium Board's items of income, gains, losses, deductions and credits on its own tax returns (and pay any income taxes that may be due in respect of such allocations regardless of whether the Condominium Board makes distributions to the Unit Owners). If, instead, the Condominium Board were to constitute a "trust" for federal, New York State and New York City income tax purposes, then the Condominium Board and the Unit Owners would be subject to yet a different set of income tax rules for said purposes.

General

We do not render any opinion with respect to any matter other than as specifically set forth in this opinion letter. We express no opinion concerning:

(a) any federal, New York State or New York City income tax consequences not explicitly discussed in this opinion letter;

(b) any aspects of the Plan other than those consequences and aspects explicitly discussed in this opinion letter; or

(c) the tax status and consequences under the Plan with respect to the laws of any other local or foreign jurisdiction.

Further, except as explicitly provided, this opinion letter does not address:

(a) the tax consequences that may result with respect to any Unit held in connection with a trade or business, or any Unit held for purposes of investment or for the production of income; or

(b) the tax consequences that may result to a Unit Owner who is not a New York State resident by reason of Owner's status as such or who is not organized under the laws of New York State.

This opinion letter also does not discuss the tax consequences that may arise if Units or Common Elements are acquired and/or leased by the Condominium Board, or the issue of whether a Unit Owner may be deemed to be doing business in the United States, New York State, or New York City as a result of the ownership of a Unit and the attendant income, estate or other tax consequences, or the issue of the tax consequences of the contributions to the Condominium's Working Capital Fund. We advise, therefore, that each prospective purchaser contemplating the purchase of a Unit consult with its tax adviser concerning all such tax matters, as well as with respect to the matters discussed in this opinion letter.

This opinion letter is not a guarantee and is not binding upon the Internal Revenue Service, the New York State Department of Taxation and Finance and/or the New York City Department of

Finance. Rather, it is based solely upon our opinion of the application of the relevant legal authorities (including the applicable Federal, New York State and New York City tax laws and regulations, as well as the rulings and decisions thereunder) existing as of the date hereof to the facts and documents referred to above.

Such facts, documents and/or legal authorities may change, and thereby affect the opinions stated above in whole or in part. We undertake no obligation to update, modify or supplement this opinion letter to reflect any fact or document that may hereafter come to our attention, or to reflect any change in any applicable legal authority that may hereafter occur (nor do we undertake, or have, any obligation to notify you of any such fact, document or change), although we have advised Sponsor that it is obligated to cause a revised opinion letter to be rendered, and published in an amendment to the Plan, under such circumstances. Moreover, in no event will the undersigned, Sponsor, the Condominium Board, the Managing Agent, or any other person or entity be liable if, at any time, it is held that, due to any such change in facts, documents and/or legal authorities, the tax treatment of the income of the Condominium Board is not as set forth above.

This opinion is based upon and limited to the knowledge of factual matters of only those attorneys in our office who have actually worked on the legal matters referenced herein, without investigation, and in reliance upon information and documentation supplied by you and delivered to us. We are furnishing this letter to you solely for the personal benefit of you and Purchasers under the Plan. This letter may not be relied on by any other persons (including, but not limited to, subsequent Owners of Units) and is not to be used, circulated, quoted or otherwise referred to for any other purpose (other than inclusion in the Plan and to the references to our name in the Plan in connection therewith) without our prior written consent.

Very truly yours,

Seyfarth Shaw LLP

Seyfarth Shaw LLP

PLEASE BE ADVISED THAT ANY TAX INFORMATION OR WRITTEN TAX ADVICE CONTAINED HEREIN IS NOT INTENDED TO BE USED, AND CANNOT BE USED, BY ANY TAXPAYER FOR THE PURPOSE OF AVOIDING TAX PENALTIES THAT MAY BE IMPOSED ON THE TAXPAYER. (THE FOREGOING LEGEND HAS BEEN AFFIXED PURSUANT TO U.S. TREASURY REGULATIONS GOVERNING TAX PRACTICE.)

T-6. **Opinion Regarding Compliance with Real Property Law Section 339-i**

Seyfarth Shaw LLP
620 Eighth Avenue
New York, NY 10018
(212) 218-5500

December 15, 2008

100 Vandam, LLC
c/o Beck Street Capital LLC
100 Vandam Street, 4th Floor
New York, NY 10013

Re: Compliance with Real Property Law Section 339-i under
Condominium Offering Plan for 100 Vandam Street, New York, NY

Gentlemen:

The definitions of the terms contained in the Condominium Offering Plan ("**Plan**") for 100 Vandam, located at 100 Vandam Street, New York, NY 10013, shall apply when such terms are used herein without express definition.

You have requested our opinion on whether the method used to determine the undivided percentage interest of each Unit in the Common Elements in the above referenced matter complies with Real Property Law Section 339-i ("**Section 339-i**"). In connection with this opinion, we have reviewed the Plan and assumed the statements and information contained therein are correct and accurate.

The Plan states that the Common Interest of each Unit is based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit, as provided in Section 339-i(1)(iv) of the Condominium Act.

Included in the Plan is an opinion (the "**Penmark Opinion**") of Penmark Realty Corp. ("**Penmark**"), an experienced real estate brokerage firm. Penmark states that in its opinion the Common Interest of each Unit set forth in the Plan appears to be based on both factors of relative value to other Units in the Condominium (such as floor space, location in the Building, uniqueness and overall size), as well as the availability of the Common Elements for exclusive use or for shared use .

The opinion of the Penmark correctly recites Section 339-i(1)(iv) and appears to be based on the method stated in Section 339-i(1)(iv) for determining Common Interests. However, we have not reviewed or verified any calculations of floor space and do not express any opinion as to: (a) the relative value of a Unit to other Units; (b) the value to be assigned to a Unit based on its uniqueness, or the availability of Common Elements for exclusive or shared use, or the overall dimensions of a particular Unit; or (c) the weight to be given to each factor in determining the Common Interest of a Unit; or (d) the accuracy of the Penmark Opinion. Moreover, we have assumed, without independent verification or inquiry by us, that the reporting by Penmark that it is

an experienced real estate broker (with the implication that Penmark is qualified to render the Penmark Opinion) is accurate and objectively warranted, and that we are expressing no opinion and making no judgment as to the accuracy of this reporting or, otherwise, the experience level or qualifications of the Penmark broker and other personnel involved in the preparation and issuance of the Penmark Opinion.

This opinion is confined to the matters addressed herein with respect to Section 339-i and is not intended, nor should be construed, as an opinion on other aspects of the Plan, such as the valid creation of a condominium, which is to be determined by a title insurance company. Further, this opinion is based upon our review of applicable statutory law and judicial precedent, if any, existing as of the date hereof, and we express no opinion as to the effect of any law that is hereafter enacted or any court case that is hereafter decided. We assume no obligation to update or supplement this opinion to reflect, or to notify you as to, any changes in statutory law or judicial precedent, or any changes in fact or circumstances, that may hereafter come to our attention pertaining to the subject matter hereof, although we have advised Sponsor that it is obligated to cause a revised opinion letter to be rendered and published in an amendment to the Plan under such circumstances.

We are furnishing this letter to you solely for the personal benefit of you and purchasers under the Plan. This letter may not be relied on by any other person (including, but not limited to, subsequent owners of Units) and is not to be used, circulated, quoted or otherwise referred to for any other purpose (other than inclusion in the Plan and to the references to our name in the Plan in connection therewith) without our prior written consent. We are members of the Bar of the State of New York and this opinion is limited to matters of New York State law.

Very truly yours,

Seyfarth Shaw LLP

Seyfarth Shaw LLP

END OF SECTION T

SECTION U. RESERVE FUND

U-1. **No Reserve Fund**. No reserve fund is being established under this Plan, nor is a reserve fund required by any Law.

U-2. **Budget Reserves for Contingencies and Capital Items**. Under the Declaration, a Budget adopted by the Condominium Board may include a reserve for Repairs, Alterations, unanticipated expenses and contingencies, but all such reserve amounts may not exceed, in the aggregate, five percent (5%) of the projected annual Common Expenses for the then current Budget Year without obtaining the prior written Discretionary Approval or Consent of Sponsor (during only the Sponsor Veto Control Period) (see Section 9.7 of the Declaration and Section P, subsection P-2.1 above).

U-3. **Sources to Finance Capital Items**. The potential means and options available to the Condominium Board to finance any needed or desired capital expenditures, such as renewal or replacement of Building components or Systems or to remedy major Building defects, will be:

(a) any reserves established by the Condominium Board for such purpose [NOTE: no reserves are provided in the First Year's Budget];

(b) a loan from a bank or other lender, subject to obtaining Sponsor's prior written Discretionary Approval or Consent during only the Sponsor Veto Control Period; and

(c) a Special Assessment levied on all Unit Owners.

The ability of the Condominium Board to borrow monies on a secured or unsecured basis will depend upon a number of factors, including then existing economic conditions, the policies of the proposed lender, the creditworthiness of the Condominium Association and the physical condition of the Property. Sponsor does not represent, assure or guarantee that the Condominium Board will be able to obtain a secured or unsecured loan at any time.

To the extent all other sources mentioned above in clauses (a) and (b) are insufficient or unavailable to pay for a needed or desired capital item, the Condominium Board will be required to increase the Common Charges or levy a Special Assessment on the Unit Owners. If a Unit Owner wishes to obtain a loan to pay a Special Assessment, such Owner's ability to arrange a loan will depend on the requirements of the lender, including the lender being satisfied with, among other things: (a) said Owner's income and credit; (b) the appraised value of its Unit; and (c) the physical condition of the Owner's Unit and the Building.

END OF SECTION U

This Page Intentionally Left Blank

SECTION V. WORKING CAPITAL FUND

V-1. **Amount of Working Capital Fund**. The Condominium Association is to be provided with a fund for operating and working capital ("**Working Capital Fund**"). The Working Capital Fund is ultimately to be in the projected "**Total Amount**" of approximately $48,542 (rounded), which equals two (2) months' projected Common Charges of all Office, Commercial and Roof Terrace Units as set forth in the Offering Price Schedule (SCHEDULE A in Section D). If the Plan is amended prior to the First Unit Closing to increase or decrease the projected Common Charges of Units, the Total Amount of the Working Capital Fund will correspondingly increase or decrease.

V-2. **Funding of Total Amount of Working Capital Fund**. At closing of title, each Purchaser of a Unit is to make a payment to the Condominium's Working Capital Fund ("**Working Capital Payment**") in an amount equal to two (2) months' projected Common Charges for each Unit being purchased, as shown in the Offering Price Schedule (SCHEDULE A in Section E), as such projection may change prior to the First Unit Closing in an Amendment to this Plan. At the First Unit Closing, Sponsor will make a *reimbursable advance* payment to the Condominium's Working Capital Fund of $12,000.00 ("**Initial Working Capital Fund**"). Sponsor is to be fully reimbursed for such advance of the Initial Working Capital Fund from the first Working Capital Payments received from bona fide Purchasers of Units. The Working Capital Payment from each Purchaser will be made directly to the order of Sponsor at title closing until Sponsor is fully reimbursed for payment of the Initial Working Capital Fund. Thereafter, all subsequent Working Capital Payments from Purchasers will be made payable directly to the Condominium Board or Managing Agent, as directed, and given to Sponsor at title closing for forwarding to the Managing Agent.

Accordingly, the Total Amount of the Working Capital Fund will be fully funded only when and if title to all Office, Commercial and Roof Terrace Units are conveyed to bona fide Purchasers under this Plan. Sponsor cannot, and does not, represent, assure or guarantee when or whether the Total Amount will be paid into the Working Capital Fund, which will depend entirely on the time taken to sell and convey all Units under this Plan.

The Working Capital Payment is to be made only by a bona fide Purchaser under this Plan, but not by anyone to whom Purchaser resells or conveys the Unit, or who succeeds to Purchaser's interest in the Unit after closing of title. If a Purchaser purchases more than one Unit, such Purchaser will make a Working Capital Payment equal to two (2) months' projected Common Charges for each such Unit.

A Purchaser designated by Sponsor in writing or an Amendment as an Unsold Unit Owner is not, for this purpose, regarded as a bona fide Purchaser and will not make a Working Capital Payment. However, a bona fide Purchaser to whom a Sponsor designee sells such Unit will be required to make the Working Capital Payment.

V-3. **Use of Working Capital Fund**. The initial Working Capital Fund will be used as follows:

(a) to pay to the extent sufficient the net amount (if any) owed Sponsor for the Building expenses to be apportioned at the First Unit Closing (as explained in Section N, subsection N-1.4 above); and

(b) the balance (if any) will be used for all appropriate purposes for the benefit of the Unit Owners as will be determined by the Condominium Board.

Sponsor anticipates that the Initial Working Capital Fund will be sufficient to pay the net amount of apportionments of Building expenses, if in favor of Sponsor. If the net amount of the closing apportionments is in favor of Sponsor and exceeds the Initial Working Capital Fund, the excess will be repaid, without interest, in twelve (12) equal, consecutive monthly installments on the first day of each month, starting the month immediately following the First Unit Closing.

The Working Capital Fund (including the Initial Working Capital Fund to the extent sufficient) may be used for operating or working capital and to defray increases in the Common Charges, but may not be used to reduce the projected Common Charges in the First Year's Budget (SCHEDULE B in Section E above) while the Sponsor Board Members constitute a majority of the Board Members. The Condominium Board will usually require operating or working capital to overcome normal cash shortages in operations. The cash shortages may occur from unevenness in the collection of Common Charges or in the payment of budgeted expenses (such as higher heating costs during the fall and winter months), or both. The Working Capital Fund may also be used to make needed Repairs and/or Alterations, from time-to-time.

Sponsor will control the permitted expenditures from the Working Capital Fund while the number of Sponsor Board Members constitute a majority of the Board Members. As a result, all or part of the Working Capital Fund may be spent during the period Sponsor has voting control over the Condominium Board.

V-4. **Sources to Finance Capital Items**. For potential means and options available to the Condominium Board to finance any needed or desired capital expenditures, such as renewal or replacement of Building components or Systems or to remedy major Building defects, see Section U, subsection U-3 above.

V-5. **Adequacy of Working Capital Fund**. The amount of the Working Capital Fund is based strictly upon the amount of the projected Common Charges of the Office, Commercial and Roof Terrace Units in the First Year's Budget (SCHEDULE B), as such projection may be revised prior to the First Unit Closing (see subsection V-1 above for details). Accordingly, the Working Capital Fund is not intended, and should not be relied upon, as being adequate to make potential future needed or desired Repairs or Alterations.

Sponsor cannot, and does not, represent, assure or guarantee that the Initial Working Capital Fund and any supplemental Working Capital Payments from Purchasers will be adequate for operating or working capital purposes at any time. If additional monies are required for operating or working capital, the Board may increase the Common Charges (including levying a Special Assessment on the Unit Owners).

Neither the Department of Law nor any other government agency has passed upon the adequacy of the Working Capital Fund.

END OF SECTION V

SECTION W. MANAGEMENT AGREEMENT, CONTRACTS AND LEASES

W-1. Management Agreement. The important terms of the proposed Management Agreement are summarized below.

W-1.1. The Managing Agent. At or prior to the First Unit Closing, the Condominium Board will enter into a management agreement with BSC Property Management, LLC ("**BSC**" or "**Managing Agent**" or "**Agent**"), having an office at c/o Beck Street Capital LLC, 100 Vandam Street, 4th Floor, New York, NY 10013. The Managing Agent is owned and controlled by Kevin Comer, who is the principal of Sponsor (see Section X, subsection X-7 below).

W-1.2. Term of Management Agreement. The management agreement will be for an initial term expiring at the end of twelve (12) full calendar months after the First Unit Closing. At the end of the initial term, the management agreement will be extended automatically from year to year unless the Condominium Board or Agent elect not to extend the term by giving written notice of its election not to extend the term at least ninety (90) days prior to an annual extension.

W-1.3. Fees and Other Compensation. The Managing Agent will receive a management fee of $60,000 for the first twelve (12) full calendar months following the First Unit Closing, payable in advance in equal, consecutive monthly installments of $5,000 each. In the event the term is extended, the annual fee from and after the expiration of said twelve (12) month period shall be negotiable. In the opinion of Penmark Realty Corp. (see DOCUMENT 9 in Part II of this Plan), the fee is in accordance with the prevailing rate for management services provided to Manhattan office buildings or commercial condominiums comparable to this Building.

The Managing Agent will also receive the following Unit service fees from an Owner of a Sold Unit:

(a) $500.00 on the sale or conveyance of a Sold Unit that is subject to (and not exempt from) the Board's Right of First Refusal;

(b) $350.00 for leasing or renting a Sold Unit that is subject to (and not exempt from) the Board's Right of First Refusal;

(c) $500.00 for Unit Alterations to a Sold Unit, other than Unit Alterations approved or consented to by Sponsor or other Unsold Unit Owner at or prior to title closing; and

(d) $350.00 on a mortgage financing or refinancing, or an appraisal, of a Sold Unit, if any Board action is requested in connection therewith.

No Purchaser will be required to pay any fee to the Managing Agent to purchase a Unit from Sponsor or to finance the Unit at closing or for any Unit Alterations approved by Sponsor at or prior to closing of title. No such Unit service fees will be paid by an Owner (including Sponsor) of an Unsold Unit.

In addition, the Condominium Board will collect a security deposit from an Owner or tenant of a Sold Unit when moving into or out of the Building. The security deposit is to be applied by the Board to pay for any damage to the Common Elements caused by such move. Any unapplied amount will be refunded after the move is completed. The security deposit will initially be set at

$5,000, but may change from time to time by the Condominium Board, but may not be increased without obtaining the prior written Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period. See Section 12.8 of the Declaration for discussion.

The Managing Agent may also receive commissions for placing insurance maintained by the Condominium Board and for renting space (if any) in the Common Elements (if authorized and retained for such purpose by the Condominium Board). If the Condominium Board engages the Managing Agent to supervise major or capital Repairs or Alterations to the Common Elements or to arrange a loan for the Condominium Board, the Managing Agent will be separately compensated in an amount to be negotiated at that time.

W-1.4. Major Duties and Services. The major duties and services to be performed by the Managing Agent will include the following:

(a) hire, pay, supervise and discharge the Building staff (the Condominium Board will have the right to approve the number and fitness of the employees);

(b) cause the Common Elements to be maintained in the condition satisfactory to the Condominium Board, including cleaning and ordinary repairs and alterations; however, the Condominium Board must approve any expenditure of over $5,000.00 for any one (1) item, other than emergency repairs;

(c) cause any orders or violations issued by a Governmental Authority or fire underwriters body to be complied with and corrected; however, the Condominium Board must approve any expenditure of over $5,000.00 for any one (1) order or violation, except in the case of a "civil/criminal sanctions order or violation" (as defined in the management agreement);

(d) contract for necessary services to maintain and operate the Building (such as elevator and exterminator services); however, the Condominium Board must approve any contract costing more than $5,000.00 a year or lasting longer than one (1) year;

(e) obtain and maintain insurance for fire, property damage, liability and such other coverage, and in such amounts, as the Condominium Board approves;

(f) if requested, ascertain and report to the Condominium Board and Unit Owners on the tentative assessed valuations of the Units and cooperate in the preparation of any application or lawsuit to correct the assessed valuations;

(g) audit and pay bills for services, work and supplies to maintain and operate the Building, including water and sewer bills;

(h) purchase all supplies necessary to properly maintain and operate the Building; however, the Condominium Board must approve any single supply costing more than $5,000.00 except if needed to make an emergency repair or to correct a civil/criminal sanctions order or violation;

(i) bill and collect the Common Charges and, if authorized by the Condominium Board, engage an attorney approved and selected by the Condominium Board to bring a Lawsuit

against a delinquent Unit Owner for unpaid Common Charges, including foreclosing the Board's lien under the By-Laws and the Condominium Act;

(j) maintain payroll records, and file all necessary forms for unemployment insurance, withholding and social security taxes and other forms relating to the Condominium Board's employees;

(k) render monthly statements of collections and disbursements;

(l) maintain accurate books of the Condominium Board (including checkbooks, minute books, payroll, records of cash billings and collections and orderly files of documents, correspondence, insurance policies, Unit mortgages, etc.);

(m) prepare and submit to the Condominium Board by December 1st of each year, a budget of projected income and expenses for the ensuing year and notify Unit Owners of the annual charges, assessments and any other sums set by the Condominium Board;

(n) arrange an annual audit by the Condominium Board's certified public accountant and distribute the accountant's certified financial statement to the Unit Owners;

(o) prepare and send notices of meetings of the Condominium Board and Unit Owners, arrange the place of each meeting, and attend and keep the minutes of each meeting; and

(p) send to a Permitted Mortgagee a copy of a default notice sent to the Owner of the mortgaged Unit.

W-1.5. Reimbursement for Expenses and Indemnities. The Condominium Board will reimburse the Managing Agent for certain expenses properly incurred to perform the duties and services required by the agreement or authorized by the Condominium Board. The Condominium Board will indemnify the Managing Agent from Claims and Liabilities and Expenses based on: (a) injury to any person or property (unless caused by Agent's gross negligence or willful misconduct or willful violation of the agreement); and (b) Agent's acts properly performed pursuant to the agreement or authorized in writing by the Condominium Board.

The Managing Agent will indemnify the Condominium Board and Unit Owners from Claims and Liabilities and Expenses resulting from Agent's gross negligence, willful misconduct or willful violation of the agreement. Apart from such indemnity, the insurance to be obtained by the Condominium Board as part of the Common Expenses will include fidelity coverage insuring the Board and Unit Owners against loss occasioned by the dishonest acts of the Managing Agent or its employees (see insurance footnote to SCHEDULE B in Section E for details).

W-1.6. Assignment. The management agreement will not be assignable by the Managing Agent.

W-1.7. Cancellation for Cause. The Condominium Board or Agent may cancel the agreement for cause after giving notice of the default and an opportunity for sixty (60) calendar days from giving the default notice to cure the default and thereby void the cancellation notice. However, the Condominium Board will have only thirty (30) calendar days to cure a default based upon a substantial shortage of cash needed to properly maintain the Building.

W-1.8. Right to Substitute Agent. Sponsor reserves the right to substitute an experienced, independent management firm unrelated to Sponsor and its principals to act as managing agent in place of BSC. If such right is exercised, the terms of the management agreement with the substitute agent may vary from those set forth above, but will be based on a good faith, arms-length negotiation. The Plan will be amended to disclose the identity and the terms of the management agreement with any such substitute agent.

W-2. Other Contracts and Leases. In addition to the management agreement, upon commencement of Condominium operation, the Condominium Board will be bound by arms-length contracts, licenses and leases with independent providers of Building services having no affiliation with Sponsor or its principal, which are disclosed in, or authorized by, the First Year's Budget (SCHEDULE B in Section E) or elsewhere in this Plan.

W-3. Sponsor's Limited Right to Bind Condominium Board. Sponsor reserves the right to enter into other arms-length contracts, licenses and leases with independent, unrelated service providers prior to the First Unit Closing that will be binding on the Condominium Board, but will amend the Plan to disclose them if they will materially increase the Common Charges or are for longer than five (5) years, other than service contracts, licenses and leases that customarily are for longer terms (such as a cable television contract or license). Sponsor also reserves the right, without amending the Plan, to enter into agreements for "utility services" (as defined in Section 11.11 of the Declaration) that will be binding on the Condominium Board, including licenses and leases for the erection, installation, maintenance and operation of Communications Equipment and Other Installations. Such licenses and leases are typically for initial terms of between 10 to 20 years, depending on the telecommunication or other utility provider. Any Work required in connection with the initial construction and installation of the utility services will be performed by, and at the sole Cost and Expense of, Sponsor or the utility provider (as applicable). The Board will be required to Maintain and Repair the portions of the Building in which the Communications Equipment and Other Installations are located as part of the Common Expenses.

END OF SECTION W

SECTION X. IDENTITY OF PARTIES

X-1. **Sponsor**. Sponsor is 100 Vandam, LLC, having an office at c/o Beck Street Capital LLC, 100 Vandam Street, 4th Floor, New York, NY 10013. Sponsor is a limited liability company organized on August 8, 2006 under the Laws of the State of Delaware. The managing member of 100 Vandam is BSCKIM Holdco III, LLC (a Delaware limited liability company organized on October 26, 2006), whose managing member is BSCNYC Holdings, LLC (a Delaware limited liability company organized on November 13, 2005), whose managing member is Beck Street Capital LLC ("**Beck Street Capital**"), an Ohio limited liability company organized on October 18, 1999. Sponsor and the foregoing members of Sponsor have each designated the New York Secretary of State for service of process on it. The only principal of Beck Street Capital who is actively involved in the planning or consummation of this offering is Kevin Comer, who is a New York resident and has the same office address as Sponsor.

X-1.1. Experience. Sponsor was recently organized for the purpose of owning the Property and sponsoring the sale of the Units being offered under this Plan.

Kevin Comer founded and currently functions as the Senior Managing Director of Beck Street Capital, a real estate investment firm headquartered in New York City. Beck Street Capital invests in high value-added opportunities across property types with an emphasis on adaptive re-use. Prior to forming Beck Street Capital, Mr. Comer was a Managing Director and Group Head of the Real Estate Group at Deutsche Bank Alex Brown ("**DB**"), with primary responsibility for the real estate securities research group, a team of 8 investment professionals that provided research coverage of roughly 65 companies. Prior to joining DB, Mr. Comer was a Vice President of equity research at Kidder Peabody & Co., Inc., in Kidder's REIT research group. From 1990 through 1993, he was the Manager of Real Estate Acquisitions for the Public Employees Retirement System of Ohio. While at that position, Mr. Comer was responsible for the acquisition, deal structure, and management of more than $500 million in direct property investments, including multifamily, retail, office, and land developments. Mr. Comer received an MBA in real estate finance and a Bachelor Degree in Accounting and Finance both from the Ohio State University.

X-1.2. Background. Sponsor, Beck Street Capital and Mr. Comer have no prior felony convictions. During the past fifteen (15) years: (a) there were no convictions or injunctions against Sponsor and/or the principal of Sponsor (including all individuals who own or control a 10% or more equity interest in Sponsor); or (b) there were no judgments against any of the foregoing parties which is material to this Plan or to an offering of securities generally (no such judgment is outstanding as at the date of this writing).

X-1.3. Other Cooperative and Condominium Offerings. Sponsor has not previously participated in an offering of other properties for sale as cooperatives, condominiums, homeowners associations or other cooperative interests in realty. Beck Street Capital and Mr. Comer are principals of the offeror of the condominium offering plans for 367/369 Bleecker Street, New York, New York (Filing Date: March 31, 2006), 92 Perry Street, New York, New York (Filing Date: January 17, 2007), and 30 West 21st Street, New York, NY (Filing Date: May 15, 2008). In addition, Mr. Comer, as Managing Director and Group Head of the Real Estate Securities practice at Deutsche Bank Alex Brown, actively participated in the sales and marketing, and allocation of real estate securities for most all of the larger publicly-held real estate companies in the country.

X-1.4. Financial Disclosure. Sponsor, the entities named above comprising Sponsor and Mr. Comer do not own unsold shares or units comprising 10% or more of all shares or units in other cooperatives, condominiums or homeowners associations, except Beck Street Capital and Mr. Comer are the principals of the sponsor of the offering plan for the Altavista Condominium, 92 Perry Street, New York, New York. The sponsor of the said offering plan is current in its financial obligations, including, but not limited to, payment of common charges, taxes, reserve and working capital fund payments, assessments (if any), payments for repairs and improvements promised in the plan (if any), and payments of underlying mortgages and loans for which on it have been mortgaged (if any). The foregoing offering plan is available for inspection at the office of the New York State Attorney General, 120 Broadway, 23rd Floor, New York, NY 10271.

X-2. Sponsor's Attorneys. Seyfarth Shaw LLP ("**Seyfarth**") with offices at 620 Eighth Avenue, 32nd Floor, New York, New York 10018 represents Sponsor on this Plan. Seyfarth has not passed upon the legal opinions of other attorneys appearing in this Plan, nor passed upon or independently investigated the business or financial terms of this offering, the physical condition of the Building or the projections contained in this Plan. This Plan was prepared by Alan L. Kazlow, counsel to said firm.

Seyfarth has rendered opinions on the income tax status of the Condominium Board, the availability of income tax deductions to qualified Unit Owners and compliance with §339-i of the Condominium Act set forth in Section T above.

Lawrence J. Berger, P.C., with offices at 200 Madison Avenue, New York, NY 10016, was retained by Sponsor to render the opinion on the projected real estate taxes of the Units (see Section S, subsection S-8 above).

No attorney has been engaged to represent the Condominium Association or the Condominium Board. Accordingly, the Management Agreement between BSC Property Management, LLC and the Condominium Board is not the result of an "arms-length" negotiation.

X-3. Managing Agent. The proposed Managing Agent of the Condominium is BSC Property Management, LLC. ("**BSC**"), having the same office address as Sponsor at c/o Beck Street Capital LLC, 100 Vandam Street, 4th Floor, New York, NY 10013. The principal of Sponsor is also the principal of BSC.

X-3.1. Experience. BSC has been in the business of managing office buildings since December 2005. The Manhattan properties managed by BSC include the following rental buildings: 100 Vandam Street (commercial building), 625 Broadway (commercial building), 30 West 21st Street (commercial building), 382-384 Bleecker Street (mixed residential and commercial building), 367-369 Bleecker Street (mixed residential and commercial building), 387 Bleecker Street (mixed residential and commercial building), 37 Greenwich Avenue (mixed residential and commercial building), 19 Greenwich Avenue (mixed residential and commercial building), 71 Second Avenue (mixed residential and commercial building), and 82 Christopher Street (mixed residential and commercial building).

X-3.2. Background. The Managing Agent and its principal have no prior felony convictions. During the past fifteen (15) years, there were no prior convictions, injunctions or judgments against the Managing Agent or its principal that may be material to this Plan or to an offering of securities generally.

X-4. **Selling Agent**. The Selling Agent engaged by Sponsor to offer and sell the Office and Commercial Units is Grubb & Ellis New York, Inc. ("**G&E**"), having an office at 1177 Avenue of the Americas, New York, NY 10036.

X-4.1. Experience. G&E has been in business since 1958 and is a publicly-traded company with 130 domestic offices throughout portions of the United States and Canada.

X-4.2. Background. The Selling Agent and its principals have no prior felony convictions. During the past fifteen (15) years, there were no convictions, injunctions or judgments against the Selling Agent or its principals that may be material to this Plan or to an offering of securities generally.

X-5. **Architect and Asbestos Investigator**. Sponsor has engaged Marc Kemeny, R.A. of K Square Designs, Inc., whose office is at 648 Broadway, Suite 900, New York, NY 10012, to prepare and certify the report on the description and condition of the Building contained in DOCUMENT 4 of Part II and the floor plans of the Units contained in DOCUMENT 5 of Part II. George Kan, Ph.D. P.E., with an address of P.O. Box 102, Bronx, NY 10471, a certified asbestos investigator, issued a report as to the presence of asbestos- containing material in the Building, which is reproduced as DOCUMENT 4A in Part II of the Plan.

X-5.1. Experience. Mr. Kemeny has been a registered architect since October 8, 1986. He has inspected over 100 buildings, prepared Condominium floor plans for many other buildings converted or to be converted to condominium ownership, including the Manhattan buildings at 47 West Street, 306 West 97th Street, 225 West 10th Street, 30 West 9th Street and 340 East 50th Street, among others. Dr. Kan has been involved in asbestos surveys for over 20 years and is a New York City certified investigator.

X-6. **Real Estate Broker Expert**. Sponsor has engaged Penmark Realty Corp. ("**Penmark**"), having an office at 820 Second Avenue, 4th Floor, New York, NY 10017, to certify the adequacy of the First Year's Budget (SCHEDULE B in Section F) and the adequacy of the Common Charges of the Commercial Unit to meet the anticipated operating expenses fairly and properly attributable to the Commercial Unit for the first year of Condominium operation, and to render opinions on a market rate management fee for the Property (DOCUMENT 9 in Part II) and the allocation of the Common Interests as meeting the requirements of §339-i of the Condominium Act (see Section F above). Penmark is a licensed real estate broker which has been engaged in the sale and management of commercial, mixed residential and commercial, and residential properties in New York City, including cooperatives and condominiums, for more than 40 years. At the date of this Plan, Penmark is managing approximately 100 buildings, including the following Manhattan properties: 45 East 25th Street, 111 Central Park North, 73 Worth Street, 510 East 80th Street and 59 John Street.

X-7. **Relationship to Sponsor or Sponsor's Principals**. Sponsor and Sponsor's principal are not related to the attorneys, Managing Agent, Selling Agent, architect, asbestos investigator or real estate expert listed in the preceding subsections X-2 and X-6, or any person or firm who will provide services to the Condominium Association or the Property subsequent to commencement of Condominium Operation, other than BSC, the proposed Managing Agent, which is owned and controlled by Kevin Comer, the principal of Sponsor. In view of this relationship, Sponsor will have influence over a number of services to be performed by the Managing Agent during Condominium operation. As a result, to the extent any conflict exists or arises between the interests

of Sponsor and the Condominium Board, a similar potential conflict exists or may arise for the Managing Agent.

X-8. Designation of Secretary of State. Sponsor and its members, identified in subsection X-1 above, have each designated the New York Secretary of State to receive service of process on it.

END OF SECTION X

SECTION Y. REPORTS TO UNIT OWNERS

Y-1. **Annual Financial Statements, Meetings and Budgets**. The Condominium Board is obligated to give all Unit Owners annually the following:

(a) the Board is to give all Unit Owners, within four (4) months after the end of each financial year adopted by the Condominium Board, a financial statement of the Condominium Association, including an annual report of receipts and expenditures, prepared by an independent certified public accountant or public accountant; such statement will be certified by the accountant while the Sponsor Board Members constitute a majority of the Office Board Members;

(b) the Board is to give all Unit Owners not less than ten (10) calendar days advance written notice of the annual meeting of Unit Owners for the election of members of the Condominium Board; such annual meeting is to be held within approximately thirty (30) calendar days of the anniversary of each previous annual meeting, unless changed by the Condominium Board, in its sole judgment; and

(c) the Board is to give all Unit Owners, at least ten (10) calendar days before the start of each Budget Year, a copy of the annual Budget of Condominium operation adopted by the Condominium Board Members; while the Sponsor Board Members constitute a majority of the Condominium Board, each such Budget will be accompanied by a certification of adequacy from an independent expert experienced in office building management in accordance with Part 20 of the Department of Law's regulations.

END OF SECTION Y

This Page Intentionally Left Blank

SECTION Z. DOCUMENTS ON FILE

Z-1. **Plan, Amendments and Condominium Documents**. For six (6) years from the date of First Unit Closing, Sponsor shall keep copies of this Plan, all Plan Amendments, all documents referred to in this Plan and all Exhibits submitted to the Department of Law in connection with the Filing of this Plan on file and available to prospective Purchasers, Purchasers and Unit Owners for inspection without charge and copying at a reasonable charge at Sponsor's office at c/o Beck Street Capital LLC, 100 Vandam Street, 4th Floor, New York, NY 10013.

At the First Unit Closing, Sponsor shall deliver to the Condominium Board, a copy of the Condominium Documents that are filed and recorded with the appropriate recording office to establish the Condominium.

END OF SECTION Z

This Page Intentionally Left Blank

SECTION AA. GENERAL

AA-1. **Litigation**. There are no pending lawsuits, administrative proceedings or other proceedings the outcome of which may materially affect this offering, the Property, Sponsor's capacity to perform all of Sponsor's obligations under this Plan, the Condominium Association or the operation of the Condominium.

AA-2. **No Prior Cooperative or Condominium Offering of Property**. The Property has not, to the knowledge of Sponsor, been the subject of any prior cooperative or condominium offerings. In addition, as of the date of first presentation of this Plan, no preliminary binding agreements have been entered into, and no money has been collected from, prospective Purchasers by Sponsor for the sale of Units in the Building. Sponsor has not conducted a market test of the Units pursuant to Cooperative Policy Statement No. 1 issued by the Attorney General.

AA-3. **Compliance with Civil Rights Laws.** Sponsor and its agents will not discriminate against any person on any basis prohibited by civil rights Laws in connection with the offering for sale, the sale, the financing or the leasing of Units under this Plan. These Laws prohibit discrimination based on (among other things) sex, age, race, creed, color, national origin, ancestry, disability or marital status.

AA-4. **Amendments**. Sponsor reserves the right to file Amendments to this Plan, including Amendments that may be materially adverse to Purchasers. If there is a material Amendment that adversely affects Purchasers, Sponsor must grant Purchasers a right of rescission and a reasonable time that is not less than 15 days after the date of presentation of such Amendment to exercise the right to rescind. Sponsor must return the Deposit to Purchasers who rescind together with the interest earned thereon and any Net Refundable Special Work Payment (if and to the extent applicable). If an Interim Occupant-Purchaser elects to rescind, its Interim Lease will automatically be cancelled and the Deposit will be refunded conditional upon the surrender of vacant possession of the Unit (see Section J, subsection J-4 above for discussion and the 30 calendar day deadline, or "TIME OF THE ESSENCE" period, from cancellation within which the Interim Occupant-Purchaser must surrender vacant possession of the Unit before becoming liable for Sponsor's Costs and Expenses (including losses) for removal and recovering possession. See SPECIAL RISKS Section A, subsection A-13 above.

AA-5. **Use or Enjoyment of Property**. The Use or Enjoyment of the Property are not affected by any reciprocal covenants or easements with owners of properties adjacent to the Property or any known impending adjacent high-rise construction. The Property is not located in a historic district governed by the Landmark Law and the Building is not designated as a landmark under said statute.

AA-6. **Contents of Plan**. The Plan does not knowingly omit a material fact or knowingly contain an untrue statement of a material fact. Any statement, representation or information that is not expressly contained in this Plan or an Amendment is not authorized and should not be relied upon. This Plan may not be modified orally and no provision may be waived orally.

The projections in the First Year's Budget (see SCHEDULE B in Section E) and the projected Common Charges in the Offering Price Schedule (SCHEDULE A in Section E) are made in reliance upon the expertise of Penmark Realty Corp. ("**Penmark**"), which prepared or reviewed the First Year's Budget and certified as to the adequacy of such Budget (see DOCUMENT 8C in Part II) and the adequacy of the Common Charges of the Commercial Unit to meet the anticipated

operating expenses fairly and properly attributable to such Unit for the first year of Condominium operation (see DOCUMENT 8D in Part II), and also rendered an opinion that the proposed management fee to BSC Property Management, LLC is in accordance with the prevailing rate for management services in Manhattan office buildings comparable to the Building (see DOCUMENT 9 in Part II). The Common Interests of the Units in SCHEDULE A are made in reliance on the expertise of Penmark, which rendered an opinion that the respective Common Interests of the Units meet the requirements of Section 339-i of the Condominium Act (see Section G above).

The projected real estate taxes in the Offering Price Schedule are based on certain estimates of Lawrence J. Berger, P.C. and are made in reliance upon the expertise of such firm (see footnote 6 to SCHEDULE A (in Section D) and Section S).

The report on the Description of Property and Specifications or Building Condition (see DOCUMENT 4) has been included in this Plan in reliance upon the expertise of Marc Kemeny, R.A., of K Square Designs, Inc. who certified its accuracy in DOCUMENT 8B in Part II.

The statements in this Plan on the tax status of the Condominium Board have been made in reliance upon the expertise of Seyfarth Shaw LLP, whose tax opinion is set forth in Section T, subsection T-6 above.

END OF SECTION AA

SECTION BB. RESERVATION OF AIR AND DEVELOPMENT RIGHTS

BB-1. Ownership. SPECIAL RISK: All Unused Development Rights of the Property associated with its unused floor area or unimproved air space, whether now existing or hereafter acquired or available, shall be owned exclusively by Sponsor and shall be part of any Unit owned by Sponsor from time to time, but only while such Unit is owned by Sponsor, and shall continue to be owned exclusively by Sponsor after it no longer owns any Unit. See Section A, subsection A-1 above for discussion.

BB-2. Current Amount of Unused Development Rights. Sponsor's architect, Marc Kemeny of K Square Designs, Inc., estimates the Unused Development Rights under current zoning at approximately from 32,826 square feet to 45,694 square feet, depending upon certain assumptions and contingencies. See paragraph "(ab) Further Development" of "Description of Property and Specifications or Building Condition" ("**Architect's Report**") in DOCUMENT 4 of Part II for calculation of the Unused Development Rights.

BB-3. Potential Uses of Unused Development Rights. Sponsor shall have the right, Freely and Without Consent, Payment or Restriction, except as herein expressly limited, to make any use or Disposition of the Unused Development Rights as it determines, including selling, assigning, transferring and conveying all or a portion of the Unused Development Rights to a Unit Owner or to an adjacent or nearby property owner under a so-called "zoning lot merger agreement", and/or granting a so-called "easement of light and air" to an adjacent property owner, and/or otherwise, but may not use the Unused Development Rights to add new Units to the Building or elsewhere on the Property.

Pursuant to the Declaration, each and every Unit Owner shall appoint Sponsor as the Owner's attorney-in-fact, "coupled with an interest", for valuable consideration, to make any use or Disposition of the Unused Development Rights as Sponsor shall see fit, but Sponsor may not use the Unused Development Rights to add new Units to the Building or elsewhere on the Property (see Article 17 of the Declaration included as DOCUMENT 6 in Part II of this Plan). In addition, the Condominium Board shall fully cooperate with Sponsor with respect to any such use or Disposition of the Unused Development Rights, including the execution in recordable form of such instruments and documents as Sponsor may request in connection with said use or Disposition of the Unused Development Rights (see Article 20 of the Declaration).

Any proceeds realized by Sponsor from the use, sale, assignment, transfer or other Disposition of the Unused Development Rights of the Property shall belong entirely to Sponsor. The Condominium Board and the other Unit Owners shall have no interest in the Unused Development Rights, shall have no control over the Disposition of the Unused Development Rights, and shall not share in any proceeds realized from any use, sale, assignment, transfer or other Disposition of the Unused Development Rights, and shall not be regarded as a "party in interest", as such quoted term is defined under the definition of "Zoning Lot" in Section 12-10 of the Zoning Resolution of The City of New York. No Disposition of the Unused Development Rights is being planned by Sponsor at the date of this Plan. See Section BB below for further discussion.

BB-4. Impact of Transfer of Unused Development Rights to Adjacent Property. The Unused Development Rights may be transferred to an adjacent property by Sponsor or an owner of another nearby property also may transfer its Unused Development Right (if any) to said adjacent property. A transfer of Unused Development Rights from Sponsor to the property adjacent directly to the south of the Building potentially could result in approximately a 20-story building being constructed on such adjacent site.

A transfer of Development Rights from this and/or other nearby properties to a property adjacent to the Building potentially could result in a building taller than the Building and adversely affect the views, light and air of windows of Units facing such adjacent parcel. If such development were to occur adjacent to the south façade of the Building, the lot line windows of Office Units 200 (one (1) window), 400 (three (3) windows) and 500 (six (6) windows) would have to be sealed or closed (see SPECIAL RISKS Section A, subsection A-19.5 above for additional discussion). Occupants of the Building might also be disturbed by construction noise and dust resulting from such construction. At the date of this Plan, Sponsor is not aware of any planned development or construction at sites near the Building.

END OF SECTION BB

SECTION CC. SPONSOR'S STATEMENT OF BUILDING CONDITION

CC-1. **Report On Description of Property and Building Condition**. Sponsor adopts the report on the Description of Property and Specifications or Building Condition ("**Architect's Report**" or "**Report**") set forth as DOCUMENT 4 in Part II of this Plan and represents that Sponsor has no knowledge of any material defects or need for major repairs to the Property except as set forth in said Architect's Report, or included in the First Year's Budget or customarily corrected by routine maintenance. The Architect's Report was prepared by Marc Kemeny, R.A. of K Square Designs, Inc. and is included in this Plan in reliance upon the expertise of such professional.

CC-2. **Property and Units Offered "AS IS"**. Sponsor is not undertaking any rehabilitation work and is offering the Property in "AS IS" condition at the First Unit Closing, except as may otherwise be expressly provided in said Architect's Report or this Plan. See said Architect's Report for violations noted or issued as at the dates indicated in the Report. Sponsor is offering the Units, and their contents, in "AS IS" condition at closing of title, subject to Sponsor's obligation to obtain a new or amended Certificate of Occupancy to change the caretaker's apartment on a portion of Office Unit 500 for use as an office, and to authorize the Commercial Unit for permitted retail and office uses under the current zoning Law applicable to the Property, and is subject further to Sponsor's obligation to Maintain and Repair an Office Unit and its personal property if and to the extent required by the then existing lease(s) of office space(s) comprising such Office Unit or applicable Law. The Roof Terrace Unit is being offered and sold in its current "AS IS" state as unimproved Roof space. In order to use the Roof as a Roof Terrace Unit, the Purchaser of the Roof Terrace Unit shall be responsible, at its sole Cost and Expense, to install the decking, pavers or other protective flooring, supporting pedestals and required guard rails comprising the Roof Terrace Unit. See SPECIAL RISKS Section A, subsections A-18 and A-19 above. Nothing contained herein will excuse Sponsor from its representations in this Plan or its certification on compliance with Article 23-A of the GBL set forth as DOCUMENT 8A in Part II of this Plan.

CC-3. **Certificate of Occupancy**. All the Office Units offered for sale under this Plan are authorized for use as offices on the existing Certificate of Occupancy, other than the caretaker's apartment on a portion of Office Unit 500. The Commercial Unit is not listed on the Certificate of Occupancy. Sponsor undertakes to obtain a new or amended Certificate of Occupancy to change said caretaker's apartment for use as an office and to authorize the Commercial Unit for permitted retail and office uses under the current zoning Law applicable to the Property as contained in this Plan. The Roof Terrace Unit is not listed, and is not required to be authorized for use, on the Certificate of Occupancy. See SPECIAL RISKS Section A, subsections A-2 and A-18 above. The Certificate of Occupancy identifies the permitted use of each floor, but not the number of office spaces or Units on a floor. The Property interests offered, such as cellar facilities, are provided for in the Certificate of Occupancy to the extent required by applicable Law.

CC-4. **Official Inspection Reports**. Official inspection reports reflecting upon the condition of the Property (such as notices of building code violations as at the date of search) and reports required by local law are noted in the Architect's Report (DOCUMENT 4 in Part II). A list of violations existing at the dates indicated in the Report is contained in paragraph "U" at page DOC 4-21. Sponsor has not undertaken, and will not be obligated, to correct or remove any violations that are noted or issued against the Property, other than the elevator violation (which was the only violation noted or issued at the dates indicated in the Report) or to renew official inspection certificates or permits for Building Equipment that expire at or prior to the First Unit Closing. See SPECIAL RISKS Section A, subsections A-18 and A-19 above.

END OF SECTION CC

END OF PART I

PART II

Document		Page
1.	PURCHASE AND SALE AGREEMENT	DOC 1-1
1A.	FORM W-9 REQUEST FOR TAXPAYER IDENTIFICATION NUMBER	DOC 1A-1
1B.	FORM W-8 CERTIFICATE OF FOREIGN STATUS	DOC 1B-1
1C.	ESCROW AGREEMENT	DOC 1C-1
1D.	DISPUTE RESOLUTION APPLICATION	DOC 1D-1
2.	UNIT OWNER'S POWER OF ATTORNEY	DOC 2-1
3.	FORM OF UNIT DEED	DOC 3-1
4.	DESCRIPTION OF PROPERTY AND SPECIFICATIONS OR BUILDING CONDITION	DOC 4-1
4A.	ASBESTOS REPORT	DOC 4A-1
5.	FLOOR PLANS	DOC 5-1
5A.	MARKETING FLOOR PLANS OF OFFICE UNITS 400 AND 500	DOC 5A-1
6.	DECLARATION OF CONDOMINIUM	DOC 6-1
7.	CONDOMINIUM BY-LAWS	DOC 7-1
8.	CERTIFICATIONS:	
	A. SPONSOR AND SPONSOR'S PRINCIPAL	DOC 8A-1
	B. SPONSOR'S ARCHITECT	DOC 8B-1
	C. SPONSOR'S EXPERT CONCERNING ADEQUACY OF BUDGET	DOC 8C-1
	D. SPONSOR'S EXPERT CONCERNING ADEQUACY OF COMMON CHARGES PAYABLE BY THE COMMERCIAL UNIT OWNER	DOC 8D-1
9.	OPINION ON MARKET RATE MANAGEMENT FEE	DOC 9-1

This Page Intentionally Left Blank

[Please sign 4 originals and return to:
Seyfarth Shaw LLP
620 Eighth Avenue
New York, NY 10018
Attn: Alan L. Kazlow, Esq.]

DOCUMENT 1

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("**Agreement**") is dated and made as of _____, 200__, between the following "**parties**": 100 Vandam, LLC (the "**Seller**" or "**Sponsor**"), having an address for notices at c/o Beck Street Capital LLC, 100 Vandam Street, 4th Floor, New York, NY 10013, and the party signing below as "**Purchaser**".

1. Agreement to Purchase and Sell

1.1 Purchaser agrees to purchase from Seller, and Seller agrees to sell to Purchaser, for the Purchase Price stated in paragraph 2.1 and on the terms and conditions set forth in this Agreement, the following Unit of the proposed condominium called 100 Vandam ("**Condominium**"), together with its appurtenant Common Interest in the Common Elements (said Unit and appurtenant Common Interest are hereinafter collectively called the "**Unit**"), as such Unit is to be designated in the Declaration establishing the Condominium on the land and the "**Building**" and other improvements erected thereon (collectively, "**Property**") known by the street address for the Office Units as 100 Vandam Street, New York, New York 10013:

	Number	Common Interest
[Office][Commercial] Unit:*	_____	_____%

* Delete where inapplicable.

2. Purchase Price

2.1 The "**Purchase Price**" of the Unit is $_____, which Purchaser agrees to pay to Seller as follows:

$_____* (**"Deposit"**) on signing this Agreement; and

$_____ (**"Balance"**) at closing of title.

* Includes any sum previously given on receipt of the Offering Plan and Amendments for the Property.

3. Date of Receipt of Offering Plan

3.1 Purchaser acknowledges receipt of the Offering Plan for the Property and the _____ Amendments thereto on _____ ___, ____.

PURCHASER MUST BE AFFORDED THREE (3) FULL BUSINESS DAYS TO REVIEW THE OFFERING PLAN AND AMENDMENTS BEFORE SIGNING THIS AGREEMENT.

4. Information on Purchaser

4.1 Purchaser's address for notices and personal information for this transaction are:

Street: _____ Suite No. _____

City: _____ State: _____ Zip Code: _____

Phone #: Daytime _____; Evening _____

Social Security/Federal EID No.: _____

5. Purchaser's Attorney

5.1 The attorney representing Purchaser on this transaction is:

Individual Attorney: _____

Firm Name: _____

Address: _____

_____

Phone #: (____) _____

Fax #: (____) _____

6. Identity of Participating Broker

6.1 The only brokers and salespersons that Purchaser has dealt with on this transaction are the Selling Agent, Grubb & Ellis New York, Inc., and:

Participating Broker: _____*

Salesperson: _____*

* [If inapplicable, state "None".]

7. Terms and Conditions of Purchase and Sale

7.1 The terms and conditions of this Agreement are continued in paragraphs 8 through 32, which start on the next page entitled "*Terms and Conditions of Purchase and Sale Agreement*", the Exhibits to this Agreement and any riders hereto signed by Seller and Purchaser, all of which form a part of this Agreement.

Attestation: Seller and Purchaser agree that the provisions of this Agreement are legal and valid, binding on each of them and fully enforceable in accordance with its terms.

SELLER:
100 Vandam, LLC
By: BSCKIM Holdco III, LLC, Manager
By: BSCNYC Holdings, LLC, Manager
By:

Signature: _____

Name: _____
Title: Manager of Beck Street Capital, LLC, Manager

Date Accepted: _____

PURCHASER:

Name: _____*

Signature: _____

Print Name: _____

Signed by Purchaser on _____ ___, ____

***NOTE: THIS IS THE EXACT NAME THAT WILL BE USED ON THE DEED.**

©2008 Alan L. Kazlow, Esq.
Seyfarth Shaw LLP
All rights reserved.

TERMS AND CONDITIONS OF PURCHASE AND SALE AGREEMENT

TABLE OF CONTENTS

Caption	Page	Caption	Page
1. Agreement to Purchase and Sell	1	20. Pre-Closing Inspection by Purchaser	14
2. Purchase Price	1	21. Risk of Loss	14
3. Date of Receipt of Offering Plan	1	22. Purchaser's Events of Default; Seller's Remedies	15
4. Information on Purchaser	1	23. Purchaser's Remedies on Seller's Default or Inability to Perform	17
5. Purchaser's Attorney	1	24. Claims Released On Cancellation and Disbursement of Purchase Monies	17
6. Identity of Participating Broker	1	25. Escrow Provisions	18
7. Terms and Conditions of Purchase and Sale	1	26. Effectiveness Amendment Requirement	21
8. Definitions	2	27. Plan and Amendments Govern	21
9. Incorporation in Agreement	4	28. Purchaser's Time to Review Plan and Amendments	22
10. Procedure to Purchase	4	29. Seller's Acceptance or Rejection of Agreement	22
11. Closing Date, Time and Place	4	30. Broker	22
12. Purchaser's Closing Costs	5	31. Notices	23
13. Closing and Post Closing Apportionments	7	32. Standard Terms	23
14. Closing Payments and Documents	8		
15. Possession	10		
16. State of Title	11		
17. Personal Property Included in Sale	13		
18. Unit and Contents Sold "As Is"	13		
19. Purchaser's Changes and Extras	13		

EXHIBIT A: Permitted Encumbrances

8. Definitions

8.1 The words frequently used in this Agreement (whether uppercase or lowercase) are defined below. The words and terms defined in the Offering Plan that are used in this Agreement without express definition shall have their respective meanings given to them in the Offering Plan.

"Agreement": This Purchase and Sale Agreement.

"Amendment": An Amendment to the Offering Plan accepted for filing by the Attorney General.

"Attorney General": The Attorney General of the State of New York.

"Balance": The amount set forth in paragraph 2.1.

"Building": The building known by the street address of 100 Vandam Street, New York, New York (a/k/a 96-100 Vandam Street and 527-531 Greenwich Street).

"business day": Any day that is not a Saturday, Sunday or legal holiday of the State of New York or the U.S. government.

"business hours": Between the hours of 9:00 a.m. and 5:30 p.m.

"calendar days" or **"days"**: Any day of the year.

"Claim": Any kind of claim, right, cause for Lawsuit or Lawsuit.

"Closing Date", "closing", "closing of title", "title closing" and words of similar import: The date upon which, among other things, Seller delivers the "Deed" (defined below) for the Unit to Purchaser and Purchaser pays the Balance of the Purchase Price to Seller.

"Condominium": 100 Vandam.

"Cost and Expense" or **"Cost or Expense"**: Any kind of: loss, damage, penalty, fine, liability, judgment, award, cost, expense and amount (including reasonable legal fees and disbursements, court costs and all other litigation expenses, together with per diem interest thereon at the rate equal to the lower of 16% a year or the maximum legal rate, computed from the date paid to the date each item of cost and expense is reimbursed) paid, payable or incurred in connection with any Claims or to perform, observe, enforce, uphold, protect, defend, maintain or collect sums payable under a right, remedy, obligation, requirement, agreement or indemnity given in or pursuant to this Agreement.

"damages": All kinds of damages, whether actual, compensatory, consequential, incidental, special, indirect or otherwise.

"Deed": The deed described in paragraph 14.1.h. conveying the Unit to Purchaser.

"Department of Law": The Department of Law of the State of New York, which is administered by the Attorney General.

"Deposit": The amount set forth in paragraph 2.1.

"Depository": Valley National Bank, having an office at 275 Madison Avenue, New York, New York 10016.

"**First Closing**" or "**First Unit Closing**": The first conveyance of a Unit under the Plan.

"**Force Majeure**": Events or circumstances beyond the control of a party, such as those listed in paragraph 11.3.

"**include**", "**includes**", "**including**", "**such as**", "**for example**" and similar words: Whenever these words precede a list of one or more items, the list is not to be limited to the item(s) mentioned and shall always be construed as though followed by the words "but not limited to".

"**indemnify**" or a derivation thereof: This includes to defend and to hold harmless.

"Institutional Lender": A bank, saving bank, savings and loan association, trust company, credit union of which Purchaser is a member, licensed mortgage banker, insurance company or governmental entity duly authorized to make a loan secured by a first mortgage on the Unit.

"interest": Interest on the Deposit, to the extent such interest is earned and collected from the Depository.

"land": The parcel of land situated in Block 597, Lot 7 of the tax map of the County, City and State of New York.

"law": Every applicable law and ordinance of federal, state, city or other governmental authority and each and every regulation, code, rule, order, directive, permit and requirement of all governmental or quasi-governmental authorities having jurisdiction over the Property or the Unit.

"Lawsuit": Any kind of suit, controversy, dispute and litigation, whether legal or equitable, brought in or before any: court, tribunal or judicial system (federal, state, local or international); governmental administrative authority; arbitration or mediation association; or alternative dispute resolution body.

"Liabilities and Expenses": All liabilities, judgments, awards, losses, damages, penalties, fines and Cost and Expenses.

"Loan Commitment Letter": A written offer to make a loan to Purchaser, with or without recourse, whether or not conditional upon any factor, secured by a first mortgage on the Unit.

"Net Purchase Monies": The Deposit, any interest earned thereon, and any Net Refundable Special Work Payment (if and to the extent applicable).

"Net Refundable Special Work Payment": The amount (if any) by which the Special Work Payment exceeds the actual Costs and Expenses incurred or paid to perform the Special Work and to restore the Unit to its condition existing before undertaking the Special Work.

"Offering Plan" or **"Plan"**: The Condominium Offering Plan for 100 Vandam Street, New York, New York 10013 and all Amendments to such Offering Plan filed prior to the date upon which Purchaser signs this Agreement. The Plan includes the documents reproduced in Part II thereof.

"party": Seller and Purchaser are each a party to this Agreement.

"Property": The land and the Building erected thereon, which are to be submitted to condominium ownership pursuant to Article 9-B of the Real Property Law.

"Purchase Monies": The Deposit, any interest earned thereon and any Special Work Payment.

"**Purchase Price**": The amount set forth in paragraph 2.1, which Purchaser is to pay to Seller for the sale and conveyance of the Unit pursuant to this Agreement.

"Scheduled Closing Date": The date to be fixed by Sponsor pursuant to paragraph 11.1 to close title to the Unit.

"Selling Agent": Grubb & Ellis New York, Inc. .

"sign in recordable form": The proper notarization and acknowledgment of a signature in the form required to record or file the document in question.

"Special Work": Any alterations, or upgraded fixtures, appliances, equipment or cabinets, or other work ordered by Purchaser and itemized in a rider or modification to this Agreement signed by the parties.

"Special Work Payment": Any sum paid by Purchaser for Special Work.

"**Title Exception**": As defined in paragraph 16.2.

"Title Insurance Company": any of the following: First American Title Insurance Company of New York; or Commonwealth Land Title Insurance Company.

"Unit": The Unit and its Common Interest identified in paragraph 1.1.

9. **Incorporation in Agreement**

9.1 These "Terms and Conditions of Purchase and Sale Agreement" form a part of the Agreement and are additional provisions governing Seller's agreement to sell, and Purchaser's agreement to purchase, the Unit.

10. **Procedure to Purchase**

10.1 Purchaser is herewith paying the Deposit in the amount specified in paragraph 2.1 (which equals 10% of the Purchase Price).

10.2 The Deposit shall be paid by Purchaser's good personal collectible check or (at Seller's exclusive option) Purchaser's certified check or official cashier's or bank check. Seller acknowledges receiving a check for the Deposit, but Seller's agreements and obligations under this Agreement are conditional upon the collection of the check. Purchaser shall pay the Balance of the Purchase Price at closing of title in the amount specified in paragraph 2.1 by Purchaser's good certified personal check or official cashier's or bank check. At Seller's option, Purchaser shall pay said Balance in "immediately available funds" (that is, by electronic wire transfer to a bank account designated by Seller). Any payment made by wire transfer shall not be deemed to have been made until confirmed as received by Seller's bank and credited to Seller's account.

10.3 All checks for the Deposit and the Balance of the Purchase Price in the amounts specified in paragraph 2.1 must be drawn on (and payable by) a member bank of the New York Clearing House Association, or a local bank or other Institutional Lender acceptable to Seller (in its sole discretion), and must be unendorsed and made payable to the direct order of the following payee:

a. in the case of the Deposit and Additional Deposit, "*Seyfarth Shaw LLP as Escrow Agent for 100 Vandam Street Plan*"; and

b. in the case of the Balance, "*100 Vandam, LLC*", or to such other payee(s) as Seller may specify on not less than two (2) business days' prior oral notice or three (3) business days' prior written notice to Purchaser or Purchaser's attorney (if any).

Purchaser shall not use a third party check (other than that of an Institutional Lender), including a corporate check (unless Purchaser is the corporation), to pay either the Deposit or the Balance.

10.4 Simultaneously with Purchaser's execution and delivery of this Agreement, Purchaser shall complete, sign and deliver to Seller: (a) (if requested) a Purchase Application on the form provided by Seller; and (b) if Purchaser is subject to backup withholding rules, Internal Revenue Service ("**IRS**") form W-8BEN "Certificate of Foreign Status Beneficial Owner" (if Purchaser is a non-resident alien or foreign entity) or IRS form W-9 "Request for Taxpayer Identification Number (if Purchaser is a United States citizen or resident alien).

11. **Closing Date, Time and Place**

11.1 After the Plan is declared effective, the date and time for closing of title to the Unit ("**Scheduled Closing Date**") will be fixed by Seller on not less than thirty (30) calendar days prior written notice to Purchaser. Seller shall not send such notice before the Effectiveness Amendment is sent to Purchaser. The closing of title shall take place at the offices of Seyfarth Shaw LLP, 620 Eighth Avenue, New York, New York 10018.

11.2 Seller has the right to postpone the closing one or more times to remove a title objection or satisfy a closing prerequisite under the Plan or for any other good faith reason. In the event Seller postpones the closing or Purchaser fails to close on the Scheduled Closing Date fixed by Seller in accordance with paragraph 11.1 (or any postponed dated fixed by Seller in accordance with this paragraph 11.2) and Seller elects not to cancel this Agreement pursuant to paragraph 22, Seller will fix a new date and time for closing. Purchaser will be given written or oral notice of a postponement by Seller and at least 10 calendar days' prior written notice of the new date and time for closing fixed by Seller. In the event Seller postpones the closing, Purchaser shall pay the full amount of Purchaser's closing payments contained in paragraph 14.1 on the postponed date of closing,

including the Balance of the Purchase Price, without abatement, set-off or credit or provision for escrowing monies, and without recourse of any kind against Seller.

11.3 Under the Plan, the "First Unit Closing" (as defined in the Plan) is targeted to occur on July 1, 2009, but may actually occur earlier or later. Purchaser understands and agrees that:

a. Seller does not represent, assure or guarantee when the actual date of the First Unit Closing will occur, which might be earlier or substantially later;

b. Seller does not represent, assure or guarantee when the actual day of closing of title to the subject Unit will occur, which might be substantially after the First Unit Closing;

c. Seller will determine the order of closings of Units, which need not coincide with the sequence in which they are contracted for sale or the numerical order of the floors;

d. Purchaser will not be excused from paying the full Purchase Price, without abatement, set-off or credit, and without recourse of any kind against Seller, in the event the First Unit Closing occurs substantially later than said targeted closing date or the closing of title to the subject Unit is substantially after the First Unit Closing or is postponed; provided, however, if the First Unit Closing is not held by July 1, 2010 or such later date as may be set forth in an Amendment to the Plan served on Purchaser before Purchaser signs and delivers this Agreement, the Plan will be amended to offer Purchaser the option (if Purchaser is not then in default hereunder beyond the applicable grace period and the Plan has been declared effective), for fifteen (15) days only from presentation of such Amendment, to rescind this Agreement and recover the Net Purchase Monies as Purchaser's sole right and remedy; and

e. in no event shall Seller be liable to Purchaser for Purchaser's damages or losses due to any delay in meeting the pre-requisites for closing f title set forth in the Plan (see Sections L and M of Part I of the Plan) or in closing title to the Unit.

12. **Purchaser's Closing Costs**

12.1 At title closing, Purchaser shall pay the following "mandatory" closing costs, which are in addition to (but not part of) the Purchase Price:

a. Purchaser shall pay the New York City Real Property Transfer Tax and the New York State Real Estate Transfer Tax applicable to this purchase and sale, together with the fee of an ACRIS service provider (if any) to prepare such transfer tax returns, the then governmental fees and charges, and the title company's service charge to prepare and file these transfer tax returns together with the New York State equalization and assessment form, and to record the Deed and Unit Owner's Power of Attorney, and the mortgage lien release and UCC-3 Termination Statement under paragraph 14.1;

b. Purchaser shall pay a sum equal to two (2) months' projected Common Charges for the Unit as set forth in Part I of the Plan, in Section D, SCHEDULE A of Offering Prices and Related Information, as such projected Common Charge may be revised in an Amendment prior to the First Unit Closing (such payment represents Purchaser's contribution to the Condominium's Working Capital Fund and shall be made payable and delivered to Seller until the amounts paid by purchasers under the Plan who close title fully reimburse Seller for its reimbursable "advance" payment to the Initial Working Capital Fund as set forth in the Plan and, thereafter, will be made payable to 100 Vandam or as otherwise directed by the Condominium Board and delivered to Seller at title closing for forwarding to the Board or its Managing Agent); and

c. Purchaser shall pay Seller's attorneys, Seyfarth Shaw LLP (or any other attorney designated in writing by Seller) the following sum: (a) (if Purchaser closes title without mortgage financing) such payment shall equal $3,500.00; or (b) (if Purchaser closes title with mortgage financing) such payment shall equal $4,000.00 (such payment to cover the cost of Unit closing legal services in connection with this purchase and sale).

12.2 At title closing, Purchaser shall also pay the following "elective" closing costs:

a. if Purchaser elects to obtain a mortgage loan:

(a-1) Purchaser shall pay the mortgage recording tax, the governmental fee and charges to record the mortgage and a service charge to the title company to record the mortgage;

(a-2) Purchaser shall pay Seller an amount equal to all of Purchaser's savings in the mortgage recording tax to which Purchaser is entitled, whether such savings results from an assignment of an

existing mortgage on the Unit or is pursuant to Real Property Law Section 339-ee or otherwise;

(a-3) if Purchaser's Institutional Lender or its attorney refuses to close at the offices of Seller's designated attorneys, Seyfarth Shaw LLP as set forth in paragraph 11.1 (or any other attorney designated in writing by Seller), and requires the closing to be held elsewhere in The City of New York, Purchaser shall also pay Seyfarth Shaw LLP (or other attorney designated by Seller) a travel fee of $350 (if the closing is held in Manhattan) or $500 (if the closing is held elsewhere in New York City) [NOTE: Seller and Seller's attorneys are not required to attend the closing outside of New York City];

(a-4) Purchaser shall pay the premium for mortgage title insurance (if required by Purchaser's mortgage lender); and

(a-5) Purchaser shall pay all escrows (such as for Common Charges and real estate taxes), private mortgage insurance fee (if any) and other mortgage closing costs and expenses required by Purchaser's mortgage lender (if any);

b. if Purchaser elects to order title insurance:

(b-1) Purchaser shall pay the premium of Purchaser's title insurer or agent for the policy together with all charges and costs of title searches and any escrow for real estate taxes relative to Purchaser's period of ownership of the Unit; and

(b-2) if any legal services are performed in clearing title with Purchaser's title insurer or agent, Purchaser shall pay Seller's attorney, Seyfarth Shaw LLP (or any other attorney designated in writing by Seller) the sum of $500, regardless of which title insurer or agent is to insure Purchaser's title, as provided in paragraph 16.8;

c. if Purchaser elects to retain an attorney, Purchaser shall pay the fees and other charges of Purchaser's attorney; and

d. if Purchaser has dealt with any broker other than the Selling Agent and the Participating Broker (if any) identified in paragraph 6.1, Purchaser shall pay the fee or commission earned by such broker.

12.3 At title closing, Purchaser shall also pay the following "delinquent closing costs" if Purchaser fails for any reason whatsoever not due to the fault of Seller to close on the Scheduled Closing Date to be fixed by Seller in accordance with paragraph 11.1 or if the Scheduled Closing Date so fixed by Seller is postponed because Purchaser or Purchaser's attorney fails to timely notify Seller or Seller's attorneys of a title objection as provided in paragraph 16.4:

a. Purchaser shall reimburse Seller per diem interest for lost opportunity of earnings on the Purchase Price at the annual rate of 12% of the Purchase Price, prorated for each day's delay, starting on the originally Scheduled Closing Date fixed by Seller pursuant to paragraph 11.1 through the end of the day prior to the actual date title closes (or expressed as a formula: Purchase Price x 12% ÷ 365 x number of days delayed);

b. Purchaser shall also reimburse Seller for the Unit's Common Charges and real estate taxes for the period of such delay, less any rental income paid by any tenant or tenants of the Unit for such period; and

c. Purchaser shall pay Seller's designated attorneys, Seyfarth Shaw LLP (or any other attorneys designated in writing by Seller), the amount of $250.00 for each default notice sent to Purchaser (for the costs to send such notice) and a further sum of $250.00 for each time the closing is rescheduled (for the costs to fix a new Closing Date and time, to coordinate the attendance of all persons, to redate the closing documents and to recalculate the closing apportionments).

12.4 Purchaser shall pay Purchaser's closing costs under this paragraph 12 based on the applicable governmental and title company rates in effect at closing.

12.5 All sums payable to Seller and said attorneys designated by Seller (i.e., Seyfarth Shaw LLP or other attorney designated by Seller, as applicable) under paragraph 12.3 shall be:

a. paid by Purchaser's good certified personal check or bank money order or an official cashier's or bank check;

b. drawn on and payable by a member bank of the New York Clearing House Association or a local bank or other Institutional Lender acceptable to Seller, in its sole discretion; and

c. unendorsed and made payable to the direct order of the appropriate recipient.

12.6 The New York City and the New York State transfer taxes payable by Purchaser under paragraph 12.1.a shall be paid by Purchaser's unendorsed certified check or unendorsed official cashier's or bank check made payable directly to the appropriate taxing authority or to Purchaser's title insurer or agent for forwarding to such taxing authority.

12.7 Purchaser shall pay any additional tax or tax deficiency in such New York City and State transfer taxes payable by Purchaser under paragraph 12.1.a. Similarly, if Purchaser obtains a mortgage loan, Purchaser shall pay any additional tax or tax deficiency in the mortgage recording tax payable by Purchaser under paragraph 12.2.a. Purchaser shall also pay any interest and penalties assessed by a taxing authority in connection with any of these additional tax or tax deficiency payments.

12.8 Purchaser shall indemnify Seller (with attorneys selected by Seller) from and against any and all Costs and Expenses resulting from Purchaser's agreements in paragraphs 12.1 and 12.7.

12.9 Purchaser's obligations under paragraph 12.1.a (to pay the New York City State transfer taxes), paragraph 12.2.d (to pay the commission earned by Purchaser's broker, other than the Selling Agent and Participating Broker identified in paragraph 6.1, if any), paragraph 12.7 (to pay all additional taxes, tax deficiencies, interest and penalties) and paragraph 12.8 (to indemnify Seller from any breach of Purchaser's obligations in paragraph 12.7) shall survive the closing.

13. **Closing and Post Closing Apportionments**

13.1 At closing, Seller and Purchaser shall apportion the following items with respect to the Unit as of 11:59 p.m. of the preceding day:

a. real estate taxes and the then current installment of any special real estate tax assessment covering the tax period within which the closing occurs;

b. the monthly Common Charge and the then current installment of any Condominium special assessment for the period in which title closes; and

c. rent and additional rent under each lease for the Unit or a portion of the Unit (if any).

All such apportionments shall be based on the actual number of days of the billing period in question for said items. If title closes before the Unit is separately assessed and billed for real estate taxes, then real estate taxes shall be apportioned as provided in the Plan and after the Unit is so separately assessed and billed, Seller and Purchaser shall have the right, for a deadline of only 60 calendar days after the Unit is so separately assessed and billed ("*TIME BEING OF THE ESSENCE*"), to adjust post closing any overpayment or underpayment of real estate taxes apportioned at closing as set forth in the Plan (see Section N, subsection N-1.3). If title closes after the Unit is separately assessed and billed but before the bill for real estate taxes is issued covering the period in which the closing occurs, then such real estate taxes shall be apportioned on the basis of the last issued real estate tax bill with respect to the Unit for the preceding fiscal tax year.

13.2 The net amount resulting from the apportionments in paragraph 13.1 shall be paid to the proper party at closing (and, if owed by Purchaser, shall be in addition to the Purchase Price).

13.3 Installments for any real estate tax assessment or for any Condominium special assessment due after the closing are not a defect in, or objection to, title and shall be paid by Purchaser without abatement, set-off or credit against the Purchase Price and without recourse of any kind against Seller. However, the then current installment for any special real estate tax assessment or any Condominium special assessment shall be apportioned at closing in accordance with paragraph 13.1.

13.4 All conventional practices recommended by The Real Estate Board of New York, Inc. in its "Customs in Respect to Title Closings" shall be followed for closing apportionments unless inconsistent with the express provisions of this paragraph 13.

13.5 Any errors or omissions in computing apportionments at closing shall be corrected, and payment made to the proper party, promptly after receipt of a written notice containing a calculation of the amount owed, provided such notice is sent within a deadline of six (6) months after the Closing Date ("*TIME BEING OF THE ESSENCE*").

13.6 If Purchaser receives subsequent to closing a refund, savings or abatement in the Unit's real estate taxes for the fiscal tax year in which the closing is held, Purchaser shall be obligated as follows:

a. first, Purchaser shall pay the Costs and Expenses to obtain the refund, savings or abatement that are attributable to the Unit, as determined by Sponsor (including reimbursing Seller for any of

these Costs and Expenses paid by Seller), but under no circumstance shall Purchaser's payment exceed the amount of the refund, savings or abatement; and

b. second, Purchaser shall appropriately apportion the balance between Seller and Purchaser in accordance with the respective portions of the tax year that each owns the Unit.

13.7 The utility service account in Seller's name with respect to the Unit for electricity and (in the case of Office Unit 500) gas shall be terminated as of the day of closing. Purchaser shall be responsible to arrange obtaining electric and gas service for the Unit from after the closing, including paying any deposit required by the utility provider. In the event Seller shall be billed by the utility provider for any electricity and gas service consumed by Purchaser from and after the closing, Purchaser shall pay or (at Seller's option) reimburse Seller, and Seller shall receive within five (5) business days after notice thereof is given to Purchaser accompanied by a copy of the bill from the utility provider, the amount so billed applicable to Purchaser's consumption.

13.8 If an amount owed after closing is not received by the applicable party within 10 days after giving a reasonably detailed notice thereof, then the party owed such payment shall be reimbursed by the delinquent party:

a. per diem interest on the amount owed at a rate equal to 12% a year, prorated for each day's delay following the end of said 10 day period to the end of the day prior to the date full payment of the amount owed is received by the applicable party (such payment is to compensate for lost opportunity of earnings on the amount owed), or expressed as a formula: amount owed x 12% ÷ 365 x number of days overdue; and

b. all Costs and Expenses of collection together with per diem interest thereon at the rate of 12% a year, computed from the date each item of Costs and Expenses is paid through the date payment thereof is received by Sponsor.

13.9 The respective obligations of Seller and Purchaser under paragraphs 13.1, 13.5, 13.6, 13.7 and 13.8 shall survive the closing.

14. **Closing Payments and Documents**

14.1 At closing:

a. Purchaser shall pay Seller the Balance of the Purchase Price in the amount stated in paragraph 2.1 and in the manner described in paragraphs 10.2 and 10.3;

b. Purchaser shall pay Purchaser's closing costs as set forth in paragraph 12;

c. the net closing apportionments shall be paid to the appropriate party in accordance with paragraph 13;

d. Seller and Purchaser shall sign in recordable form (in duplicate) and deliver the then current forms for the New York City and New York State transfer tax returns and the New York State equalization and assessment form applicable to this transaction;

e. Purchaser shall deliver the required checks in the proper amounts and to the proper payees, or to Purchaser's title insurer or agent for payment of, such New York City and New York State transfer taxes and for the fee of an ACRIS service provider to prepare said transfer tax returns;

f. if Purchaser is obtaining mortgage financing:

(f-1) Purchaser shall pay, sign and deliver all amounts, instruments and documents as required by Purchaser's mortgage lender in order to close the mortgage loan simultaneously with the closing of title hereunder; and

(f-2) Purchaser shall sign and deliver an appropriate affidavit for exemption from, abatement of and/or credit against the mortgage recording tax as a result of an assignment of an existing mortgage or the mortgage tax credit under Real Property Law Section 339-ee or otherwise (the foregoing notwithstanding, Seller may, at Seller's option, sign in recordable form and deliver said affidavit; however, regardless of who signs the affidavit, Purchaser shall pay Seller the amount of Purchaser's available savings in the mortgage recording tax as provided in paragraph 12.2(a)(a-2);

g. Purchaser shall sign in recordable form (in triplicate) and deliver the Unit Owner's Power of Attorney substantially in the form reproduced in Part II of the Plan;

h. Seller and Purchaser shall sign in recordable form, and Seller shall deliver, Seller's standard Bargain and Sale Deed (**"Deed"**) with covenant against grantor's acts, in proper statutory form

for recording and containing the covenant required by Section 13, subdivision 5 of the Lien Law, whereby Seller transfers legal ownership (fee simple title) of the Unit to Purchaser (such Deed to be substantially in the form set forth in Part II of the Plan);

i. Seller shall deliver a mortgage lien release and UCC-3 Termination Statement or other appropriate instrument (signed in recordable form) discharging the Unit and its contents from any mortgage lien and security interest in the "Personal Property" (defined in paragraph 17.1), other than the lien of any mortgage loan Purchaser obtains (Purchaser shall pay all governmental fees and charges, and title company service charge, to record and file such instruments);

j. Seller shall deliver an affidavit, signed in recordable form, stating that the Unit is not a "multiple dwelling" as defined in applicable laws;

k. Seller shall deliver to Purchaser a certification of non-foreign status signed by Seller as required by the applicable provisions of the federal income tax code and regulations;

l. Seller shall sign and deliver to Purchaser's title insurer or agent (as applicable) such title affidavit and other evidence as said title insurer or agent (as applicable) may reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against Seller and persons or entities whose names are the same as, or are similar to, Seller's name; and Purchaser shall likewise sign and deliver such title affidavit and other evidence as said title insurer or agent may reasonably require to omit from its fee or mortgage title insurance policy all such exceptions with respect to Purchaser;

m. Purchaser shall deliver to Purchaser's title insurer or agent (as applicable) certified or non-certified checks of Purchaser (as directed), in such amounts and to such payees, as said title insurer or agent may require in connection with any escrow to be held and applied by the title insurer or agent for payment of the next due real estate taxes with respect to the Unit (if and as required by Purchaser's title insurer or agent);

n. Seller shall deliver to Purchaser, to the extent in Seller's possession, all applicable unexpired and transferable warranties or undertakings of contractors, suppliers and manufacturers relative to the Personal Property included in this purchase and sale;

o. Seller shall deliver to Purchaser a statement by the Condominium Board or its Managing Agent as to the status of payment of Common Charges and any special assessments for the Unit (such statement will be sufficient for apportioning these items under paragraphs 13.1 and 13.3);

p. Seller shall deliver to Purchaser a certificate from the Condominium Board's insurer of the Property showing Purchaser and (if Purchaser is obtaining a mortgage loan) Purchaser's mortgage lender as additional insured parties under the Board's master policy;

q. (in the case only of Office Unit 500 or the Commercial Unit) Seller shall deliver a copy of a temporary or partial or permanent (at Seller's exclusive option) new or amended Certificate of Occupancy changing the use of the caretaker's apartment on a portion of Office Unit 500 for use as an office (in the case only of Office Unit 500) or authorizing the use of the Commercial Unit for permitted retail and office uses under the current zoning law applicable to the Property (in the case only of the Commercial Unit);

r. Seller shall deliver to Purchaser all keys to the Unit and any mailbox or (at Seller's option) such keys shall be given to Building's superintendent or managing agent for delivery to Purchaser; and

s. (if the Unit is subject to one (1) or more leases) Seller and Purchaser shall sign and deliver to each other an assignment and assumption of lease agreement (on Seller's standard form) and in content satisfactory to Seller and Seller's attorney), pursuant to which Seller assigns to Purchaser, and Purchaser assumes, the lease or leases for the Unit or a portion thereof, together with any lease security deposit or deposits, which shall be delivered to Purchaser, together with any interest earned thereon, at closing.

14.2 The following documents and checks described in paragraph 14.1 shall be delivered to Purchaser's title insurer or agent, as applicable (or, if none, to Seller's attorney) for recording or submission to the New York City Register's Office of the County of New York: the New York City and State transfer tax returns and checks, the New York State equalization and assessment form, the Deed, the mortgage lien release and the UCC-3 Termination Statement (if applicable), the Unit Owner's Power of Attorney and the multiple dwelling affidavit. After being recorded, the Deed and the mortgage lien release

and said UCC-3 (if any) shall be returned to Purchaser and one of the three originals of the Unit Owner's Power of Attorney shall be returned to Seller and the other two originals to the Board.

14.3 Seller's covenant in the Deed is for Purchaser's personal benefit and shall not inure to the benefit of Purchaser's successors or subrogees (including Purchaser's title insurer or agent, as applicable). Purchaser must first look to Purchaser's title insurer or agent (as applicable) before seeking recourse against Seller for recovery on any Claim based upon a breach of such covenant. Purchaser agrees that Seller's liability will be limited to any loss or damage not covered by title insurance. In the event that Purchaser elects not to purchase title insurance, then Seller's liability shall be limited to any loss or damage that would not have been covered by the title insurance that was available to Purchaser at the closing. The terms of any title policy or marked-up title binder of any title insurance company authorized to do business in New York State issued in connection with any other unit of the Condominium shall be conclusive evidence of the title insurance coverage that was available to Purchaser. This provision shall survive the closing.

14.4 Purchaser's payment of the Balance of the Purchase Price and acceptance of the Deed shall constitute Purchaser's recognition and agreement that Seller has satisfactorily performed those obligations stated in this Agreement, the Plan and any Amendments thereto to be performed by Seller to and through closing. This, however, shall not excuse Seller from performing those obligations (if any) expressly stated in this Agreement, the Plan or Amendments to be performed subsequent to the closing, nor reduce or otherwise abridge any of Purchaser's rights under Article 23-A of the General Business Law, the Plan or Part 20 of the regulations issued by the Department of Law.

14.5 The exact name used by Purchaser for signing on the first page of this Agreement shall be used in the closing documents described in this paragraph 14 (including in the City and State transfer tax returns, the State equalization and assessment form, the Unit Owner's Power of Attorney and the Deed).

15. **Possession**

15.1 If Purchaser is the current tenant of the Unit or is being given possession under an Interim Lease, the following shall apply:

a. Purchaser shall acquire title to the Unit at closing subject only to Purchaser's tenancy and rights of occupancy, Purchaser's lease and any other permitted occupants of the Unit;

b. Purchaser agrees to pay all rent and any additional rent as and when due in accordance with the terms of Purchaser's lease or tenancy;

c. Purchaser's failure to pay rent or additional rent shall become a default under this Agreement if an order of eviction or other judgment or order from a court or Governmental Authority having jurisdiction is issued against Purchaser or Purchaser vacates the Unit; and

d. at closing, the rent for the month of closing shall be apportioned as provided in paragraph 13.1 and Purchaser's rent security (if any) will be refunded to Purchaser as provided in paragraph 14.1.s.

15.2 If Purchaser is the current tenant under a lease for a portion of the Unit, the provisions of paragraphs 15.1.b though d and 15.3 shall apply.

15.3 If the Unit is subject to one (1) or more leases held by other than Purchaser (each, "**such lease**"), the following shall apply:

a. Purchaser shall acquire title to the Unit subject to each such lease and the rights of the tenant thereunder;

b. in the event such lease expires or is sooner terminated pursuant to its terms, Purchaser shall not be excused from Purchaser's obligation to consummate the closing of title and pay the full Purchase Price, without abatement, set-off or credit and without recourse of any kind against Seller; and

c. Seller shall not modify or amend such lease, or terminate or cancel such lease by mutual agreement with the tenant thereunder, without obtaining the prior written consent of Purchaser in each instance, but Seller shall have the right, without Purchaser's consent and without abatement, set-off or credit against the Purchase Price or recourse of any kind against Seller, to terminate or cancel such lease in accordance with its terms based on a default, breach or violation of such lease by the tenant.

15.4 In the event all or a portion of the Unit is vacant at the date of this Agreement or hereafter becomes vacant, the following shall apply:

a. Seller shall have the exclusive right and option to lease such vacant space;

b. if Seller elects to lease such vacant space, Seller shall first offer Purchaser, in writing, a lease for said vacant space at such rent and other terms as may be mutually agreeable to the parties;

c. if the parties fail to mutually agree on the rent and other terms of a lease within thirty (30) calendar days after Seller gives Purchaser said written offer to lease the Unit to Purchaser, or Purchaser declines to enter into a lease for such vacant space, then Seller shall have the unfettered right, without Purchaser's consent, and without abatement, set-off or credit against the Purchase Price, or recourse of any kind against Seller, to lease such vacant space to anyone at not less than the rent and other material terms last offered in writing to Purchaser, except the lease may be for a term of not more than ten (10) years without Purchaser's written consent;

d. in the event said vacant space is leased pursuant to the preceding clause "c", then the provisions of paragraph 15.3 shall apply; and

e. if Seller elects not to lease said vacant space to Purchaser or anyone else, Purchaser shall not have the right to lease, use or occupy said vacant space, or store any furniture, equipment or other personal property therein, or paint or otherwise Decorate said vacant space, or otherwise make any additions or improvements thereto. prior to closing of title.

16. **State of Title**

16.1 Seller shall convey, and Purchaser shall accept, title to the Unit subject only to:

a. the encumbrances (**"Permitted Encumbrances"**) listed in EXHIBIT A to this Agreement; and

b. such other matters as: (b-1) either (at Seller's option) any of the title insurers comprising the Title Insurance Company or Purchaser's title insurer or agent (as applicable) shall be willing, without additional cost to Purchaser beyond its regular rates, to omit as exceptions to coverage or to except with insurance against collection out of, or enforcement against, the Unit; and (b-2) shall be accepted by the Institutional Lender (if any) which has issued a Loan Commitment Letter to, and accepted by, Purchaser, except that if such acceptance by Purchaser's Institutional Lender is unreasonably withheld, delayed or conditioned, such acceptance shall be deemed to have been given.

The Deed shall be considered to be subject to the Permitted Encumbrances, even though they are not repeated or referred to in the Deed.

16.2 Any lien, encumbrance, charge or title condition not included in the Permitted Encumbrances (collectively, **"Title Exception"**) shall not be considered an objection to title, and Seller shall not be obligated to cause Purchaser's title insurer to omit it from Purchaser's title insurance policy, if:

a. at or prior to the closing, the instrument required to remove it "of record" together with the requisite recording or filing fees, has been delivered to either (at Seller's option): (a-1) any of the title insurers comprising the Title Insurance Company for recording in the proper office, and a copy of said instrument is delivered at closing to the representative of Purchaser's title insurer or agent, or Purchaser's attorney (or, if none, to such other person as Purchaser shall direct); or (a-2) Purchaser's title insurer or agent; or

b. either (at Seller's option) any of the title insurers comprising the Title Insurance Company or Purchaser's title insurer or agent (as applicable) is willing to insure Purchaser (at Purchaser's expense, but at its regular rate and without additional premium) against collection or enforcement of the Title Exception out of the Unit and is willing to insure the mortgage lien of Purchaser's Institutional Lender (if any) free and clear of any such Title Exception (it being agreed that Seller shall have the right, in lieu of payment and discharge of such Title Exception, to make such deposits and/or to give such assurances and/or to pay such special or additional premiums as the Title Insurance Company or (at Seller's option) Purchaser's title insurer or agent (as applicable) may require in order to so insure); or

c. (in the case of a condition in the Unit that is a violation noted or issued by a governmental authority having jurisdiction) an architect or engineer designated by Seller certifies in writing to Purchaser that the condition causing the violation has been corrected and Seller undertakes in writing to Purchaser and Purchaser's title insurer or agent (as applicable) and Institutional Lender (if any) to use reasonable diligence and efforts to cause the violation to be removed of record (such agreement shall survive the closing), without escrowing any monies, provided only that such undertaking shall be reasonably acceptable to Purchaser's Institutional Lender (if any).

16.3 Any unpaid taxes and assessments, together with the interest and penalties thereon to a date not less than two (2) calendar days following the date of closing, and any other liens and encumbrances that Seller is obligated to pay and discharge or that are against corporations, estates or other persons in the chain of title, together with the cost of recording or filing any instruments necessary to discharge such liens and encumbrances of record, may be paid out of the proceeds of the monies payable at the closing if Seller delivers to Purchaser at the closing official bills for such taxes, assessments, interest and penalties and instruments in recordable form sufficient to discharge any such other liens and encumbrances of record. Upon request made on not less than two (2) business days' prior oral notice or three (3) business days' prior written notice before the closing, Purchaser shall provide at the closing separate checks for the foregoing payable to the order of the holder of any such lien, charge or encumbrance and otherwise complying with paragraph 10.3.

16.4 At least ten (10) calendar days prior to the Closing Date, Seller's attorneys, Seyfarth Shaw LLP, 620 Eighth Avenue, New York, New York 10018, Attn: Alan L. Kazlow, Esq., or any other attorney designated by Seller in a notice to Purchaser, will receive from Purchaser or Purchaser's attorney written notice of any and all title objections. If Purchaser elects to obtain title insurance, then a copy of the title report and every continuation thereof issued by Purchaser's title insurer or agent (as applicable) will suffice in lieu of such notice. In such event, the title report also must be received by Seller's attorneys at least ten (10) calendar days prior to the Scheduled Closing Date and each continuation must be sent directly to said Seller's attorneys by Purchaser's title insurer or agent (as applicable), or sent to said Seller's attorneys within two (2) business days after being received by Purchaser or Purchaser's attorney.

16.5 If Seller is required to postpone the closing to remove a title objection, Purchaser shall be at fault for such postponement if Purchaser fails to timely comply with paragraph 16.4 and the objectionable title condition existed at the time Purchaser is required to send the title objection notice. However, Purchaser shall not be at fault if Purchaser or Purchaser's attorney timely sends Seller's designated attorneys a title report and every continuation in accordance with paragraph 16.4 and the objectionable title condition arises after such title report and any continuation are issued.

16.6 In the event Purchaser is at fault for the postponement of the closing, Purchaser shall pay Seller and (if applicable) Seyfarth Shaw LLP (or other applicable attorney designated by Seller), at closing the delinquent closing costs stated and/or calculated as provided in paragraph 12.3.

16.7 Purchaser is not required to obtain title insurance. If Purchaser elects to insure Purchaser's title to the Unit, Purchaser shall pay the title insurance premium. Purchaser has the right to obtain title insurance from any of the title insurers comprising the Title Insurance Company or from any other title insurer or agent Purchaser prefers. However, if Purchaser chooses to order title insurance from another title insurer or through its agent and such other title insurer or agent raises one or more Title Exceptions that would be omitted by any of the title insurers comprising the Title Insurance Company as provided in paragraph 16.2, then Purchaser either (at Purchaser's option) shall take subject to such Title Exceptions (without abatement, set-off or credit against the Purchase Price, or escrowing any monies, and without recourse of any kind against Seller) or may procure title insurance from any of the title insurers comprising the Title Insurance Company (and thereby have title to the Unit insured free of such Title Exceptions).

16.8 If Purchaser's fee or mortgage title insurer or its agent requires documents and/or instruments to be prepared or produced or other work to be performed by Seller's attorneys in order to omit one or more Title Exceptions or to insure against their collection out of or enforcement against the Unit, then at closing Purchaser shall reimburse Seller's designated attorneys (i.e., Seyfarth Shaw LLP, or other attorney designated by Seller, as applicable) the sum of $500 for the services of Seller's attorneys to prepare or produce such documents and/or instruments and perform such other work, together with any title service charges in connection therewith, regardless of which title insurer or agent Purchaser chooses to insure title.

NOTE: Because the title insurers and agent comprising the Title Insurance Company are already familiar with title to the Unit, any title issues might be more easily resolved by obtaining title insurance from such title insurers (i.e., First American Title Insurance Company of New York, Attention: Gail Heiner or Jeffrey Mitzner, telephone no. (212) 922-9700, Title No. 3008-244382; and Commonwealth Land Title Insurance Company, Attention: Edwin Cruz, telephone no. (212) 949-0100, Title No. NY080674.

16.9 Notwithstanding any contrary provisions in this Agreement, express or implied, or any contrary rule of law or custom, if Seller shall be unable to convey the Unit in accordance with this Agreement (provided that Seller shall release, discharge or otherwise cure at or prior to closing any matter

intentionally created by Seller in bad faith after the date hereof and any existing mortgage, unless this purchase and sale is subject to it) and if Purchaser elects not to complete this transaction without abatement, set-off or credit against the Purchase Price and without recourse of any kind against Seller, the sole obligation and liability of Seller shall be to pay Purchaser the Net Purchase Monies, together with the reasonable costs of the examination of title to, and departmental violation searches in respect of, this Agreement actually paid by Purchaser (the latter costs of title examination and searches are collectively, "**Title Search Costs**"), and upon making such payment, this Agreement shall be deemed cancelled and of no further force or effect, and neither party shall have any further rights against, or obligations or liabilities to, the other party by reason of this Agreement, other than those indemnities, obligations and liabilities expressly stated to survive the cancellation of this Agreement. However, nothing contained in this paragraph 16.9 shall be construed to relieve Seller from Purchaser's remedy for specific performance under paragraph 23.3 due to a willful default.

17. **Personal Property Included in Sale**

17.1 This sale includes the following "**Personal Property**" to the extent owned by Seller and existing in the Unit on the date of this Agreement: equipment, appliances and lighting fixtures, plumbing fixtures (including sink and toilet), window treatments (including shades), switch plates and door hardware.

17.2 No portion of the Purchase Price is attributable to the Personal Property, which will be transferred to Purchaser without consideration at the closing. If the closing does not occur, Purchaser will not have any right or interest in, and may not acquire or purchase, the Personal Property.

17.3 The Unit will be purchased by Purchaser without any furniture, furnishings or Decorations. Purchaser acknowledges and agrees that this sale does not include any equipment, furniture, furnishings, Decorations (including wall and floor coverings and finishes, and window treatments), business or trade fixtures, supplies or other items of any tenant or occupant of the Unit or that are in or about any model unit (which are for display and promotional purposes only). There will be no modifications or extras unless agreed to, in writing, by Sponsor.

18. **Unit and Contents Sold "As Is"**

18.1 Purchaser agrees to purchase the Unit and acquire all Personal Property included in this sale in their "AS IS" condition at closing of title, subject only to Seller's obligation to maintain and repair the Unit and any Personal Property included in this sale if and to the extent required by an existing lease for all or a portion of the Unit, and subject further to the following:

a. in the case only of Office Unit 500, Seller's obligation to obtain a temporary, partial or permanent (at Seller's exclusive option) new or amended Certificate of Occupancy of the Building at or prior to closing of title to change the use of the caretaker's apartment on a portion of Office Unit 500 for use as office so as to permit all of Office Unit 500 to be used as offices; or

b. in the case only of the Commercial Unit, Seller's obligation to obtain a temporary, partial or permanent (at Seller's exclusive option) new or amended Certificate of Occupancy of the Building at or prior to closing of title to authorize the use of the Commercial Unit on a portion of the cellar level of the Building for permitted retail and office uses under the current zoning Law applicable to the Property.

Except as expressly provided above, Seller shall not be obligated to make any other repairs, corrections, additions or improvements to the Unit or said Personal Property and Purchaser shall consummate the closing of title and pay the full Purchase Price, without abatement, set-off or recourse of any kind against Seller, regardless of any defects, faults, damages, violations, required inspections, open applications or other condition requiring repair of correction.

19. **Purchaser's Changes and Extras**

19.1 After this Agreement is fully executed and given to each party, Seller shall not be obligated to make any changes to the Unit or the Personal Property included in this sale, or provide any extras or upgrades that hereafter might be requested by Purchaser. Seller's refusal to make such changes or provide such extras or upgrades shall not excuse Purchaser from Purchaser's obligation to close title timely and without abatement, set-off or credit against the Purchase Price and without recourse of any kind against Seller.

19.2 All such changes, extras and upgrades requested by Purchaser and agreed to be made by Seller (collectively, "**Special Work**") shall not be binding on either party unless and until the terms thereof, including the additional amount to be paid and when same is payable by Purchaser ("**Special Work Payment**") are set forth in writing signed and exchanged by Seller and Purchaser as part of this Agreement.

19.3 If Seller exercises good faith and the Special Work is not completed prior to closing, or the Special Work directly or indirectly delays completion of other construction items prior to the closing, then the closing of the title shall not be delayed by reason thereof and such non-completed work shall be included in a punch list work letter; provided, however, in the case only of Office Unit 500 and the Commercial Unit that the required temporary, partial or permanent (at Seller's exclusive option) new or amended Certificate of Occupancy of said Unit is issued.

20. **Pre-Closing Inspection by Purchaser**

20.1 If the Unit is vacant, Purchaser and Purchaser's representatives (including Purchaser's architect, engineer, decorator and appraiser) will have the right to inspect the Unit, accompanied by Sponsor's representative, a reasonable number of times, on a mutually convenient business day and business hour, including within 48 hours prior to closing. Purchaser will not be entitled to delay or postpone the closing to make an inspection so long as Purchaser is given reasonable access to the Unit within 48 hours prior to closing to ascertain the condition of the Unit and its contents.

20.2 Purchaser's right to inspect does NOT entitle Purchaser to (and Purchaser shall not):

a. probe, penetrate or disturb the surfaces of the Unit's walls, floors or ceilings;

b. make any alterations or changes to the Unit; or

c. store Purchaser's furniture or other personal property in the Unit prior to closing.

20.3 If the Unit or a portion thereof is currently occupied, Purchaser and Purchaser's representatives may not inspect the Unit or said occupied portion of the Unit (as applicable) without the permission of the tenant and occupants of the Unit or said occupied portion thereof (as applicable) and, if permission is refused or not granted, Purchaser nevertheless shall be obligated to close title, without delay or provision for escrowing monies, and pay the full Purchase Price, without abatement, set off or credit, or any kind of recourse against Seller.

21. **Risk of Loss**

21.1 The risk of damage or destruction ("**Loss**") to the Unit and Personal Property until the closing is assumed by Seller on the following terms, unless the loss originates in the Unit while Purchaser is in possession or the Loss is caused by Purchaser or Purchaser's representatives (in either of which cases the provisions of paragraph 21.5 shall apply).

21.2 If Seller assumes the risk of Loss, Seller shall have the exclusive right to elect either: (a) to repair or restore the Loss; or (b) to cancel this Agreement and refund the Net Purchase Monies to Purchaser, unless the First Unit Closing has occurred and the Condominium Board is obligated to repair or restore the Loss. Seller will give Purchaser notice ("**Loss Notice**") of the Loss and of Seller's election or the Board's obligation (as applicable) within thirty (30) calendar days after the Loss occurs.

21.3 If Seller elects to repair or restore the Loss or if the Condominium Board is obligated to do so, such repair or restoration is to be completed by the later to occur of the date fixed by Seller for closing in accordance with paragraph 11.1 or ninety (90) calendar days from the date the Loss occurs ("**Restoration Period**"). The closing shall not occur until the Unit and Personal Property are in the condition required for closing as provided in paragraph 18.

21.4 If Seller fails to give the Loss Notice within the thirty (30) calendar day period specified in paragraph 21.2 or if the repair or restoration is not completed within the Restoration Period in accordance with paragraph 21.3, Purchaser's sole right and remedy will be to cancel this Agreement on notice to Seller given within a deadline of seven (7) calendar days thereafter ("*TIME BEING OF THE ESSENCE*"), failing which Purchaser shall lose such right to cancel and shall remain bound by this Agreement. If Purchaser timely elects to cancel, the Net Purchase Monies will be refunded to Purchaser with reasonable promptness.

21.5 If the Loss occurs after Purchaser is given possession of the Unit under an Interim Lease or otherwise, or the Loss is caused by Purchaser or a representative of Purchaser (including an architect, engineer, contractor, decorator or agent, or an employee of any of the foregoing), Purchaser shall assume the risk of Loss to the extent the loss is not covered by insurance maintained by Sponsor or (if the First Unit Closing has occurred) the Condominium Board, and the following shall apply:

a. Purchaser shall be obligated: (a-1) to accept title to the Unit at closing subject to such Loss; and (a-2) to pay the full Purchase Price without abatement, set-off or credit and without recourse of any kind against Seller;

b. Purchaser shall not be entitled to postpone the closing by reason of such Loss and may not commence work to restore the Loss until after title closes (unless Purchaser is in possession under an Interim Lease or otherwise); and

c. if Purchaser fails to comply with this paragraph 21.5, such failure shall constitute a material default by Purchaser entitling Seller to cancel this Agreement and receive and retain the Deposit and other amounts specified in paragraph 22 as liquidated damages.

22. **Purchaser's Events of Default; Seller's Remedies**

22.1 Purchaser shall be in default upon the occurrence of any of the following "**Events of Default**" (individually, "**Event of Default**" or "**default**"):

a. Purchaser's failure to timely and properly pay the full amount of the Balance of the Purchase Price, as provided in paragraphs 2.1, 10.1, 10.2 and 10.3;

b. Purchaser's failure to pay any of Purchaser's closing costs as required in paragraph 12;

c. Purchaser's failure to pay the net closing apportionments, if in favor of Seller, as required in paragraph 13;

d. Purchaser's failure to deliver any of the closing documents (properly completed and signed in recordable form, where required) in accordance with paragraph 14.1;

e. the dishonor or failure of collection of Purchaser's check or instrument ("**failed instrument**") in payment of the Deposit or any other sum paid by Purchaser under this Agreement;

f. Purchaser's failure to pay, perform or observe any of Purchaser's other obligations in this Agreement or any other Purchase and Sale Agreement between Seller and Purchaser for another unit of the Condominium, or any of Purchaser's representations in this Agreement or such other Purchase and Sale Agreement shall not be truthful or correct in all respects (the parties intend and agree that a default by Purchaser under this Agreement or such other Purchase and Sale Agreement shall be a default under both of said Agreements and Purchaser shall have only one grace period (if any) to cure the default as set forth in the applicable Purchase and Sale Agreement under which Purchaser is initially in default);

g. Purchaser advertises or publicizes in any media (including newspaper, magazine, television, radio, Internet or other print, broadcast, electronic or other form of public communication) the availability of the Unit for sale or lease prior to the Closing of Title; or

h. if Purchaser is or becomes a tenant under a lease for all or a portion of the Unit and defaults in paying the rent or making any other payment or in observing or performing any other obligation thereunder, such default shall become a default under this Agreement if a final judgment or order is issued granting Seller possession of the Unit by a court of competent jurisdiction or Purchaser vacates or abandons the Unit or said leased portion thereof (in such case, Purchaser shall have only the single grace period stated in the lease to cure such default).

22.2 Upon the occurrence of an Event of Default (other than a default in paying the Deposit under paragraph 22.1.e), Seller shall have the right (in Seller's sole discretion):

a. to cancel this Agreement and receive and retain as liquidated damages, the Net Purchase Monies paid by Purchaser hereunder, and recover from Purchaser the following Costs and Expenses, if and to the extent applicable and not covered by any Special Work Payment given by Purchaser to Seller: (a-1) the Costs and Expenses of all Special Work together with the Costs and Expenses of removing any Special Work in order to restore the Unit to its condition existing immediately prior to performing such Special Work; and (a-2) the Costs and Expenses to enforce this provision and collect the foregoing amounts (which includes per diem interest thereon at the rate stated and computed in paragraph 8.1); provided, however, there will be no limit on Seller's remedies for a breach of Purchaser's representation in paragraph 30 ("Broker"); or

b. (in the case of a default NOT involving the payment of the Balance of the Purchase Price) to proceed with the closing without prejudicing or impairing Seller's right to recover from Purchaser all Costs and Expenses to which Seller is entitled by reason of Purchaser's default, together with Seller's Costs and Expenses of collection thereof (including per diem interest thereon at the rate stated and computed in paragraph 8.1); provided, however, if Purchaser fails or refuses to close title, this provision shall NOT permit Seller to compel Purchaser to specifically perform Purchaser's obligation to pay the Balance of the Purchase Price.

22.3 Seller will send Purchaser written notice of the remedy seller selects. If Seller selects the remedy in paragraph 22.2.a *[to cancel and retain the net purchase monies and recover said other costs and expenses, if applicable]*, Purchaser will have a deadline of thirty (30) calendar days from giving of Seller's cancellation notice to cure the specified default, except Purchaser shall not be afforded any additional cure period for a default under paragraph 22.1.f, g or h. *"TIME IS OF THE ESSENCE"* for Purchaser to cure the default within such thirty (30) calendar day deadline period. This means that if Purchaser fails to timely do so, Purchaser will lose the Net Purchase Monies and (if applicable) said Costs and Expenses with respect to Special Work and of enforcement, collection and interest set forth in paragraph 22.2.a (which is the limit on the amount Seller may recover and will be regarded as full settlement of all potential Costs and Expenses occasioned by Purchaser's default). Purchaser agrees that Seller's actual damages would be impossible to ascertain and that Seller's retention of the Net Purchase Monies and (if applicable) said Costs and Expenses with respect to Special Work and of enforcement, collection and interest would be fair and reasonable compensation to Seller under the circumstances. In the event of such cancellation, any remaining Net Refundable Special Work Payment, after being applied to pay Sponsor the foregoing amounts, shall be returned to Purchaser.

22.4 If Seller selects the remedy in subparagraph 22.2.b [to proceed with the closing without prejudice to Seller's rights to recover lawful amounts from Purchaser due to Purchaser's default], Purchaser shall also be obligated to reimburse Seller for Seller's Costs and Expenses of collection (which includes per diem interest thereon at the rate stated and computed in paragraph 8.1).

22.5 In case of Purchaser's default to pay the Deposit under paragraph 22.1.e, Seller shall have the following exclusive option:

a. to regard this Agreement as null and void, and of no force or effect, in which case Seller shall cause the failed instrument to be returned to Purchaser together with: (a-1) any sums that may have been collected under a separate instrument (if any) given in payment of the Deposit; and (a-2) any Net Refundable Special Work Payment (if and to the extent applicable); upon such refund being made, Seller and Purchaser shall have no further obligation or liability to each other under this Agreement or the Plan and Seller shall be free to sell the Unit without accountability to Purchaser; or

b. to regard the failed instrument as an Event of Default, in which case this Agreement shall remain in force and effect and Purchaser shall have a deadline of thirty (30) calendar days from the giving of notice to Purchaser of Seller's election to cancel this Agreement within which: (b-1) Purchaser must replace the failed instrument with Purchaser's good certified check or a cashier's or official bank check, unendorsed, drawn on and payable by a member bank of New York Clearing House Association (or an Institutional Lender maintaining banking facilities in New York City), made payable directly to Escrowee, in the amount of the failed instrument; and (b-2) Purchaser must reimburse Seller for all Costs and Expenses incurred in connection with such failed instrument (including bank charges and reasonable attorneys' fees and disbursements).

22.6 *"TIME IS OF THE ESSENCE"* for Purchaser to cure such default under paragraph 22.5.b within said thirty (30) calendar day deadline period, failing which:

a. this Agreement shall be canceled and of no further force or effect;

b. Escrowee shall immediately deliver the failed instrument to Seller together with any sums collected under any other instrument given in payment of the Deposit or for Special Work; and

c. Seller shall have the right to sue on and collect the failed instrument and to recover and retain as liquidated damages all sums received from Escrowee and all sums as may be recovered and collected on such failed instrument, but not more than a sum equal to the aggregate of 10% of the Purchase Price, plus the Costs and Expenses actually paid or incurred for any Special Work and to restore the Unit to its condition existing before undertaking the Special Work, plus the Costs and Expenses of collection thereof (which includes per diem interest thereon at the rate stated and computed in paragraph 8.1).

Purchaser agrees that Seller's actual damages would be impossible to ascertain and that Seller's retention and recovery of the foregoing sums under clause "c" above would be fair and reasonable under the circumstances.

22.7 The provisions of paragraphs 22.2 through 22.6 shall survive the closing or the cancellation or termination of this Agreement (as applicable).

23. **Purchaser's Remedies on Seller's Default or Inability to Perform**

23.1 If Seller defaults in paying, performing or complying with any of Seller's agreements, obligations, representations or conditions in this Agreement, whether at or prior to closing, Purchaser shall give Seller written notice of the default.

23.2 Seller shall be allowed a grace period to cure the default. The grace period shall start from Seller's actual receipt of the default notice and shall run for thirty (30) calendar days thereafter or (if the default is not reasonably capable of being cured within thirty (30) calendar days) such longer period as is reasonable to cure the default, but in no event more than ninety (90) calendar days.

23.3 If Seller fails to cure the default within the grace period, Purchaser's only legal and equitable rights and remedies shall be to require Seller to specifically perform Seller's obligations (other than those Seller is unable in good faith to perform and subject to paragraph 23.5) or to cancel this Agreement and recover the Net Purchase Monies paid by Purchaser and (if canceled pursuant to paragraph 16.9) Purchaser's Title Search Costs (if any).

23.4 In the event Purchaser elects to cancel, the Net Purchase Monies paid by Purchaser and (if canceled pursuant to paragraph 16.9) Purchaser's Title Search Costs (if any) will be refunded to Purchaser within thirty (30) calendar days after Seller and Escrowee receive Purchaser's cancellation notice. Purchaser shall in no event have recourse of any kind against Seller for any loss, damage or other Cost and Expense incurred by Purchaser beyond recovery of said Net Purchase Monies and (if applicable) Title Search Costs by reason of Seller's uncured default or good faith inability to perform. Upon the payment of the said Net Purchase Monies and (if applicable) Title Search Costs, the parties shall have no further liability or obligation to each other under this Agreement, except that the parties shall remain liable for those indemnities, obligations and liabilities expressly stated to survive the cancellation or termination of this Agreement.

23.5 Nothing contained herein will excuse Seller from a willful default for intentionally causing a Title Exception to frustrate this sale in bad faith, nor excuse Seller from obtaining a release of lien from any mortgage on the Unit (other than a mortgage Purchaser obtains to purchase the Unit).

23.6 If at closing Seller shall be unable in good faith to perform Seller's obligations or satisfy any condition applicable to Seller in accordance with this Agreement or title to the Unit shall not be in accordance with this Agreement, Purchaser's sole right and remedy shall be either (at Purchaser's option):

a. to fully pay, perform and comply with Purchaser's agreements and obligations under this Agreement and to accept such title to the Unit as Seller is able to convey, without abatement, set-off or credit against the Purchase Price or provision for escrowing monies and without recourse of any kind against Seller; or

b. to cancel this Agreement and recover said Net Purchase Monies and (if canceled pursuant to paragraph 16.9) Purchaser's Title Search Costs (if any), which is the limit on the amount Purchaser may recover, regardless of any loss, damage or other Cost and Expense Purchaser may have incurred (except the parties shall remain liable for those indemnities, obligations and liabilities expressly stated to survive the cancellation or termination of this Agreement).

23.7 Purchaser shall elect either such right and remedy in the preceding paragraph 23.6 in writing given within a deadline of five (5) business days after Seller gives Purchaser notice of such inability, but in no event later than the scheduled Closing Date fixed by seller in accordance with this agreement. if Purchaser fails to timely make such election ("*TIME BEING OF THE ESSENCE*"), then Purchaser shall be deemed to conclusively have elected to proceed with closing as provided in paragraph 23.6.a.

23.8 Seller shall be excused from performing Seller's agreements and obligations during any period when Seller is prevented from performing them due to Force Majeure. Seller's time to perform such agreements and obligations shall be extended for a period equal in length to the period during which Seller's performance is excused, but this shall not extend the 90 day period set forth in paragraph 22.2 or any other similar outside period or date expressly provided in this Agreement within which Seller must perform.

24. **Claims Released On Cancellation and Disbursement of Purchase Monies**

24.1 Upon cancellation of this Agreement and payment of the Purchase Monies to the proper party pursuant to the provision of this Agreement and (if applicable) the payment to Seller for the Costs and Expenses in respect of Special Work and of enforcement, collection and interest, or the payment to Purchaser of Purchaser's Title Search Costs and any net Refundable Special Work Payment (if applicable), the rights, obligations and liabilities of the parties

under this Agreement, the Plan and Amendments shall end and be void, and all Claims for any other Costs and Expenses each party may have the right to assert hereunder against the other party and such other party's heirs, distributees, successors, assigns, employees, agents and attorneys, shall be released and discharged, except that the parties shall remain liable for, and shall not be released or discharged from, those indemnities, obligations and liabilities expressly stated to survive the cancellation or termination of this Agreement.

25. **Escrow Provisions**

25.1 Seller agrees to comply with the escrow and trust fund provisions of General Business Law Sections 352-e(2-b) and 352-h of the State of New York and Part 20 of the regulations issued by the Attorney General, and all funds paid by Purchaser will be handled in accordance with said statute and regulations. Any purported waiver of the escrow and trust fund provisions of the Attorney General's regulations is void. The escrow and trust fund provisions of the Attorney General's regulations shall prevail over any conflicting or inconsistent provisions in the Plan, as amended, or this Agreement.

25.2 All Purchase Monies paid by Purchaser prior to closing on account of the Purchase Price (other than any Special Work Payment) will be deposited into a segregated subaccount of an attorney's master escrow account ("**escrow account**") of Seyfarth Shaw LLP ("**Escrowee**"), maintained at Valley National Bank ("**Depository**"), at its office located at 275 Madison Avenue, New York, New York 10016. Any Special Work Payment will not be held in escrow and shall be paid or delivered to Seller and applied by Seller to pay for such Special Work.

25.3 The escrow account number is [redacted] and the name of the escrow account is "Seyfarth Shaw LLP Master Escrow Account".

25.4 Certain partners of Escrowee are the sole signatories authorized to withdraw monies from the escrow account as disclosed in the Plan.

25.5 The escrow account will bear interest at a fluctuating rate fixed from time to time by the Depository for its regular customers of "day of deposit to day of withdrawal" escrow accounts. The escrow account is not an Interest on Lawyers Account established pursuant to Judiciary Law Section 497.

25.6 No interest will be earned until the Deposit check is deposited with and collected by the Depository. Interest will not be earned after a withdrawal is made from the escrow account in anticipation of the closing. Such withdrawal might result in the loss of interest for up to one full month.

25.7 All amounts received from Purchaser prior to closing on account of the Purchase Price (other than any Special Work Payment), whether in the form of checks, drafts, money orders, wire transfers or other instruments that identify the payor, shall be deposited into a separate subaccount of the escrow account of Escrowee at the Depository. All instruments to be deposited into the escrow account shall be made payable to the Escrowee as provided in paragraph 10.3.a. Any instrument payable other than as required in paragraph 10.3.a, and which cannot be deposited into the escrow account, shall be returned to Purchaser promptly, but in no event more than five (5) business days following receipt of such instrument by the Escrowee. In the event of such return, the instrument shall be regarded not to have been delivered to Escrowee in violation of the provisions of this Agreement. The foregoing does not apply to an instrument that is dishonored or fails of collection. The Escrowee is authorized to deliver to Seller the dishonored or uncollected instrument and Seller will have the choice of remedies set forth in paragraph 22.5 (which includes suing on such dishonored or uncollected instrument or (at Seller's option) canceling this Agreement and returning the instrument to Purchaser without affording Purchaser a grace period to cure such default).

25.8 Purchaser shall sign and deliver to Sponsor's attorneys, Seyfarth Shaw LLP, 620 Eighth Avenue, New York, New York 10018. Attn: Alan L. Kazlow, Esq. (or as otherwise directed in writing by said attorney) this Agreement together with the Purchase Application (if requested) and appropriate IRS form W-8BEN or W-9 (if and as applicable) as set forth in paragraph 10.1 and the check for the Deposit. Within five (5) business days after this Agreement is fully signed by Seller and Purchaser, the check for the Deposit will be deposited into said sub-account of the escrow account. In the event Seller does not sign this Agreement within ten (10) business days after this Agreement and the check for the Deposit are received by Seller or Seller's attorney as provided in this paragraph 25.8, then the Deposit check will be deposited in said sub-account of the escrow account without prejudice to Seller's right to reject this Agreement as provided in paragraph 29.4.

25.9 After Escrowee receives the check for the Deposit and IRS form W-8 or W-9 (if and as applicable), Escrowee is to send Purchaser by ordinary mail written notice ("**Deposit Notice**") of the deposit of the Deposit check for collection in said sub-account of the escrow account at the Depository. The Deposit

Notice will also state the individual account number for the Deposit and the interest rate in effect on or about the date of deposit. If the requisite form IRS W-8BEN or W-9 does not accompany the check for the Deposit, then such check shall be deposited in an IOLA account of Escrowee at the Depository pending receipt thereof (no interest will be paid to Purchaser while the Deposit is in the IOLA account).

25.10 The Deposit Notice is to be sent to Purchaser within ten (10) business days after Purchaser "tenders" (defined below) the Deposit check with this Agreement. The term **"tenders"** means the date delivered by hand or five (5) calendar days after being sent by mail. If the Deposit check is received by Seller or Seller's Selling Agent, it will be delivered promptly to Escrowee in order that the Deposit Notice may timely be sent to Purchaser.

25.11 If Purchaser does not receive the Deposit Notice within fifteen (15) business days after Purchaser tenders the Deposit check in accordance with paragraph 25.8, Purchaser's sole remedy will be either (at Purchaser's option):

a. to cancel this Agreement and recover the Net Purchase Monies paid by Purchaser; or

b. to apply to the Attorney General for relief.

Purchaser must elect to cancel in writing sent to Seller within deadline of ninety (90) calendar days after Purchaser tenders the Deposit check, but in no event later than the closing. Purchaser will be regarded as having conclusively waived Purchaser's right to cancel in the event Purchaser does not send the cancellation notice in such deadline period (*"TIME BEING OF THE ESSENCE"*). Purchaser understands and agrees that Purchaser will not have the right to cancel this Agreement or recover Purchaser's Net Purchase Monies where proof satisfactory to the Attorney General is submitted establishing that the Deposit check was timely deposited and the Deposit Notice was timely mailed to Purchaser in accordance with the Attorney General's regulations.

25.12 Escrowee will hold and disburse the monies deposited into the escrow account and collected by the Depository (**"Escrow Fund"**) in accordance with these escrow provisions and those in the Escrow Agreement (**"Escrow Agreement"**) between Seller and Escrowee (a copy of such Escrow Agreement is set forth in Part II of the Plan) as well as the applicable regulations of the Attorney General pertaining to the release of escrowed funds. The Escrow Fund is regarded as Purchaser's property until disbursed in accordance with the escrow provisions of this Agreement and the Escrow Agreement and the escrow and trust fund regulations of the Attorney General. The Escrow Fund is not regarded as Seller's or Escrowee's property and shall not be part of the estate of Seller or Escrowee upon any death, dissolution, bankruptcy or incapacity.

25.13 At closing, Escrowee is hereby authorized and directed to pay the Escrow Fund to Seller and to instruct the Depository to pay the interest to Purchaser. Purchaser will allow thirty (30) days to receive the interest.

25.14 If Purchaser timely elects to rescind or cancel this Agreement in accordance with a right (if any) given Purchaser under this Agreement or the Plan or an Amendment to the Plan to rescind or cancel, Escrowee will release the Escrow Fund and any interest to Purchaser with reasonable promptness, and Seller will not object to such release.

25.15 If the closing does not occur and Seller demands that the Escrow Fund and any interest be paid to Seller based upon Purchaser's uncured default or otherwise, the following will apply:

a. Escrowee will give Purchaser not fewer than ten (10) business days' written notice of Seller's demand for payment of the Escrow Fund and interest;

b. at the expiration of such ten (10) business days, Escrowee will pay the Escrow Fund and interest to Seller unless prior to making the payment: (b-1) Escrowee receives written notice from Purchaser stating either that Purchaser objects to the release of the Escrow Fund and interest to Seller and the basis for Purchaser's objection or that Purchaser has made application (**"Dispute Resolution Application"** or **"Application"**) to the Attorney General pursuant to the dispute resolution provisions contained in the Attorney General's regulations; or (b-2) Escrowee is served with a judgment or order (**"Restraining Order"**) of a court of competent jurisdiction restraining Escrowee from making such payment;

c. Escrowee will continue to hold the Escrow Fund and interest for as long as required by any interim directive issued by the Attorney General or a Restraining Order (whichever is applicable);

d. if the Attorney General denies the Dispute Resolution Application or the Restraining Order is vacated (as applicable), Escrowee will pay the Escrow Fund and any interest to Seller; and

e. if the Attorney General grants the Dispute Resolution Application or the Restraining Order is not vacated (as applicable), Escrowee will pay the Escrow Fund and any earned interest in accordance with: (e-1) (in the case of a Dispute Resolution Application) a determination of the Attorney General served on Escrowee; or (e-2) (in the case of a Restraining Order) a judgment or order of a court of competent jurisdiction served on Escrowee.

25.16 In the event of a dispute, the following will apply:

a. Seller must, and Purchaser or the Escrowee may, submit a Dispute Resolution Application to the Attorney General for a determination on the disposition of the Escrow Fund and interest (a form for this purpose is available from the Department of Law);

b. the party making the Dispute Resolution Application shall contemporaneously send to all other parties a copy of such Application;

c. instead of applying to the Attorney General: (c-1) Purchaser may initiate a Lawsuit to resolve the dispute; or (c-2) the Escrowee will have the right of a stakeholder either to continue to hold the Escrow Fund and any interest or to deposit same or the disputed portion into court as permitted by law;

d. pending the determination of the Attorney General to grant or deny the Application, Seller, Purchaser and the Escrowee will abide by any interim directive issued by the Attorney General;

e. if the Application permitting release of funds is granted, the Escrow Fund and any earned interest will be disposed of in accordance with the determination of the Attorney General, subject to any court action in which preliminary relief is granted;

f. if the Application is denied, Escrowee will either deposit the Escrow Fund and any interest or the disputed amount (as applicable) into court as permitted by law or continue to hold and disburse same in accordance with: (f-1) a written direction signed by both Seller and Purchaser; or (f-2) a judgment or order of a court of competent jurisdiction served on Escrowee;

g. in no event will Escrowee release the Escrow Fund and interest in dispute unless paid into court or until the dispute is finally resolved either by written agreement signed by Seller and Purchaser, or a final, non-appealable determination of the Attorney General or a final, non-appealable judgment or order of a court of competent jurisdiction;

h. in the event Escrowee is uncertain as to Escrowee's duties or doubts the genuineness of any document or signature, Escrowee may refrain from taking any action and continue to hold the Escrow Fund and interest until the uncertainty or genuineness is resolved or deposit same (or the amount in question) in court; and

i. in all events, the Escrowee will have the right of a stakeholder either to continue to hold the Escrow Fund and any interest or to deposit same or the disputed portion into court as permitted by law.

25.17 Escrowee shall maintain and make available to the Attorney General all records concerning the escrow account pursuant to the terms of the Escrow Agreement.

25.18 Seller and Seller's agents, including Seller's Selling Agent, shall immediately deliver to Escrowee all deposits and payments received from Purchaser by Seller or Seller's Selling Agent prior to closing on account of the Purchase Price (other than any Special Work Payment as aforesaid).

25.19 Seller shall not interfere with Escrowee's performance of Escrowee's fiduciary duties and compliance with the Attorney General's regulations.

25.20 Seller will have the right to terminate the duties of the Escrowee on written notice to Escrowee and Escrowee will have the right to resign on written notice to Seller. In either case, Seller will have the exclusive right to designate a new escrow agent to replace Escrowee. Such termination or resignation will not take effect, and Escrowee will continue to be bound by these escrow provisions, until an Amendment to the Plan is filed disclosing the identity of the new escrow agent. Upon the filing of such Amendment, Escrowee will deliver to the new escrow agent the Escrow Fund and any interest together with all agreements and documents maintained by Escrowee relating to the escrow account.

25.21 These escrow provisions will be binding upon the new escrow agent with regard to events occurring on and after the date the appointment of the new escrow agent takes effect.

25.22 Escrowee, Seller and Seller's Selling Agent will not be liable for the amount collected on

checks given in payment of the Deposit or any other Purchase Monies, or for the amount of interest earned or collected on the Escrow Fund, or for any losses resulting from the failure of the Depository. The Escrow Fund will be maintained in an account insured by the Federal Deposit Insurance Corporation for the maximum amount insured by applicable federal law.

25.23 Escrowee may represent Seller in any Lawsuit, whether or not related to this transaction and irrespective of Escrowee being in possession of the Escrow Fund.

25.24 Seller will compensate Escrowee for acting as such. Seller shall also be responsible for all administration costs for the escrow account.

25.25 Upon the deposit of the Deposit check into Escrowee's escrow account at the Depository, Escrowee is considered to have accepted and agreed to be bound by, and may rely upon and is to benefit from, these escrow provisions notwithstanding that Escrowee is not signing this Agreement.

25.26 Purchaser understands and agrees that:

a. Seller is required by the Attorney General's regulations to deposit the Deposit check within the ten (10) business days period stated in paragraph 25.8; and

b. such deposit of the Deposit check shall not constitute, nor be construed to constitute, Seller's acceptance of this Agreement nor prejudice Seller's right to reject this Agreement.

26. Effectiveness Amendment Requirement

26.1 In accordance with the Plan, Seller's obligations under this Agreement are contingent upon Seller declaring the Plan effective and the Effectiveness Amendment being accepted for filing by the Attorney General. Seller may declare the Plan effective only in accordance with the terms contained in the Plan (see "Section L. Effective Date" in Part I of the Plan).

26.2 Seller has the exclusive right and discretion to declare the Plan effective or to abandon the Plan at any time before declaring it effective. In addition, if Seller declares the Plan effective, Seller may thereafter and before the First Closing abandon the Plan under the limited circumstances explained in the Plan (see "Section L. Effective Date").

26.3 If Seller elects to abandon the Plan, this Agreement will be considered to have been cancelled automatically and Purchaser's Net Purchase Monies will be refunded to Purchaser. Upon making such refund, neither party shall have any obligation or liability to the other for any Claims or Costs or Expenses based on this Agreement or the Plan or any Amendments, except the parties shall not be released from those indemnities, liabilities and obligations expressly stated to survive a termination or cancellation of this Agreement.

26.4 Unless and until the Plan is abandoned by Seller or deemed abandoned, Purchaser shall remain irrevocably bound to fully pay and perform all of Purchaser's agreements and obligations as provided in this Agreement, and Purchaser may not cancel this Agreement based on this contingency.

27. Plan and Amendments Govern

27.1 The Plan and Amendments to the Plan (whether filed before or after the date of this Agreement, but before closing) form a part of this Agreement. The parties are bound by the provisions of the Plan and all such Amendments. If the provisions of this Agreement are inconsistent or conflict with the Plan or Amendments, such inconsistency or conflict shall be resolved according to the terms of the Plan and Amendments, which are paramount and shall govern.

27.2 Seller has the right to file Amendments to the Plan without Purchaser's consent. The Amendments may change, among other things, the projected Common Charges and projected real estate taxes to be paid by Purchaser, or any of the other provisions of the Plan or this Agreement (except that after Purchaser signs and returns this Agreement, Seller may not change the Purchase Price, or the payment provisions in paragraph 2.1 or the escrow provisions in paragraph 25). The Plan and all Amendments to the Plan filed prior to closing, including all material adverse changes:

a. shall be binding on Purchaser; and

b. shall not excuse Purchaser from paying the full amount of all closing payments under paragraph 14.1, including the Balance of the Purchase Price, without abatement, set-off or credit against the Purchase Price or provision for escrowing monies and without recourse of any kind against Seller (except as otherwise provided in paragraph 27.3).

27.3 In the case only of a material adverse Amendment affecting Purchaser as provided in Section 20.5(a)(5) of Part 20 of the regulations issued by the Attorney General, the Amendment will afford Purchaser the right to rescind this Agreement and recover the Net Purchase Monies.

28. **Purchaser's Time to Review Plan and Amendments**

28.1 At Seller's option:

a. Purchaser will be given at least three (3) business days to review the Plan and any Amendments before Purchaser signs and delivers this Agreement and the check for the Deposit; or

b. (if, and only if, Purchaser is given less than three (3) business days for such review) Purchaser will have a deadline of seven (7) calendar days after Purchaser signs and delivers this Agreement and the check for the Deposit to rescind this Agreement and recover Purchaser's Net Purchase Monies.

In the latter case, Purchaser must elect to rescind in a written notice sent to Seller within the mentioned seven (7) calendar day deadline period ("*TIME BEING OF THE ESSENCE*"). If Purchaser fails to timely do so, Purchaser will no longer have the right to rescind under this paragraph 28.1 and will be fully bound to purchase the Unit.

29. **Seller's Acceptance or Rejection of Agreement**

29.1 Seller is not bound by this Agreement until Seller or Seller's duly authorized agent signs and returns a duplicate original of this Agreement to Purchaser or Purchaser's attorney (if any). No inference shall be drawn that Seller accepted this Agreement or is bound by its provisions based on:

a. the submission of the Plan, Purchase Application or this Agreement to Purchaser;

b. the delivery to Seller or Seller's Selling Agent or attorney of this Agreement signed by Purchaser and Purchaser's check for the Deposit; or

c. the deposit of Purchaser's Deposit check for collection (whether or not inadvertent).

29.2 Until Seller rejects or is deemed to have rejected this Agreement as provided in paragraph 29.3, Purchaser is irrevocably bound by its provisions and will not be entitled or permitted to recover Purchaser's Deposit or any Special Work Payment.

29.3 Seller will be deemed to have rejected this Agreement unless Seller hand delivers or mails (by ordinary or certified mail, with or without return receipt requested) to Purchaser or Purchaser's attorney (if any), within twenty (20) calendar days after Seller or Seller's Selling Agent or attorney receives this Agreement signed by Purchaser together with Purchaser's check for the Deposit, the Purchase Application (if requested) and IRS form W-8BEN or W-9 (if and as applicable), a duplicate original of this Agreement signed by Seller or Seller's duly authorized agent. In the event Seller rejects or is deemed to have rejected this Agreement, Purchaser's Deposit and any Special Work Payment will be promptly refunded to Purchaser, without interest. Upon making such refund, neither party shall have any obligation or liability to the other party based on this Agreement or the Plan or any Amendments.

29.4 Purchaser understands that Seller is required by regulation of the Attorney General to deposit Purchaser's Deposit check within the ten (10) business days period stated in paragraph 25.8, which period may expire before the lapse of the twenty (20) calendar days Seller has to accept or reject this Agreement in accordance with paragraph 29.3. *Purchaser agrees that such deposit of the Deposit check will NOT be regarded as Seller's acceptance of this Agreement nor prejudice or impair Seller's right to reject this Agreement as provided in paragraph 29.1 and paragraph 25.8.*

30. **Broker**

30.1 Purchaser represents to Seller that Purchaser has not dealt with any broker or finder, whether licensed or unlicensed, in connection with this purchase and sale other than the Selling Agent and its salesperson and the Participating Broker (if any) and its salesperson identified in paragraph 6.1.

30.2 Seller will pay the commission earned by the Selling Agent and the Participating Broker (if any) pursuant to a separate agreement with each of them. This obligation shall survive the closing. The Selling Agent and the Participating Broker (if any) shall not be deemed a third-party beneficiary of this provision.

30.3 Each party agrees to indemnify the other party from and against any and all Liabilities and Expenses arising from:

a. (in the case of Purchaser) Purchaser's representation in paragraph 30.1; or

b. (in the case of Seller) Seller's agreement in paragraph 30.2.

Seller shall have the exclusive right to control the defense, compromise and settlement (including choosing the attorney) of any Claim or Lawsuit for which indemnity is sought by Purchaser under this paragraph 30.3. Purchaser, at Purchaser's sole Cost and Expense, shall have the right to participate and be

represented by separate counsel in the defense, compromise and settlement of said Claim or Lawsuit.

This indemnity shall survive the closing or (if the closing does not occur) the cancellation or termination of this Agreement.

31. **Notices**

31.1 Unless otherwise expressly provided elsewhere in this Agreement, any notice (other than a Deposit Notice in paragraph 25.9), request, consent, election, demand or other communication (collectively, "**notice**") to be given or made by the parties or Escrowee under this Agreement must be in writing and either:

a. delivered by hand, telecopier (with electronic confirmation of transmission followed by sending the original notice by any other method permitted herein the next business day) or priority overnight delivery by Federal Express, United Parcel Service or other nationally recognized courier; or

b. sent by certified or registered mail, return receipt requested, postage prepaid.

31.2 Each notice to be given:

a. to Purchaser, will be addressed to Purchaser at Purchaser's address set forth on the first page of this Agreement (or addressed to Purchaser at the Unit, if given after the closing);

b. to Seller, will be addressed to Seller at Seller's address set forth on the first page of this Agreement (fax no.: (212) 337-3174); or

c. to Escrowee, will be addressed to:

Seyfarth Shaw LLP
620 Eighth Avenue
New York, NY 10018
Attention: Alan L. Kazlow, Esq.
Fax No.: (212) 218-5526

31.3 A copy of each notice must be sent simultaneously and in like or speedier manner to the following persons:

a. (in case of a notice to Purchaser) to Purchaser's attorney (if any) identified in paragraph 5.1; or

b. (in case of a notice to Seller) to:

Seyfarth Shaw LLP
620 Eighth Avenue
New York, New York 10018
Attention: Alan L. Kazlow, Esq.
Fax No.: (212) 218-5526

31.4 Each party may, by notice to the other party, change the address to which future notices are to be sent or change or add a person to whom a notice or a copy of a notice is to be sent.

31.5 Unless otherwise expressly provided elsewhere in this Agreement, each notice shall be effective only if and when given or sent as provided in paragraphs 31.1 to 31.3. Any specified period of time following the giving or sending of a notice shall begin on the day delivered by hand or sent by telecopier or (if such day is not a business day or is received after 5:30 p.m.) on the following business day, or the next business day after being sent by overnight courier, or the second business day following the date of mailing in New York State or the third business day after mailing from outside of New York State. However, a notice to Escrowee, or a notice of a change of address or person or new person pursuant to paragraph 31.4, shall not be considered effective until actually received.

31.6 A notice that is mailed must be deposited into an official mail depository maintained by the United States Postal Service or (if mailed outside the United States) by an equivalent postal authority.

31.7 Failure to accept a notice is deemed receipt of it and does not affect the effectiveness, validity or enforceability of the notice, nor excuse or justify delaying the performance of an obligation.

32. **Standard Terms**

32.1 Authorization of Attorneys: Seyfarth Shaw LLP is authorized by Seller, and Purchaser's attorney (if any) identified in paragraph 5.1 is authorized by Purchaser, to sign any notice or extend any time period in this Agreement. The officers, partners, counsel, associate attorneys and legal assistants so authorized by said attorneys of a party are similarly authorized to act for such party.

32.2 Merger: All prior and contemporaneous "statements" (defined below) made to each party with regard to this transaction, as well as all prior and contemporaneous statements made between each party and Escrowee with regard to the escrow provisions of paragraph 25, are merged in this Agreement and have

no effect unless they are expressly contained or incorporated by reference in this Agreement. The term **"statements"** includes representations, promises, understandings, discussions, negotiations, agreements, estimates, valuations, projections and opinions, whether written or oral, as well as a broker's set-up, terms sheet, floor plans, drawings and data of any kind.

32.3 Entire Agreement: This Agreement, together with the Plan and Amendments to the Plan accepted for filing by the Attorney General prior to closing, constitute the entire understanding and agreement of the parties. Any statements not contained in a written rider attached to this Agreement and signed by the parties is not part of this Agreement and not binding on, or enforceable by or against, the parties.

32.4 Changes and Waivers: A provision of this Agreement will be considered to have been changed or waived only if the change or waiver is expressly made in writing signed by the party to be charged or (if applicable) by Escrowee, unless such provision is expressly provided to have been waived or deemed waived if not exercised, satisfied or performed within a specified period. The failure to insist on strict performance of any provision will not mean that the provision has been waived or that the right to insist thereafter on strict performance of that or any other provision has been waived.

32.5 Parties to Cooperate: Each party will reasonably cooperate with the other party, and each party is to obtain, execute and/or deliver (as applicable) such documents as are in the possession or control of such party and are reasonably necessary in order to close title or to effectuate or confirm any provision of this Agreement. These documents include: (a) the federal tax forms to report the closing and Purchaser's receipt of interest on the Escrow Fund; and (b) documents Purchaser's title insurer (if any) might reasonably require to show that: (b-1) delivery of the Deed has been properly authorized by Seller's organization; and (b-2) any judgments, bankruptcies or other title issues against names the same as or similar to Seller or Purchaser are not against Seller or Purchaser, respectively. This, however, does not obligate either party to give an indemnity, to escrow monies or to make representations not contained in this Agreement. The provisions of this paragraph 32.5 shall survive the closing.

32.6 Governing Law; Venue for Lawsuits: The internal laws of the State of New York will govern this Agreement and the interpretation and enforcement of its provisions, without regard to legal principles of conflict of laws. Any Lawsuit arising out of this Agreement or the Plan or Amendments thereto: (a) must be brought in the Supreme Court of the State of New York or (if such court lacks jurisdiction) a court of competent jurisdiction; (b) must be brought in the county in which the Unit or Seller is located; and (c) may be commenced by serving the summons and/or complaint by certified or registered mail (return receipt requested), postage prepaid, deposited in an official depository maintained by the U.S. Postal Service, and sent to the party at the party's address referred to in paragraph 31.2 or any other address of which the party has given notice in accordance with paragraph 31.4. The provisions of this paragraph 32.6 shall survive the closing or (if the closing does not occur) the cancellation or termination of this Agreement.

32.7 Waiver of Jury Trial: Each party waives the right to a trial by jury in any Lawsuit arising from this Agreement or the Plan or Amendments, other than a Lawsuit in which a jury trial cannot legally be waived. Any Claim for which a jury trial cannot legally be waived shall not be asserted as a counterclaim or joined with any Lawsuit in which a jury trial is waived, unless the failure to assert it would prevent the Claim from being made later. The provisions of this paragraph 32.7 shall survive the closing or (if the closing does not occur) the cancellation or termination of this Agreement.

32.8 Co-Purchasers: If Purchaser is more than one person, then each is jointly obligated with the other, and each is solely, fully and personally obligated, to pay and perform Purchaser's obligations under this Agreement. In addition, any notice given to or by one co-Purchaser, and any provision changed or waived by one co-Purchaser, will be sufficient to bind all co-Purchasers.

32.9 Assignment Prohibited: Purchaser may not assign this Agreement or Purchaser's rights hereunder. Any purported assignment hereof by Purchaser in violation of this provision shall be null and void, as well as an Event of Default under paragraph 22.1. If Seller, in its sole and absolute discretion, permits Purchaser to assign this Agreement, then the provisions of Section K, subsection K-18 of Part I of the Plan shall apply and govern.

32.10 Successors: The heirs, distributees, executors, administrators, and personal and legal representatives of each party, and Seller's successors and assignees, will succeed to such party's rights and will be fully responsible to pay and perform all of such party's obligations under this Agreement.

32.11 No Lien: Neither this Agreement nor the Purchase Monies are a lien against the Unit or the Property. Purchaser shall not record this Agreement or

a memorandum hereof and any attempted recordation of same shall be null and void and a material default hereunder.

32.12 Subordination: This Agreement and all of Purchaser's rights under it are subordinate to the liens of all mortgages, and renewals, extensions and modifications thereof, and to all advances, fundings and payments thereunder, whether made before or after Purchaser signs this Agreement. No further legal document is required to be signed by Purchaser to effectuate this subordination. However, if requested, Purchaser shall promptly sign in recordable form and return to Seller a document prepared by Seller's attorney which confirms this subordination.

32.13 Invalid Provisions Severed: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity of the other provisions, which shall be enforced to the fullest extent permitted by law.

32.14 Indemnities Generally: The indemnities given by one party (**"Indemnifying Party"**) to the other (**"Indemnified Party"**) in this Agreement, or in any document delivered pursuant to this Agreement, shall include and be deemed to include and to inure to the benefit of, the Indemnified Party's past, present and future shareholders, officers and directors or partners or members (as applicable) and principals, and the employees, agents and attorneys of each of the foregoing. Promptly after being notified of a Claim or served in a Lawsuit for which indemnity is sought, the Indemnified Party shall give notice thereof to the Indemnifying Party. Unless otherwise provided in the indemnity, the Indemnifying Party, at such Indemnifying Party's sole Cost and Expense, shall be entitled: (a) to control the defense, compromise and settlement of such Claim or Lawsuit; and (b) to choose the attorneys, who shall be reasonably satisfactory to the Indemnified Party. The Indemnified Party shall cooperate fully and make available to the Indemnifying Party such information and documents under the control or in the possession of the Indemnified Party as are reasonably related to the defense of the Claim or Lawsuit. The Indemnified Party shall have the right, but not the obligation, at such Indemnified Party's sole Cost and Expense, to participate and be represented by separate counsel (chosen by the Indemnified Party) in the defense, compromise and settlement of the Claim or Lawsuit.

32.15 Satisfaction and Discharge: All agreements, obligations and liabilities of the parties are considered satisfied and discharged at closing or upon the effective date of cancellation or termination hereof in accordance with the terms of this Agreement (as applicable), except only those agreements and obligations which are expressly stated in this Agreement or the Plan or Amendments to survive the closing or to be paid or performed subsequent to closing or to survive said cancellation or termination (as applicable). All such agreements and obligations which are expressly stated to be paid or performed subsequent to closing shall survive the closing, whether or not expressly stated to so survive.

32.16 No Negative Inference: The parties acknowledge that they are sophisticated and/or are represented by experienced, knowledgeable attorneys and/or advisors. The normal rules of construction to resolve ambiguities against the party whose attorney drafted this Agreement shall not be followed in the interpretation of this Agreement. Consequently, no adverse or negative inference or interpretation shall be made by a court in enforcing the provisions of this Agreement against the party whose attorney drafted this Agreement.

32.17 Purchaser's Representations: Purchaser represents that: (a) Purchaser is a bona fide purchaser; (b) Purchaser is not related to Seller, the Selling Agent or the proposed Managing Agent identified in the Plan, or to any of their respective principals, by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner; and (c) Purchaser is not purchasing as an accommodation to, or for the account or benefit of, Seller or a principal of Seller. If Purchaser is or includes an individual, Purchaser further represents that Purchaser is at least 18 years old. If Purchaser is or includes a corporation, partnership, limited liability company, trust or other entity, Purchaser further represents that: (x) Purchaser has been duly organized; (y) Purchaser is validly existing and in good standing under the laws of the state or jurisdiction in which it was formed and is authorized to do business in the State of New York; (z) Purchaser has all requisite organizational power and authority to execute this Agreement; (aa) this Agreement constitutes a legally binding and valid agreement of Purchaser; (bb) this Agreement has been duly authorized by all requisite organizational action of Purchaser, has been duly executed by an authorized officer or signatory of Purchaser, and is fully enforceable against Purchaser in accordance with its terms, without defense, set-off or counterclaim; (cc) any right to assert a defense with respect to the legality, validity or enforceability of this Agreement, or any set-off or counterclaim with respect to this Agreement, are hereby irrevocably and unconditionally waived by Purchaser; and (dd) the execution and delivery of this Agreement by Purchaser, and the performance of Purchaser's covenants and agreements

hereunder, do not violate or contravene any Laws affecting Purchaser or the enforceability of this Agreement against Purchaser. All references herein to "this Agreement" shall include the exhibits to this Agreement and any agreement (including a Rider) being executed by Purchaser pursuant to or in connection with this Agreement. Purchaser agrees that Seller may rely upon the foregoing representations, which shall survive the closing of title or the cancellation or termination hereof (as applicable).

32.18 No Financing Contingency: SPECIAL RISK: This Agreement is NOT contingent upon Purchaser obtaining financing (secured or unsecured) to pay the Purchase Price set forth in paragraph 2.1, or any portion thereof. If Purchaser desires financing, Purchaser assumes and accepts full and sole risk to obtain and close the loan simultaneously with the closing of title under this Agreement. Under no circumstance shall Purchaser have the right to cancel this Agreement, or to delay title closing, or to be relieved or excused from paying the Purchase Price (without abatement, set-off or credit, and without recourse of any kind against Seller) in the event: (a) Purchaser is unable to arrange financing; or (b) Purchaser receives a Loan Commitment Letter, but before the closing of title the interest rate or other terms unfavorably change, or such commitment expires and is not extended or renewed or is extended or renewed on less favorable terms, or is terminated because of: an adverse change in Purchaser's financial condition, or an appraisal of the Unit is not satisfactory to the lender, or any other condition or factor is not met.

32.19 Execution: This Agreement is effective, binding and enforceable without the seal of a corporate party or the acknowledgment or notarization of a signature.

32.20 Captions: The paragraph captions and Table of Contents are for convenience only and are not part of the text of this Agreement, nor to be used to interpret its provisions.

32.21 References: All references in this Agreement to a paragraph, subparagraph, clause, Exhibit or Schedule, refer to the paragraphs, subparagraphs and clauses of this Agreement and to an Exhibit or Schedule attached to this Agreement. Similarly, the words "hereof", "herein", "above", "below" and similar terms mean this Agreement. An Exhibit or Schedule (if any) attached to this Agreement is part of this Agreement.

32.22 Grammar: Any word or term in this Agreement that is: used in the singular, shall include the plural and vice versa; or used in any gender shall include any other gender; or used in any tense (past, present or future), shall include any other tense, whenever required by the sense of this Agreement and is not contrary to the express context.

32.23 U.S. Dollars: All payments and dollar amounts are in the currency of the United States (i.e., U.S. dollars).

32.24 Business Day: A business day is any day of the year that is not a Saturday, Sunday or legal holiday of the State of New York. All references in this Agreement to "days" shall mean "calendar days" (i.e., any day of the year), unless expressly stated to be "business days". Any date or period specified in this Agreement which does not fall on a business day shall be extended to the following first business day.

32.25 Credit Check: Purchaser authorizes Seller and its agents and employees to check Purchaser's credit and judgment history and to obtain reports on Purchaser's credit and judgment history from credit agencies, bureaus and companies. Upon written request from Purchaser, Seller will inform Purchaser of the name and address of each agency, bureau or company furnishing said report.

32.26 Counterparts: This Agreement may be executed in separate counterparts by each party, with no counterpart being executed by both parties. Each counterpart so executed by one party and delivered to the other party shall be deemed to be an original. At such time as both parties receive a counterpart of this Agreement signed by the other party, all counterparts so separately executed by each party and delivered to the other party together shall constitute but one and the same instrument, which may be sufficiently evidenced by one signed counterpart. Each counterpart shall be binding upon the signatory of such counterpart even though it is not signed by both parties to this Agreement.

32.27 Purchaser's Due Diligence: Purchaser acknowledges and agrees that: (a) before entering into this Agreement: (a-1) Purchaser has fully investigated and examined, or has been afforded a reasonable opportunity to investigate and examine, the lease(s) of the office space(s) comprising the Unit (if any); and (a-2) Purchaser has inspected or has been afforded a reasonable opportunity to inspect the Unit (other than an office space therein, if any, leased to other than Purchaser whose tenant has refused to permit inspection) and the Building; (b) Purchaser is thoroughly acquainted and/or satisfied with the condition and the permitted uses of the Unit, its equipment, fixtures and other Personal Property

included in this sale, and the Building; (c) Purchaser has independently investigated, analyzed and appraised the value, profitability, adequacy, fitness and suitability of the Unit and Personal Property for Purchaser's intended purposes to its satisfaction and no representation, warranty, certification or statement, whether oral or written, express or implied, with respect thereto has been made by Sponsor or any employee, agent, broker or other person representing or purporting to represent Sponsor; and (d) Purchaser has not been induced to purchase nor relied upon any representations, warranties, statements or certifications, whether oral or written, express or implied, made by Sponsor or any employee, agent, broker or other person representing or purporting to represent Sponsor which are not contained in the Plan or this Agreement.

END OF TERMS AND CONDITIONS OF PURCHASE AND SALE AGREEMENT
The Exhibit to this Purchase and Sale Agreement start on the following page.

EXHIBIT A

PERMITTED ENCUMBRANCES

The Unit will be conveyed and sold, and will be purchased and acquired by Purchaser (without abatement in the Purchase Price or recourse of any kind against Seller), subject to the following Permitted Encumbrances, which shall not be objections to title:

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, provided they do not prevent the use of the subject Unit for the purpose set forth in the Plan.

2. State of facts shown on survey by S.P. Belcher dated April 9, 1928, which covers the subject premises and more, last updated by visual examination on 8/3/2006 by Earl B. Lovell-S.P. Belcher, Inc., and shows the following:

a. Survey includes premises adjoining on the east designated as Lot 10 on Block 597, which is not covered herein.

b. Projections and/or encroachments over or onto Van Dam Street:

Water Table	0 Feet	2 Inches
Ledge	0 Feet	6 Inches
Fire Escapes	3 Feet	0 Inches
Pilasters	1 Foot	0 Inches
Bricks At Roof	0 Feet	10 Inches
Vent Pipes	1 Foot	3 Inches
Stand Pipes	1 Foot	4 Inches
Iron Grating	4 Feet	0 Inches
Brick from 2nd Floor to Roof of 5-Story Brick Building	0 Feet	4 Inches

6 Brick Piers project 1 Foot 0 Inches at Basement, plus 0 Feet 4 Inches at 1st Floor of the 5-Story Brick Building.

c. Independent Wall of 5-Story and Basement Brick building on the subject premises encroaches as much as 0 Feet 1 Inch onto the premises adjoining on the east. Notwithstanding said encroachment policy will insure that the same may remain undisturbed for as long as it stands.

d. Door in Basement of 5-Story and Basement Brick building on the subject premises located along the easterly record line. Policy excepts the possible rights and easements of others on the premises adjoining on the east in, to and over the subject premises.

e. Projections from 5-Story and Basement Brick building on the subject premises over the premises adjoining on the south:

Shutter Eyes	0 Feet	2 Inches
Window Sills	0 Feet	2 Inches
Tie Rods	0 Feet	4 Inches

f. Projections and/or encroachments over or onto Greenwich Street:

Water Table	0 Feet	2 Inches
Ledge	0 Feet	6 Inches
Fire Escapes	3 Feet	0 Inches
Brick at Roof	0 Feet	10 Inches
Cemented Area	Extends 4 Feet 0-¾ Inch	
Iron Fence	4 Feet	9 Inches
Vault	12 Feet	11-3/4 Inches
Stand Pipe	1 Foot	8 Inches
Brick from 2nd Floor to Roof of 5-Story Brick Building	0 Feet	4 Inches

4 Brick Piers project 1 Foot 0 Inches at Basement, plus 0 Feet 4 Inches 1st Floor of the 5-Story Brick Building.

3. Any additional state of facts that a more recent accurate survey or personal inspection of the Land and Building would show, provided such additional state of facts does not render title unmarketable (encroachments of the Building on adjoining property and/or streets, and encroachments of adjoining buildings on the Property shall not render title unmarketable provided Purchaser's title insurer or agent, or any of the title insurers comprising the Title Insurance Company, will insure, at its regular rate, without additional premium, in a fee title policy that such encroachments may remain for so long as the Building shall stand, and provided further that such additional state of facts would not prevent the use of Purchaser's Unit for the purpose set forth in the Plan).

4. Any state of facts that an accurate survey or personal inspection of the subject Unit would disclose, including: (a) encroachments by the Unit on adjoining Units and/or on Common Elements; and (b) encroachments by adjoining Units or Common Elements on the Unit, provided that any of the title insurers comprising the Title Insurance Company or Purchaser's title insurer or agent (as applicable) will insure at its regular rate, without additional premium, in a fee title policy issued by it to Purchaser, that any encroachments of a portion of the subject Unit upon any other unit or the Common Elements may remain for so long as the Building shall stand.

5. The terms, burdens, covenants, restrictions, conditions, duties, limitations, licenses, powers, easements, encroachments and rules and regulations set forth in, or permitted by, the Declaration, the By-Laws (and the Rules and Regulations made thereunder), the Unit Owner's Power of Attorney from Purchaser to the Condominium Board, Sponsor (i.e., Seller), the Upper Owner and others, and the Floor Plans, as any of them might be amended from time to time, provided that any of the title insurers comprising the Title Insurance Company or Purchaser's title insurer or agent (as applicable) will insure at its regular rate, without additional premium, in a fee title policy issued to Purchaser, against loss or damage occasioned by reason of the Unit not being part of a condominium validly established pursuant to Article 9-B of the Real Property Law, as amended.

6. Consents by the Seller, the Condominium Board or any former owner of the land, for the erection of any structure or structures on, under or above any street or streets on which the land abuts.

7. Sewer, water, electric, plumbing, heating, gas, telephone, cable and other utility easements and any and all rights of use in favor of any utility company for construction, use, maintenance, repair, removal, relocation and replacement of utility lines, wires, terminal boxes, mains, pipes, cables, conduits, poles, connections and other equipment and facilities on, under and across the land and Building.

8. Revocability of licenses for vault space, if any, under the sidewalks and streets and the lien of any unpaid vault tax (if any).

9. Encroachments of stoops, areas, cellar steps or doors, trim, coping, retaining walls, bay windows, balconies, sidewalk elevators/hatches, 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.

10. Leases and service, maintenance, employment, concessionaire and license agreements, if any, of other units of the Condominium or portions of the Common Elements as described or permitted in the Plan or a Plan Amendment or made after the end of the Sponsor Board Control Period.

11. The lien of any unpaid Common Charge and real estate taxes, which shall be apportioned at the closing of title as set forth in this Purchase and Sale Agreement. The lien for any unpaid water charges and sewer rents are payable by the Condominium Board and included in Common Charges, and thus are deemed apportioned as part of the Common Charges.

12. The lien of any unpaid "assessment" (defined below) payable in installments, except that: (a) Seller will pay all such assessments due prior to the Closing Date; and (b) Purchaser will pay all assessments due from and after such date. However, the then current installment of an assessment will be apportioned at closing in accordance with this Purchase and Sale Agreement. The term "assessment" as used herein includes both a real estate tax assessment and a Condominium Board Special Assessment.

13. Unpaid fees or charges of any Governmental Authority for inspections, reinspections, examinations, services, permits and licenses, which shall be apportioned between Sponsor and the Condominium Board as provided in the Plan or, if arising after the First Unit Closing, shall be payable by the Condominium Board and included in the Common Charges, and thus are deemed apportioned as part of the Common Charges.

14. Unpaid costs, charges and amounts owed by the Condominium Board after the First Unit Closing for work performed by a Governmental Authority, including the New York City Office of Rent and Housing Maintenance, Emergency Services Division, and the New York City Department of Health (all such unpaid costs, charges and amounts owed prior to said First Closing shall be paid by Seller pursuant to the Plan).

15. Any encumbrance as to which any of the title insurers comprising the Title Insurance Company or the title insurer or agent (as applicable) that insures Purchaser's title to the Unit would be willing to insure, at Purchaser's expense, at its regular rate and

without additional premium, in a fee policy issued by it to Purchaser: (a) will not be collected out of, or enforced against, the Unit or its Common Interest if it is a lien; or (b) will not prevent the use of the Unit for the purpose set forth in the Plan, whichever is applicable. Any exception that any of said title insurers comprising the Title Insurance Company has omitted or insured at its regular rates and without additional premium will not be collected out of, or enforced against, a unit, in a fee title insurance policy for other units of the Condominium, regardless of which title insurance company or agent Purchaser uses, will not be a valid objection to title.

16. Covenants, conditions, restrictions, easements, leases and agreements of record, including:

a. Railroad Easement Agreement recorded on 02/24/1914 in Section 2, Liber 227 Cp 473 (affecting streets); and

b. Railroad Easement Agreement recorded on 05/06/1914 in Section 2, Liber 231 Cp 195 (affects streets only).

17. Any declaration or other instrument affecting the Property that the Condominium Board considers 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 Standard and Appeals, or any other public or quasi-public Governmental Authority, applicable to the demolition, construction, alteration, repair, use, occupancy, operation or restoration of the Building.

18. Any easements, covenants, declaration, restrictions or agreements, whether of record or unrecorded, affecting the Property or any portion thereof, and the title exceptions set forth in the title report issued by any of the title insurers comprising the Title Insurance Company for the Property, provided they do not prevent the use of the Unit for the purpose set forth in the Plan, and excluding: (a) any title exception to be removed in order to insure the valid establishment of the Condominium as provided in the Plan; and (b) the lien of any mortgage or UCC-1 financing statement, which are to be released or terminated, respectively, from the Unit.

19. Any violations against the Property (including the Unit and the Common Elements) other than the violation with respect to the elevator which Sponsor shall cure, at its sole cost and expense.

20. The Certificate of Occupancy or a temporary or permanent (at Seller's exclusive option) new or amended Certificate of Occupancy of the Building, provided it authorizes use of the Unit for the purpose set forth in the Plan.

21. The existing lease or leases (as applicable) of the Unit and any renewals or extensions thereof, and modifications, amendments, terminations or cancellations thereof, and new leases of vacant spaces (if any) comprising the Unit, all as and to the extent provided in Section I of the Plan, and rights of tenants thereunder, as tenants only; and leases and rights of tenants and occupants of other Units, as tenants only.

22. Any lien (including any mortgage lien) or other encumbrance granted, created or obtained by the Purchaser.

23. Easements for ingress and egress for construction, installation, operation and maintenance of municipal service facilities and utilities.

24. Any easement or right of use required by Sponsor (i.e., Seller) or its designee to obtain a temporary or permanent Certificate of Occupancy for the Building or any part thereof. Any other covenants, restrictions, easements or other encumbrance (other than for payment of money), provided that they do not prohibit the existence and use of the Unit for the purpose set forth in the Plan.

25. Service, labor, concessionaire and maintenance agreements with the Condominium Board as disclosed or permitted in the Plan or a Plan Amendment, or made after the end of the Sponsor Board Control Period.

26. Any lien, encumbrance or lis pendens either: (a) for which the instrument required to remove said encumbrance of record is delivered at or prior to the Closing Date to the proper party or to Purchaser's title insurer or agent (as applicable) together with the required recording or filing fee; or (b) as to which Purchaser's title insurer or agent (as applicable) or any of the title insurers comprising the Title Insurance Company will insure that the lien, encumbrance or lis pendens will not be collected out of, or enforced against, the Unit.

27. Party walls and party wall agreements, if any.

28. Judgments, bankruptcies or other returns against other persons having names the same as or similar to Sponsor (i.e., Seller) or any of its principals, provided Sponsor or any such principals, as the case may be, deliver to Purchaser or Purchaser's title insurer or agent (as applicable), or any of the title insurers comprising the Title Insurance Company, an affidavit showing that such judgments, bankruptcies or other returns are not against Sponsor or any such principals, as the case may be.

29. Uniform Commercial Code financing statements or conditional bills of sale, provided that: (a) such statements were filed on a date more than five years prior to the Closing Date; (b) Sponsor executes and delivers to Purchaser an affidavit setting forth that the property covered thereby is no longer in the Unit or is fully paid for; or (c) a tenant is the debtor thereunder.

30. Standard printed exceptions contained in the form of fee title insurance policy then issued by the title insurer or agent (as applicable) insuring Purchaser's title to the Unit, including the following: (a) defects and encumbrances arising or becoming a lien after the Closing Date; (b) consequences of the exercise and enforcement or attempted enforcement of any governmental, war or police powers over the Unit or the Property; (c) any laws, regulations or ordinances (including, but not limited to zoning, building, and environmental protection) as to the use, occupancy, subdivision or improvement of the Unit or the Property, adopted or imposed by any governmental body, or the effect of any noncompliance with or any violation thereof; (d) judgments against the insured or estates, interests, defects, objections, liens or encumbrances created, suffered, assumed or agreed to, by or with the privity of Purchaser; (e) title to any property beyond the lines of the Unit or the Property, or title to areas within or rights to easements in any abutting streets, roads, avenues, lanes, ways or waterways, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement, other than the ordinary rights of access and egress belonging to abutting owners; and (f) title to any personal property, whether the same be attached to or used in connection with the Unit or the Property or otherwise.

31. Franchise taxes and New York City business corporation taxes of any organization in the chain of title, provided that Purchaser's title insurer or agent (as applicable), or any of the title insurers comprising the Title Insurance Company, would be willing to insure at its regular rate, without additional premium, in a fee policy issued by it to Purchaser, that such taxes will not be collected out of the Unit.

END OF EXHIBIT A
PERMITTED ENCUMBRANCES

This Page Intentionally Left Blank

Form **W-9**
(Rev. January 2003)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

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

Print or type
See Specific Instructions on page 2.

Name

Business name, if different from above

Check appropriate box: ☐ Individual/ Sole proprietor ☐ Corporation ☐ Partnership ☐ Other ▶ ..... ☐ Exempt from backup withholding

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

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. 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 3.

Note: *If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.*

Social security number
			–			–		

or

Employer identification number
			–					

Part II 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, and
3. I am a U.S. person (including a U.S. resident alien).

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 4.)

Sign Here Signature of U.S. person ▶ Date ▶

Purpose of Form

A person who is required to file an information return with the IRS, must obtain 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.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

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

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

Foreign person. If you are a foreign person, use the appropriate Form W-8 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

This Page Intentionally Left Blank

Form **W-8BEN**
(Rev. February 2006)
Department of the Treasury
Internal Revenue Service

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

▶ Section references are to the Internal Revenue Code. ▶ See separate instructions.
▶ Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

Do not use this form for: **Instead, use Form:**

- A U.S. citizen or other U.S. person, including a resident alien individual W-9
- A person claiming that income is effectively connected with the conduct of a trade or business in the United States W-8ECI
- A foreign partnership, a foreign simple trust, or a foreign grantor trust (see instructions for exceptions) . . . . . W-8ECI or W-8IMY
- A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession that received effectively connected income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (see instructions) . . . . . W-8ECI or W-8EXP

Note: *These entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim they are a foreign person exempt from backup withholding.*

- A person acting as an intermediary W-8IMY

Note: *See instructions for additional exceptions.*

Part I Identification of Beneficial Owner (See instructions.)

1 Name of individual or organization that is the beneficial owner

2 Country of incorporation or organization

3 Type of beneficial owner: ☐ Individual ☐ Corporation ☐ Disregarded entity ☐ Partnership ☐ Simple trust ☐ Grantor trust ☐ Complex trust ☐ Estate ☐ Government ☐ International organization ☐ Central bank of issue ☐ Tax-exempt organization ☐ Private foundation

4 Permanent residence address (street, apt. or suite no., or rural route). **Do not use a P.O. box or in-care-of address.**

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

5 Mailing address (if different from above)

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

6 U.S. taxpayer identification number, if required (see instructions) ☐ SSN or ITIN ☐ EIN

7 Foreign tax identifying number, if any (optional)

8 Reference number(s) (see instructions)

Part II Claim of Tax Treaty Benefits (if applicable)

9 **I certify that (check all that apply):**

a ☐ The beneficial owner is a resident of .....within the meaning of the income tax treaty between the United States and that country.

b ☐ If required, the U.S. taxpayer identification number is stated on line 6 (see instructions).

c ☐ The beneficial owner is not an individual, derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits (see instructions).

d ☐ The beneficial owner is not an individual, is claiming treaty benefits for dividends received from a foreign corporation or interest from a U.S. trade or business of a foreign corporation, and meets qualified resident status (see instructions).

e ☐ The beneficial owner is related to the person obligated to pay the income within the meaning of section 267(b) or 707(b), and will file Form 8833 if the amount subject to withholding received during a calendar year exceeds, in the aggregate, $500,000.

10 **Special rates and conditions** (if applicable—see instructions): The beneficial owner is claiming the provisions of Article .....of the treaty identified on line 9a above to claim a .....% rate of withholding on (specify type of income): ..... .

Explain the reasons the beneficial owner meets the terms of the treaty article: .....

.....

Part III Notional Principal Contracts

11 ☐ I have provided or will provide a statement that identifies those notional principal contracts from which the income is **not** effectively connected with the conduct of a trade or business in the United States. I agree to update this statement as required.

Part IV Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

1 I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates,

2 The beneficial owner is not a U.S. person,

3 The income to which this form relates is (a) not effectively connected with the conduct of a trade or business in the United States, (b) effectively connected but is not subject to tax under an income tax treaty, or (c) the partner's share of a partnership's effectively connected income, and

4 For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Sign Here ▶ .....
Signature of beneficial owner (or individual authorized to sign for beneficial owner) — Date (MM-DD-YYYY) — Capacity in which acting

This Page Intentionally Left Blank

Document 1C

Pre-Closing

ESCROW AGREEMENT

AGREEMENT made as of August 25, 2008, between: 100 Vandam, LLC, ("**SPONSOR**"), having an office address at c/o Beck Street Capital LLC, 100 Vandam Street, 4th Floor, New York, NY 10013; and Seyfarth Shaw LLP ("**ESCROW AGENT**"), having offices at 620 Eighth Avenue, New York, New York 10018.

STATEMENT OF FACTS

A. SPONSOR is the sponsor of an offering plan ("**Offering Plan**") to convert to condominium ownership the land and building erected thereon and known by the street address of 100 Vandam Street, New York, New York 10013.

B. ESCROW AGENT is authorized to act as escrow agent hereunder in accordance with General Business Law ("**GBL**") Section 352-e(2-b) and the Attorney General's regulations promulgated thereunder.

C. SPONSOR desires that ESCROW AGENT act as escrow agent for purchase money deposits and payments by purchasers ("**purchasers**") under the Offering Plan 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.

1.1 SPONSOR and ESCROW AGENT hereby establish an escrow account with ESCROW AGENT for the purpose of holding purchase money deposits or payments made by purchasers. The escrow account has been opened with Valley National Bank, ("**Depository**") at its branch office located at 275 Madison Avenue, New York, NY 10016. The master escrow account number is [redacted]

1.2 The name of the account is "Seyfarth Shaw LLP Master Escrow Account".

1.3 Certain partners of ESCROW AGENT are the sole signatories on behalf of ESCROW AGENT for withdrawal of monies from the escrow account.

1.4 The escrow account shall be an interest-bearing account as disclosed in the Offering Plan.

1.5 The escrow account is not an IOLA established pursuant to Judiciary Law Section 497.

2. DEPOSITS INTO THE ESCROW ACCOUNT.

2.1 All purchase money funds received from prospective purchasers prior to closing, (other than any "**Special Work Payments**", as defined in the Purchase and Sale Agreement)

©2008 Alan L. Kazlow, Esq.
Seyfarth Shaw LLP
All rights reserved.

whether in the form of checks, drafts, money orders, wire transfers or other instruments which identify the payor, shall be deposited in a segregated subaccount of the master escrow account. All instruments to be deposited into the escrow subaccount shall be made payable to, or endorsed by the purchaser to the order of, "*Seyfarth Shaw LLP as Escrow Agent for 100 Vandam Street Plan*". 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 promptly, but in no event more than five business days following receipt of such instrument by ESCROW AGENT. In the event of such return, the instrument shall be deemed not to have been delivered to ESCROW AGENT pursuant to the terms of this Agreement.

2.2 In the event a purchaser's instrument is dishonored or is returned uncollected, ESCROW AGENT will with reasonable promptness after receipt deliver the dishonored or uncollected instrument to SPONSOR, if so requested by SPONSOR.

2.3 At the time the contract deposit check is delivered to ESCROW AGENT, such check will be accompanied by the purchaser's Purchase and Sale Agreement and Internal Revenue Service form W-8 "Certificate of Foreign Status" (for a non-resident alien or a foreign entity) or W-9 "Request for Taxpayer Identification Number and Certification" (for a United States citizen or resident alien), as applicable.

2.4 After ESCROW AGENT receives a check for purchaser's contract deposit, ESCROW AGENT shall send purchaser by ordinary mail written notice ("**Deposit Notice**") of the deposit of the contract deposit check for collection in the escrow account. The Deposit Notice will also state the individual account number for purchaser's escrowed funds and the interest rate in effect on or about the date of deposit.

2.5 The Deposit Notice is to be sent to each purchaser within ten (10) business days after purchaser "tenders" the contract deposit check with the Purchase and Sale Agreement. The term **"tenders"** means the date delivered by hand or five (5) days after being sent by mail. Each purchaser's contract deposit check will be delivered to ESCROW AGENT promptly after receipt by SPONSOR or SPONSOR'S selling agent (if any) in order that the Deposit Notice may timely be sent to purchaser.

2.6 If a purchaser does not receive the Deposit Notice within fifteen (15) business days after purchaser tenders the contract deposit check, the Purchase and Sale Agreement will provide that:

(a) purchaser's sole remedy will be either (at purchaser's option): (i) to cancel the Purchase and Sale Agreement and recover the purchase monies with any earned interest; or (ii) to apply to the Attorney General for relief;

(b) if purchaser elects to cancel, purchaser must do so in writing sent to SPONSOR (as provided in the purchase and sale agreement) within ninety (90) days after purchaser tenders the contract deposit check, but in no event later than the date purchaser closes title;

(c) purchaser will be regarded as having conclusively waived purchaser's right to cancel in the event purchaser does not send the cancellation notice in such period (time being of the essence); and

(d) purchaser will not have the right to cancel the Purchase and Sale Agreement or recover the purchase monies and any interest where proof satisfactory to the Attorney General is submitted establishing that the contract deposit check was timely deposited and the Deposit Notice was timely mailed to purchaser in accordance with the Attorney General's regulations.

3. RELEASE OF FUNDS.

3.1 ESCROW AGENT shall not release the escrowed funds of a defaulting purchaser until after consummation of the Offering Plan as defined in the Attorney General's regulations. Consummation of the Offering Plan shall not relieve SPONSOR of its fiduciary obligations pursuant to GBL Section 352-h.

3.2 ESCROW AGENT shall continue to hold the escrowed funds of a purchaser in escrow until they are:

(a) paid to SPONSOR at closing with purchaser pursuant to the terms of the Purchase and Sale Agreement (ESCROW AGENT shall instruct the Depository to pay the interest to purchaser); or

(b) paid pursuant to a determination of the Attorney General; or

(c) paid pursuant to a judgment or order of a court of competent jurisdiction; or

(d) released pursuant to paragraph 3.3 or paragraph 3.4 and the regulations of the Attorney General pertaining to release of escrowed funds; or

(e) paid as otherwise directed in writing by both SPONSOR and purchaser.

3.3 SPONSOR shall not object to the release of the escrowed funds to a purchaser who timely rescinds in accordance with an offer of rescission contained in the Offering Plan or an amendment to the Offering Plan or timely cancels in accordance with a right of cancellation in the Purchase and Sale Agreement.

3.4 If a closing under a Purchase and Sale Agreement with a purchaser does not occur and SPONSOR demands that a purchaser's escrowed funds and any interest be paid to SPONSOR based upon such purchaser's uncured default or otherwise, the following will apply:

(a) ESCROW AGENT will give purchaser not fewer than ten (10) business days' written notice of SPONSOR'S demand for payment of the escrowed funds and any interest;

(b) at the expiration of such ten (10) business days, ESCROW AGENT will pay the escrowed funds and any interest to SPONSOR unless prior to making the payment: (i) ESCROW AGENT receives written notice from purchaser that purchaser objects to the release of the escrow funds and interest to Sponsor and stating the basis of such objection or that purchaser has made application ("**Dispute Resolution Application**" or "**Application**") to the Attorney General pursuant to the dispute resolution provisions contained in the Attorney General's regulations; or (ii) ESCROW AGENT is served with a judgment or order ("**Restraining Order**") of a court of competent jurisdiction restraining ESCROW AGENT from making such payment;

(c) ESCROW AGENT will continue to hold the escrowed funds and interest for as long as required by any interim directive issued by the Attorney General or a Restraining Order (whichever is applicable);

(d) if the Attorney General denies the Dispute Resolution Application or the Restraining Order is vacated (as applicable), ESCROW AGENT will pay the escrowed funds and any interest to SPONSOR; and

(e) if the Attorney General grants the Dispute Resolution Application or the Restraining Order is not vacated (as applicable), ESCROW AGENT will pay the escrowed funds and any interest in accordance with: (i) (in the case of a Dispute Resolution Application) a final, non-appealable determination of the Attorney General served on ESCROW AGENT; or (ii) (in the case of a Restraining Order) a final, non-appealable judgment or order of a court of competent jurisdiction served on ESCROW AGENT.

3.5 In the event of a dispute by SPONSOR, or purchaser or ESCROW AGENT, the following will apply:

(a) SPONSOR must, and purchaser or ESCROW AGENT may, submit a Dispute Resolution Application (on the form required by the Attorney General's regulations) to the Attorney General for a determination on the disposition of a purchaser's escrowed funds and any interest;

(b) the party making the Dispute Resolution Application shall contemporaneously send to all other parties a copy of such Application;

(c) SPONSOR shall not initiate a lawsuit to resolve the dispute unless SPONSOR submits a Dispute Resolution Application to the Attorney General and the Application is denied (however, this does not preclude SPONSOR from bringing an appropriate legal proceeding to review and overturn an unfavorable determination by the Attorney General);

(d) instead of applying to the Attorney General, a purchaser may initiate a lawsuit to resolve the dispute;

(e) pending the determination of the Attorney General to grant or deny the Application, SPONSOR, purchaser and ESCROW AGENT will abide by any interim directive issued by the Attorney General;

(f) if the Application permitting release of the escrowed funds is granted, the escrowed funds and any interest will be disposed of in accordance with the determination of the Attorney General, subject to any court action in which preliminary relief is granted;

(g) if the Application is denied, ESCROW AGENT will either deposit the escrowed funds and interest (or the disputed amount) into court as permitted by law or continue to hold and disburse them in accordance with: (i) a written direction signed by both SPONSOR and purchaser; or (ii) a final, non-appealable judgment or order of a court of competent jurisdiction served on ESCROW AGENT;

(h) in no event will ESCROW AGENT release the escrowed funds or interest in dispute unless paid into court or until the dispute is finally resolved either by written agreement signed by SPONSOR and purchaser, or a final, non-appealable determination of the Attorney General or a non-appealable judgment or order of a court of competent jurisdiction;

(i) in the event ESCROW AGENT is uncertain as to ESCROW AGENT'S duties or doubts the genuineness of any document or signature, ESCROW AGENT may refrain from taking any action and continue to hold the escrowed funds and interest until the uncertainty or genuineness is resolved or deposit them (or the amount in question) in court; and

(j) in all events, the ESCROW AGENT will have the right of a stakeholder either to continue to hold the escrowed funds and interest or to deposit them or the disputed portion into court as permitted by law.

3.6 The provisions of this paragraph 3 will be contained in each Purchase and Sale Agreement.

4. <u>RECORD KEEPING.</u>

4.1 ESCROW AGENT shall maintain all records concerning the escrow account for seven (7) years after release of the funds.

4.2 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.

4.3 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 ESCROW AGENT.

5.1 ESCROW AGENT shall maintain the accounts called for in this Agreement under the direct supervision and control of ESCROW AGENT.

5.2 A fiduciary relationship with respect to the escrowed funds and interest shall exist between ESCROW AGENT and purchasers, and ESCROW AGENT acknowledges its fiduciary obligations.

5.3 Upon payment of the escrowed funds and interest in accordance with the Attorney General's regulations, ESCROW AGENT is released and discharged by SPONSOR of ESCROW AGENT'S obligations under this Agreement and from all "Claims and Expenses" (as defined in paragraph 9) arising out of or concerning ESCROW AGENT'S duties or services under this Agreement.

6. RESPONSIBILITIES OF SPONSOR.

6.1 SPONSOR agrees that SPONSOR and its agents, including any selling agents, shall immediately deliver to ESCROW AGENT all purchase money deposits and payments received from each purchaser by them prior to closing of such purchaser's individual transaction (other than any Special Work Payments).

6.2 SPONSOR agrees that it shall not interfere with ESCROW AGENT'S performance of its fiduciary duties and compliance with the Attorney General's regulations.

7. TERMINATION OF AGREEMENT.

7.1 This Agreement shall remain in effect unless and until it is cancelled by either:

(a) 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

(b) the resignation of ESCROW AGENT upon giving notice to SPONSOR of ESCROW AGENT'S 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

(c) all units offered pursuant to the Offering Plan have been sold and all sales transactions have been consummated.

7.2 Upon termination of the duties of ESCROW AGENT as described in paragraph 7.1 above, ESCROW AGENT shall deliver to the new escrow agent any and all funds held by Escrow Agent in escrow hereunder and any and all contracts or documents maintained by ESCROW AGENT relating to the escrow account.

8. FAILURE OF DEPOSITORY.

8.1 ESCROW AGENT and SPONSOR will not be liable for the amount of interest earned or collected on the funds in the escrow account or for any losses resulting from the failure of the Depository. The escrowed funds will be maintained in an account insured by the Federal Deposit Insurance Corporation for the maximum amount insured by applicable federal law.

9. SPONSOR'S INDEMNITY.

9.1 SPONSOR will defend (by attorneys of ESCROW AGENT), indemnify and hold harmless ESCROW AGENT against and from all "Claims and Expenses" of whatsoever nature arising out of or concerning ESCROW AGENT'S duties or services under this Agreement, other than those based on ESCROW AGENT'S gross negligence or willful misconduct. This indemnity includes (without limitation) "Claims and Expenses" based on ESCROW AGENT'S good faith error in judgment or good faith action or inaction or mistake of fact or law. "**Claims and Expenses**" include (without limitation) claims, lawsuits, judgments, losses, damages, liabilities, penalties, costs and expenses, including reasonable legal fees either paid to retain attorneys or representing the fair value of legal services rendered by ESCROW AGENT to itself, disbursements, court costs and other litigation expenses. This provision shall survive the termination of this Agreement.

10. REPRESENTATION OF SPONSOR IN LAWSUIT.

10.1 ESCROW AGENT may represent SPONSOR in any lawsuit, whether or not related to the escrowed funds or a Purchase and Sale Agreement with a purchaser and irrespective of ESCROW AGENT being in possession of the escrowed funds.

11. SUCCESSORS AND ASSIGNS.

11.1 This Agreement shall be binding upon, and shall inure to the benefit of and be enforceable by, SPONSOR and ESCROW AGENT and their respective successors and assigns.

12. GOVERNING LAW.

12.1 This Agreement shall be construed in accordance with and governed by the laws of the State of New York, without regard to legal principles of conflict of laws.

13. ESCROW AGENT'S COMPENSATION.

13.1 SPONSOR shall compensate ESCROW AGENT for acting in such capacity.

13.2 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 shall not be deducted from escrowed funds by any financial institution under any circumstance.

14. SEVERABILITY.

14.1 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 the other circumstances shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

15. ENTIRE AGREEMENT.

15.1 This Agreement, read together with GBL Section 352-e(2-b) and the Attorney General's regulations, constitute the entire agreement between the parties with respect to the subject matter hereof.

16. CHANGES AND WAIVERS.

16.1 The provisions of this Agreement may be changed or waived only in writing signed by the party to be charged, except the escrow and trust fund requirements of the Attorney General's regulations may not be changed or waived.

16.2 The failure to insist on strict performance of any provision will not mean that the provision has been waived or that the right to insist thereafter on strict performance of that or any other provision has been waived.

17. NOTICES.

17.1 Any notice, request, consent, election, demand or other communication (collectively called "**notice**") to be given or made under this Agreement shall be in writing and delivered by hand or sent by telecopier, overnight delivery by Federal Express or other recognized carrier, or by certified or registered mail (return receipt requested), postage prepaid, deposited in an official mail depository maintained by the United States Postal Service.

17.2 Each notice is to be sent to the parties at their respective addresses stated on page 1 of this Agreement. A notice to a purchaser shall be sent to purchaser's address for notices in the Purchase and Sale agreement.

17.3 Each party may give notice to the other of a change in address or person to whom future notices are to be sent.

17.4 Unless otherwise provided in this Agreement, each notice will be considered effective only if and when given or sent as provided in paragraphs 17.1 and 17.2 above. Any specified period of time following the giving or sending of a notice shall begin on the day delivered by hand or sent by telecopier (unless it is not a business day or is received after business hours, in either such case the period shall begin on the next ensuing business day), or the first business day after being sent by overnight delivery, or the second business day after being mailed. However, a notice of a change of address or person will not be deemed effective until actually received.

17.5 Failure to accept a notice is deemed receipt of it and does not affect the effectiveness, validity or enforceability of the notice or excuse or justify delaying the performance of an obligation.

18. MISCELLANEOUS

18.1 Escrow Agent shall be protected and not liable for acting in good faith under this Agreement and may rely on instructions, notices, directions or other writings, and signatures, believed by it to be genuine, without any obligation or duty to inquire as to the sufficiency, authority, due execution or effectiveness thereof.

18.2 Escrow Agent shall have no obligation other than as expressly set forth in this Agreement.

END OF TEXT ON THIS PAGE

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE OF ESCROW AGREEMENT

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

ESCROW AGENT:

Seyfarth Shaw LLP

Signature: _____
Name: Alan L. Kazlow
Title: Counsel

SPONSOR:

100 Vandam, LLC
By: BSCKIM Holdco III, LLC,
By: BSC NYC Holdings, LLC, Manager
By: Beck Street Capital LLC, Manager

By: _____
Kevin Comer, Manager

ETF-1

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:** _____

2/6/92

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) **Total amount of downpayment(s):** _____

(e) **Names and addresses of subscribers or purchasers affected by this application:**

_____

_____

_____

_____

14. **State the basis for your claim. Please be as specific as possible. You may add additional sheets. Attach copies of any relevant documents.**

_____

_____

_____

15. **I am contemporaneously sending a copy of this application to the following persons:**

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:

2/6/92

[Office Unit _____]*
[Commercial Unit]*
[Roof Terrace Unit]*
Tax Lot: __

DOCUMENT 2

EXHIBIT E TO DECLARATION OF CONDOMINIUM ESTABLISHING THE CONDOMINIUM KNOWN AS 100 VANDAM

UNIT OWNER'S POWER OF ATTORNEY

[To be Executed in Triplicate]

This Unit Owner's Power of Attorney is being made as of _____ ___, 200_, by _____ (hereinafter called "**Principal**"), having an office address at _____, as owner of the unit designated in the Declaration as [Office Unit _____]* [the Commercial Unit]*[the Roof Terrace Unit]* ("**Unit**") of the Condominium known as 100 Vandam, located at 100 Vandam Street, New York, NY, and also designated as Tax Lot __ in Section 2, Block 597 on the Tax Map, in favor of the individuals who from time to time comprise the Board of Managers of said Condominium, collectively in their capacity as Board Members, 100 Vandam, LLC, each Authorized First Sold Unit Owner, each Sold and Unsold Unit Owner, and each Successor of each such Attorney-in-Fact, as provided in Sections 3 and 7 below.

* *Delete where inapplicable.*

TERMS: The terms of this Unit Owner's Power of Attorney are set forth in Sections 1 through 10, which start on the page immediately following the Acknowledgment entitled "Terms of Unit Owner's Power of Attorney".

TABLE OF CONTENTS

Section	Caption	Page
Section 1.	Definitions	3
Section 2.	Unit Owned by Principal	4
Section 3.	Authorization, Appointment and Designation of Agents and Attorneys-in-Fact	4
Section 4.	Power of Substitution	6
Section 5.	Unaffected by Disability or Incompetence	6
Section 6.	Examples of Certain Actions Authorized under Limited Power of Attorney	6
Section 7.	Successor Attorney-In-Fact and Board Members	6
Section 8.	Table of Contents and Headings	7
Section 9.	References	7
Section 10.	Grammar	7

AFFIRMATION AND ATTESTATION: Principal affirms, attests and covenants that this instrument is legal and valid, has been duly authorized by all requisite organizational action, is being duly executed by a duly authorized signatory, and is binding upon and fully enforceable against Principal in accordance with its terms, and may be so relied upon each "Attorney-in-Fact" (as defined and identified in this instrument).

PRINCIPAL:

Signature: _____ _____
[Name of Principal]

Name: _____ By: _____
[Name of Principal's General Partner or Manager/Member]

Signature: _____ _____
[Print Name of Signatory]

Name: _____ _____
[Title of Signatory]

© 2008 Alan L. Kazlow, Esq.
Seyfarth Shaw LLP
All rights reserved.

ACKNOWLEDGMENT

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) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

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 Public

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 Public

TERMS OF UNIT OWNER'S POWER OF ATTORNEY

Section 1. **Definitions**

1.1. The following terms are frequently used in this instrument and will have the respective meanings given to them:

"**Building**": The building known by the street address for the Office Units of 100 Vandam Street (a/k/a 96-100 Vandam Street and 527-531 Greenwich Street), New York, New York 10013.

"**By-Laws**": The By-Laws of the Condominium set forth as EXHIBIT D to, and recorded together with, the Declaration, as such By-Laws or a provision thereof may be amended from time-to-time in accordance with its provisions by a duly executed and recorded instrument.

"**Condominium**": The condominium which is the subject of the Declaration, known as 100 Vandam, and established on the Property by the filing and recording of the Declaration, the By-Laws and the Floor Plans of the Condominium.

"**Declarant**" or "**Sponsor**": 100 Vandam, LLC. All references herein to "Sponsor" also shall include an Unsold Unit Owner, whether or not so expressly stated.

"**Declaration**": The instrument entitled "Declaration of Condominium Establishing a Plan for Condominium Ownership of the Premises known as and by the street number of 100 Vandam Street (a/k/a 96-100 Vandam Street and 527-531 Greenwich Street), New York, NY 10013 and executed by 100 Vandam, LLC, as Declarant, and recorded in the New York County Office of the Register of the City and State of New York on _____, 200_ in CRFN #_____, thereby establishing a condominium regime of ownership of the Property under Article 9-B of the Real Property Law of the State of New York, as such Declaration may be amended from time to time in accordance with its provisions by a duly executed and recorded instrument.

"**Land**": The parcel of land on which the Building is located and more particularly described in EXHIBIT A to the Declaration.

"**Property**": The Land and Building and all other improvements on or under the Land.

"**Tax Map**": The Tax Map of the Real Property Assessment Department of The City of New York for the Borough of Manhattan, County of New York, in the State of New York.

"**Unit**" or "**Principal's Unit**": The Unit of the Condominium owned by Principal and more particularly identified in the preamble of this Unit Owner's Power of Attorney.

"**Unused Development Rights**": All unused development rights of the Property associated with its unused floor area or unimproved airspace, whether now existing or hereafter available or acquired.

The words and terms defined in the Declaration (including EXHIBIT C thereof) and the By-Laws that are used herein without express definition shall have the same meanings given to them in said instruments.

Section 2. **Unit Owned by Principal**

2.1. Principal is the owner of record of fee title interest in the Unit of the Condominium. The Unit and its Tax Lot identified in the preamble of this Unit Owner's Power of Attorney correspond to the designation of the Unit in the Declaration and on the Floor Plans of the Condominium ("**Floor Plans**") filed with the Real Property Assessment Department of The City of New York and the designation of the Tax Lot of the Unit in Section 2, Block 597 on the Tax Map of the Borough of Manhattan of said Real Property Assessment Department and on said Floor Plans.

Section 3. **Authorization, Appointment and Designation of Agents and Attorneys-in-Fact**

3.1. Principal hereby confirms all powers of attorney deemed to have been granted and given by Principal under the Declaration and By-Laws and, in furtherance thereof, Principal reaffirms same, including (without limitation) those set forth below.

3.2. With the intention to constitute a durable limited power of attorney, Principal does hereby irrevocably authorize, appoint and designate each of the following (each, an "**Attorney-in-Fact**") as agent and Attorney-in-Fact of Principal, "coupled with an interest" and for valuable consideration, with full power of substitution, to act on behalf and as agent of Principal and in the name, place and stead of the Principal in any way which the Principal could do if personally present, to the full extent that Principal is permitted by law to act through an agent, with respect only to all of those matters, transactions and Dispositions stated in the Declaration or By-Laws that each such Attorney-in-Fact has the authority or power to do or perform on behalf and as agent of Principal, including (but not limited to) the following:

(a) each Unit Owner (including Sponsor) and the individuals who shall from time-to-time constitute the members of the Condominium Board (collectively in their capacity as Board Members), severally, as agent and Attorney-in-Fact of Principal, having the right, power and authority to amend the Condominium Documents in accordance with Article 22 of the Declaration and Article 22 of the By-Laws, including an Amendment to reflect a Unit Change of a Unit owned by the applicable Attorney-in-Fact in accordance with Article 13 of the Declaration;

(b) the Sponsor and the individuals who shall from time to time constitute the Condominium Board (collectively in their capacity as Board Members), severally, as agent and Attorney-in-Fact of Principal, having the right, power and authority to grant Utility Easements and Rights and Additional Utility Easements/Rights in accordance with Section 11.11 of the Declaration, or to record a correction Declaration in accordance with Section 21.6 of the Declaration;

(c) the Sponsor, each and every Unsold Unit Owner, the tenants of an Unsold Unit and other Persons who are so expressly authorized by Declarant or an Unsold Unit Owner, severally, as agent and Attorney-in-Fact of Principal, having the right, power and authority to erect and install Communications Equipment and Other Installations on, along and in portions of the Common Elements, and to thereafter inspect use, lease, license, Operate, Repair and Alter same thereon and therein, all as set forth in Section 11.14 of the Declaration;

(d) the individuals who shall from time-to-time constitute the Condominium Board, collectively in their capacity as Board Members, as agent and Attorney-in-Fact of Principal, having the right, power and authority to do the following in the name of the Condominium Board or in the name of Condominium Board's affiliated or non-affiliated nominee or designee, corporate or otherwise (where applicable and provided in the Declaration or By-Laws):

(d-1) the right, power and authority to exercise, perform, give, grant, delegate and withhold the powers, rights, licenses, easements, leases, subleases, concessions, mortgages, deeds, security

interests, collateral, Government Documents, Litigation Documents, instruments, approvals, consents, discretions and judgments expressly authorized in the Condominium Documents (as each may be amended from time-to-time) to be exercised, performed, given, granted, delegated and withheld by the Condominium Board on behalf and as agent of the Unit Owners, including in particular (but not limited to) the following rights, powers and authority:

(d-1.1) the right, power and authority to acquire or lease in the name of the Condominium Board or its nominee or designee (whether affiliated or non-affiliated with the Board), corporate or otherwise, on behalf of the Unit Owners, any Sold Unit (Office, Commercial or Roof Terrace), together with its appurtenant Common Interest, from any Sold Unit Owner desiring to sell, convey, transfer, assign or lease the same in accordance with the Match Offer Right or Right of First Refusal (as provided in the By-Laws), upon such terms and conditions as shall be approved by the Board, in its sole discretion, but subject to obtaining the approval of a majority in Common Interest of those Unit Owners attending a duly constituted meeting of such Unit Owners called for such purpose, at which a quorum is present;

(d-1.2) the right, power and authority to acquire in the name of the Condominium Board or its nominee or designee (whether affiliated or non-affiliated with the Board), corporate or otherwise, on behalf of Unit Owners, any Unit, together with its appurtenant Common Interest, whose Owner elects to surrender the same pursuant to subsection 8.11 of the By-Laws;

(d-1.3) the right, power and authority to acquire in the name of the Condominium Board or its nominee or designee (whether affiliated or non-affiliated with the Board), corporate or otherwise, on behalf of Unit Owners (as applicable), any Unit, together with its appurtenant Common Interest, and other real property, whether at a sale following a foreclosure of the lien for unpaid Common Charges or Additional Common Charges pursuant to the By-Laws and Section 339-aa of the Condominium Act, or to so acquire and purchase a Unit and its appurtenant Common Interest by deed given in lieu of such foreclosure, or otherwise, and in any such case upon such terms and conditions as shall be approved by the Board in its sole discretion; and

(d-1.4) (after any such acquisition or leasing pursuant to the preceding clause (d-1.1), (d-1.2) or (d-1.3), as applicable) the right, power and authority to convey, sell, lease, mortgage and otherwise deal with (but not vote the interest appurtenant thereto) any such Unit so acquired or purchased by the Board or its nominee or designee (whether affiliated or non-affiliated with the Board), or to sublease any Unit so leased by the Board or its nominee or designee (whether affiliated or non-affiliated with the Board), without the necessity of further authorization by the said Unit Owners, on such terms as the attorneys-in-fact may determine;

(d-2) the right, power and authority to execute, acknowledge, deliver and, if necessary, record any application, document, declaration or other instrument, or any Amendment thereto, affecting:

(d-2.1) the Condominium Association, the Property, the Common Elements or the Association's Properties, or a portion thereof, that the Condominium Board deems necessary or appropriate or is required to so do under the Declaration or the By-Laws in connection with the following: (a) to comply with any Law (including a zoning resolution or variance, or a requirement of a Governmental Authority, such as the Department of Buildings, the City Planning Commission or the Board of Standards and Appeals); or (b) to permit or facilitate the Use and Enjoyment of all or part of the

Common Elements or the Association's Properties or the Units by their respective Owners or Permitted Tenants/Occupants/Invitees of Units in accordance with the Condominium Documents; or

(d-2.2) a Unit (including a Sponsor Unit or an Unsold Unit) or (if established) its appurtenant Limited Common Element that the Owner of such Unit requests, if required by the Declaration or the By-Laws or if deemed appropriate by said Attorney-in-Fact in its sole and absolute discretion; and

(e) the Sponsor and its successors (excluding a Purchaser under the Plan to whom Sponsor conveys a Unit) and assigns, as agent and Attorney-in-Fact of Principal, having the exclusive right, power and authority, Freely and Without Consent, Payment or Restriction (other than the restriction against adding Units to the Building or the Property) to make any use or Disposition of the Unused Development Rights of the Property as it determines.

All actions by the Condominium Board as agent and Attorney-in-Fact of Principal pursuant to the foregoing power of attorney shall be determined by a resolution of a majority of those then existing Board Members attending a duly constituted Board meeting at which a quorum is present, or approved in writing signed by a majority of the then existing Board Members.

Section 4. **Power of Substitution**

4.1. The power of substitution in the foregoing limited power of attorney in Section 3 includes the full and unqualified authority of each Attorney-in-Fact to delegate any or all of the foregoing powers given or conferred upon such Attorney-in-Fact in Section 3 to any person or persons whom such Attorney-in-Fact shall select.

Section 5. **Unaffected by Disability or Incompetence**

5.1. The limited power of attorney in Section 3 shall be a durable power of attorney and shall not be affected by the subsequent disability or incompetence of the Principal.

Section 6. **Examples of Certain Actions Authorized under Limited Power of Attorney**

6.1. The actions authorized by Principal to be performed by the Condominium Board as Attorney-in-Fact of Principal pursuant to Section 3 include all of the specific powers and duties enumerated in the By-Laws in Section 2.4 thereof.

Section 7. **Successor Attorney-In-Fact and Board Members**

7.1. Principal hereby irrevocably gives to, and confers upon, each of the following ("**Successor Attorney-in-Fact**") all of the powers herein given to, and conferred upon, Sponsor and each Unit Owner (including a Sold or Unsold Unit Owner):

(a) a "successor in interest" of Sponsor or such Unit Owner (as applicable), and each and every successive successor in interest thereof;

(b) a "Designee" of Sponsor or an Unsold Unit Owner (as applicable) with respect only to those of these powers that are so delegated to such Designee and each and every successive successor in interest thereof; and

(c) an "Involuntary Transferee" of each of the foregoing and a successor in interest of such Involuntary Transferee and each and every successive successor in interest thereof.

The quoted terms in the preceding clauses (a), (b) and (c) are defined in Article 28 of the Declaration.

7.2. The designation and appointment of Declarant or an Unsold Unit Owner or a Sold Unit Owner and each Successor Attorney-in-Fact as an Attorney-in-Fact of Principal pursuant to Section 3 and Section 7.1, respectively, shall remain in full force and effect until (but not after) Sponsor or the Person who owns an Unsold Unit or a Sold Unit (as applicable) or said Successor Attorney-in-Fact, as applicable, ceases to own any Unit of the Condominium, except the designation and appointment of Sponsor and its said successors and assign as an Attorney-in-Fact of Principal to make any use or Disposition of the Unused Development Rights of the Property as provided in Section 3.2(e) above shall continue in full force and effect even after Sponsor or its said successors and assigns no longer owns any Unit of the Condominium.

7.3. The designation and appointment of the Board Members (collectively in their capacity as Board Members) as Attorney-in-Fact of Principal pursuant to Section 3 shall apply to, inure to the benefit of, and shall be exercisable and enforceable by each and every individual who shall from time to time constitute a member of the Condominium Board, collectively in their capacity as Board Members, but only during the period each of said individuals remains a Board Member.

Section 8. **Table of Contents and Headings**

8.1. The Table of Contents and Section headings in this instrument are for convenience and reference only and do not, and shall not be construed to, affect the meaning or interpretation of any provision of this instrument.

Section 9. **References**

9.1. The words "Section", "paragraph" and "clause" or similar words refer to a Section, paragraph and clause of this instrument, unless otherwise expressly stated. Similarly, the words "hereof", "herein", "above", "below" and similar terms mean this instrument.

Section 10. **Grammar**

10.1. Any word or term in this instrument that is: used in the singular, shall include the plural and vice versa; or used in any gender shall include any other gender; or used in any tense (past, present or future), shall include any other tense, whenever required by the sense of this instrument and not contrary to the express context.

END OF UNIT OWNER'S POWER OF ATTORNEY

UNIT OWNER'S POWER OF ATTORNEY

FROM

Principal: _____

_____

TO

Attorney-in-Fact: **MEMBERS OF THE BOARD OF MANAGERS OF THE CONDOMINIUM KNOWN AS 100 VANDAM (COLLECTIVELY, IN THEIR CAPACITY AS BOARD MEMBERS)**

AND

Attorney-in-Fact: **100 VANDAM, LLC**

AND

Attorney-in-Fact: **EACH AUTHORIZED FIRST SOLD UNIT OWNER AND EACH SOLD AND UNSOLD UNIT OWNER**

Attorney-in-Fact: **EACH SUCCESSOR OF EACH SUCH ATTORNEY-IN-FACT**

Condominium: **100 VANDAM**
Address of Condominium Property: **100 VANDAM STREET NEW YORK, NEW YORK 10013**

Principal's Unit: **[Office Unit No. _____]***
[Commercial Unit]*
[Roof Terrace Unit]*
County: New York
Section: 2
Block: 597
Lot: _

* *Delete where inapplicable.*

RECORD AND RETURN TO:

Law Offices of
Seyfarth Shaw LLP
620 Eighth Avenue
New York, New York 10018
Attention: Alan L. Kazlow, Esq.

DOCUMENT 3
CONDOMINIUM UNIT DEED

THIS INDENTURE, made the ____ day of _____, 200_, between:

100 VANDAM, LLC, a Delaware limited liability company, having an office at c/o Beck Street Capital LLC, 100 Vandam Street, 4th Floor, New York, New York 10013 (the "**Grantor**");

and

_____

_____

having an address at _____
(the "**Grantee**").

W I T N E S S E T H:

That the Grantor, in consideration of Ten and 00/100 Dollars ($10.00) and other good and valuable consideration paid by the Grantee, the receipt and sufficiency of which are hereby acknowledged, does hereby grant and release unto the Grantee, the heirs or successors and assigns of the Grantee, forever:

the condominium Unit (the "**Unit**") in the condominium known as 100 Vandam (the "**Condominium**") in the building known as and by the street number for office units of 100 Vandam Street (the "**Building**"), in the Borough of Manhattan and the City, County and State of New York, said Unit being designated and described as [Office Unit No. _____]* [the Commercial Unit]*[the Roof Terrace Unit]* in that certain declaration dated _____, 200__, made by Grantor pursuant to Article 9-B of the Real Property Law of the State of New York (the "**Condominium Act**") establishing a plan for condominium ownership of the Building and the land (the "**Land**") upon which the Building is situated (which Land is more particularly described in EXHIBIT A annexed hereto and by this reference made a part hereof), which declaration was recorded in the New York County Office of the Register of The City of New York (the "**City Register's Office**") on _____, 200__, CRFN # _____ (such declaration and, if amended, the amendments thereto set forth on EXHIBIT B annexed hereto and by this reference made a part hereof are hereinafter collectively referred to as the "**Declaration**"); this Unit also being designated as Tax Lot __ in Section 2, Block 597 on the Tax Map of the Real Property Assessment Department of The City of New York for the Borough of Manhattan and County of New York and on the "**Floor Plans**" of the Building, certified by Marc Kemeny R.A., on _____, 200__, and filed with the Real Property Assessment Department of The City of New York on _____, 200_, as Condominium Plan No. ____ and also filed in the City Register's Office on _____, 200__, as Map No. ____;

**Delete where inapplicable.*

together with an undivided _____% interest in the Common Elements of the Condominium;

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

together with all right, title and interest, if any, of Grantor in and to all strips and gores adjacent to the Land described in EXHIBIT A hereto, and easements, if any, appurtenant thereto;

together with, and subject to, the rights, power, duties, obligations, easements, licenses, requirements, burdens, encroachments, limitations, restrictions (including those with respect to permitted use, occupancy and Disposition of the Unit) and other provisions set forth in, or permitted by, the Declaration, Floor Plans and the by-laws (including the Rules and Regulations appended thereto) of the Condominium, as each may be duly amended from time to time (said by-laws and, if amended, the amendments thereto set forth on EXHIBIT B hereto are hereinafter collectively called 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; and

subject also to all exceptions to title and to such other liens, agreements, covenants, easements, restrictions, declarations, consents and other matters of record or set forth in the Condominium Offering Plan for the Building as pertain to the Unit, to the Land and/or to the Building (the Land and Building are hereinafter collectively called the "**Property**");

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

The words and terms defined in the Declaration or the By-Laws of the Condominium that are used herein without express definition shall have the same meanings given to them in said instruments.

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 otherwise fails to comply with the Condominium Act, or if any provision that is necessary to cause the Declaration and 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, the applicable provisions of Article 21 of the Declaration shall control.

Except as otherwise expressly permitted by the Condominium Board or provided in the Declaration or the By-Laws, if the Unit is an Office Unit, the Unit is intended for only office use; or if the Unit is a the Commercial Unit, the Unit is intended for retail or office use, or if the Unit is the Roof Terrace Unit, the Unit is intended for any lawful use, except the Unit may not be used for "Prohibited Uses" or certain "Offensive Office Uses", as said quoted terms are defined in, and as provided in, the Declaration..

The Grantor covenants that the Grantor has not done or suffered anything whereby the Unit has been encumbered in any manner whatever, except as aforesaid. This covenant is for the personal benefit of Grantee only and cannot be assigned to, or enforced or exercised by, and shall not inure to the benefit of, anyone else, including (but not limited to) any insurer of Grantee's title or any successor of Grantee's interest. In the event of any breach of these covenants, Grantee shall

first seek recovery against Grantee's title insurance company (if any) and Grantor's liability hereunder shall be limited to the extent only that Grantee's loss or damage is not insured by Grantee's title insurer. In the event that Grantee shall elect not to purchase title insurance, then the liability of Grantor shall be limited to the extent only that any loss or damage would not have been covered by the title insurance that was available to Grantee as of the date of this conveyance. The terms of any marked-up title binder issued by any title insurer that is a member of the New York Board of Title Underwriters in connection with any unit in the Building shall be conclusive evidence against Grantee of the title insurance coverage that was available to Grantee as of the date of this conveyance.

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.

By accepting this deed, the Grantee accepts and ratifies the provisions of the Declaration and the By-Laws (and the Rules and Regulations appended thereto, as same may be duly amended from time to time) and agrees to comply with all the terms and provisions thereof.

This conveyance is made in the regular course of business of the Grantor.

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

SIGNATURE PAGE FOLLOWS

END OF TEXT ON THIS PAGE

SIGNATURE PAGE OF UNIT DEED

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

GRANTOR:

100 VANDAM, LLC
By:

Signature: _____

Name: _____

Title: Manager

GRANTEE:

Signature: _____

Name: _____

Signature: _____

Name: _____

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

On the ____ day of _____, 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 whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

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

On the ____ day of _____, 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 whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

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

On the ____ day of _____, 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 whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

EXHIBIT A

TO

CONDOMINIUM UNIT DEED

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN AND COUNTY OF NEW YORK, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE SOUTHERLY SIDE OF VANDAM STREET WITH THE EASTERLY SIDE OF GREENWICH STREET; RUNNING THENCE

EASTERLY ALONG THE SOUTHERLY SIDE OF VANDAM STREET, 99 FEET 11-1/8 INCHES TO THE LAND HERETOFORE CONVEYED BY THE CONSOLIDATED EDISON COMPANY OF NEW YORK INC. TO [redacted] AND [redacted] BY DEED DATED AUGUST 30, 1944; THENCE

SOUTHERLY AT AN INTERIOR ANGLE OF 89° 44'05" WITH THE LAST MENTIONED COURSE AND ALONG THE WESTERLY SIDE OF LAND SO CONVEYED BY SAID DEED DATED AUGUST 30, 1944, 64 FEET 7-¼ INCHES; THENCE

WESTERLY AT AN INTERIOR ANGLE OF 90° 00'50" WITH THE LAST MENTIONED COURSE, 99 FEET 11-¾ INCHES TO THE EASTERLY SIDE OF GREENWICH STREET AT A POINT THEREON DISTANT 64 FEET 2 INCHES SOUTHERLY FROM THE POINT OR PLACE OF BEGINNING.

NORTHERLY ALONG THE SAID EASTERLY SIDE OF GREENWICH STREET, 64 FEET 2 INCHES TO THE POINT OR PLACE OF BEGINNING.

TOGETHER WITH THE BENEFITS CONTAINED IN THAT CERTAIN AGREEMENT BY AND BETWEEN [redacted] AND CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., DATED 8/31/1944, RECORDED ON 9/6/1944 IN LIBER 4306 CP 339, AS REPEATED IN AGREEMENT RECORDED ON 10/25/1988 IN REEL 1483 PAGE 1910, AND IN THAT CERTAIN AGREEMENT BY AND BETWEEN 92-94 VANDAM BUILDING CORPORATION AND OKANAGA U.S.A. CO., LTD. DATED 3/2/1988, RECORDED ON 10/25/1988 IN REEL 1483 PAGE 1916.

TOGETHER with all the right, title and interest of the party of the first part, of in and to the land lying in the street in front of and adjoining said premises.

The premises are known as 100 Vandam Street (a/k/a 96-100 Vandam Street and 527-531 Greenwich Street) New York, NY.

END OF EXHIBIT A

CONDOMINIUM UNIT DEED

GRANTOR: **100 VANDAM , LLC**

TO

GRANTEE: _____

_____

CONDOMINIUM: **100 Vandam**

BUILDING: **100 Vandam Street**
New York, NY 10013

PREMISES: **[Office Unit _____] ***
[Commercial Unit]*
[Roof Terrace Unit]*
* Delete where inapplicable.

County: New York
Section: 2
Block: 597
Lot: _

Record and Return to:

_____

_____

_____

_____

This Page Intentionally Left Blank

DOCUMENT 4

REPORT

DESCRIPTION OF PROPERTY
AND SPECIFICATIONS OR BUILDING CONDITION
100 Vandam
100 Vandam Street
NEW YORK, NEW YORK

PREPARED BY:
MARC KEMENY, REGISTERED ARCHITECT
K SQUARE DESIGNS, INC.
219 AVERY ROAD
GARRISON, NEW YORK
10524

100 Vandam
100 Vandam Street
New York, New York

PREFACE

This report concerning 100 Vandam Street, NYC (the "Building" or "Property" or "Premises") was commissioned by the Sponsor for the purpose of inclusion in the Condominium Offering Plan for said Building in compliance with the requirements of the Department of Law of the State of New York. Any use of this report for any other purpose is not authorized by Marc Kemeny R.A./ K Square Designs, Inc.

We visually inspected portions of the Premises on July 23rd, 2008 and December 9, 2008. We also reviewed a Phase 1 Environmental Site Assessment Report prepared by LCS. Inc., dated 6/21/06, a Geotechnical Engineering Report prepared by Langan Engineering Services, dated 4/4/08, and architectural construction documents prepared by Harman Jablin Architects dated 1988-1990, accompanied by engineering plans, delineating the renovation of the Building.

The documents were reviewed for informational purposes but were not evaluated as to the safety, adequacy, code or zoning compliance of the architecture, structural, mechanical, electrical engineering or actual construction and we make no representation or warranty regarding them. Observations were made of those areas that were open and accessible at the time of the visits. Marc Kemeny/ K Square Designs assumes no responsibility for any conditions or defects that were hidden, inaccessible, or could not be determined by cursory observation. It is to be understood that some aspects of the physical condition of the Property cannot be determined from visual observation, and all statements contained in this report are premised on and limited to such observations. This report is not intended as a guarantee or warranty of the physical condition of the Premises by the Architect or the Sponsor. All statements relative to the legal use, zoning provisions, and code compliance of the Building only express Marc Kemeny's professional opinion, as an employee of K Square Designs, and are subject to final determination by those government agencies having jurisdiction.

The price estimates of work described in this report are approximate and are good faith projections of current costs, without any inflationary factor, based solely on the experience of Marc Kemeny. They are not based on any specifications or documentation of the work, and are not derived from bids by contractors or vendors. Actual costs may substantially vary from the cost estimates.

The Sponsor has not undertaken to correct or repair any existing conditions noted in this report, unless otherwise expressly provided. The definitions in the Plan apply to all terms used in this report without express definition.

Marc Kemeny, R.A. for K Square Designs, Inc.
August 25, 2008
Updated January 6, 2009



a) LOCATION AND USE OF PROPERTY

1) Address: 100 Vandam Street
(also known as 527 Greenwich Street)
New York, New York
The Property is on the southeast corner of the intersection of Vandam and Greenwich Streets.

2) Block and Lot Number:
Block: ***597***
Lot: ***7***

3,4) Zoning and Permissible Use
The Building is in a M1-6 district which allows for commercial use per the present occupancy of the Building (including a caretaker's apartment). Manufacturing uses are also permitted, but not residential use. The proposed use of the Building will comply with all zoning and use requirements at closing. The Building is not a landmark and is not in a historical district.

b) STATUS OF CONSTRUCTION

1) Year Built:
Building Department records indicate that the Building was built circa 1913.

2) Class of Construction
The Building is classified as a Class 3, non-fireproof structure.

3) Certificate of Occupancy
The Building has Certificate of Occupancy 103641, issued on September 3, 1993.

4) Alteration Permit Numbers
As of January 6, 2009, approximately 28 applications and amendments were listed in the Building Department summary that is appended to this Report, dating back to 1992. Some of the applications are for work done in individual Units, others are for common area work. The Sponsor states that it will not be obligated to obtain sign offs for open applications. It is estimated that the current cost of having a filing consultant process the sign-offs at the Building Department would be approximately $ 3,000 (assuming that work is complete and that responsible parties are available to sign-off their work). This is a Special Risk.
Application 110411634 has been filed with the New York City Building Department. It is an Alteration number 1 application which will allow the following work:
1) Changing the designation of the 5th floor caretaker's apartment (in Office Unit 500) to commercial use (per the submitted plans),
2) Creating a commercial space in the cellar, which will comprise the Commercial Unit (per the submitted plans),
3) Specifications for a new ceiling in the cellar space (Commercial Unit).

Building Department approval of the application for the above work is pending.

Application 110404189 has been filed with the New York City Building Department. It is an Alteration number 2 application removing the communicating stair between the 3rd and 4th floors (connecting Office Units 300 and 400).

c) SITE

1) **Size**

The Property is on the southeast corner of the intersection of Vandam and Greenwich Streets. The Property is rectangular, with footage on both Greenwich Street (64'2") and Vandam Street (100'), and is approximately 6,434 square feet.

2) **Number of Buildings and Use**

There is one Building on the lot. The entire Property is dedicated to commercial use, exclusive of a caretaker's apartment on the 5th floor (part of Office Unit 500). The Sponsor states that the Certificate of Occupancy will be amended, as part of the Sponsor's Work, to remove the caretaker's apartment designation, making all of Office Unit 500 (and the Building) commercial use. The Building Department may require the removal of the Office Unit 500 bathtub. Office Unit 500 will be sold as an Office Unit.

The bottom floor of the Building is listed as a cellar on the Certificate of Occupancy (which means the square footage of this area is not included in calculations of the gross footage of the Building). The Certificate of Occupancy states that the cellar is used for storage, mechanical rooms and boiler room, but does not list commercial use, which means that the Commercial Unit, which occupies a portion of the cellar space, is not included in the Certificate of Occupancy. The Sponsor states that it will amend the Certificate of Occupancy, as required, to include commercial use of the cellar space, as part of the Sponsor's Work (listing the use as Retail). The Building Department application will include the installation of two new lavatories (3 toilets and 2 sinks each), a gypsum board ceiling, relocation of sprinklers, and installation of toilet exhausts. The Sponsor will secure a Temporary Certificate of Occupancy for the Commercial Unit. The Sponsor reserves the right to install the Commercial Unit exhaust ducts in common areas.

The Sponsor reserves the right to have the bottom floor listed as either a cellar or a basement, and to perform all construction that might be required for either designation (lavatory work, lowering ceilings, etc.)

3) **Streets Owned or Maintained by the Project**

The site does not own or maintain a street. The asphalt paved street in front of the Building is owned by The City of New York and is in reasonable condition, with catch basins at intersections. There is a wheelchair curb cut at the corner Vandam and Greenwich Streets, but not at the intersection of Vandam and Hudson Streets. The curbs have steel rims, and are in fair shape. There are no municipal light poles or hydrants in front of the Building.

Paving, curbing, catch basins and street lighting are in conformity with the New York City code.

4) Drives, Sidewalks, and Ramps

There are no drives, curb cuts or ramps on the Property. There are no catch basins or drainage beyond the sidewalk slope. The sidewalks are in good condition.

There is a 4' X 4'9", open metal grate set flush in the Vandam Street sidewalk that is directly on top of the small cellar vault (which does not appear to be functional). The grate is in good condition. There is a small, metal bicycle rack embedded in the sidewalk by the front entrance, and it is in good condition. There is also an open metal grate on the Vandam Street sidewalk that does not belong to the Building. It appears to be in fair condition.

d) UTILITIES

Water and sewer service is provided by The City of New York as part of its services, via two metered lines, one for the sprinkler system, and the other for domestic use. Some of the Units receive water to service pantry sinks, water fountains and private lavatories, as well as slop sinks located on the floors. Water service is a common cost that is part of the common expenses. The Sponsor and the Condominium reserves the right to install new water lines to all Units.

There is a single, Consolidated Edison gas service that splits into two separately metered lines, one supplying gas to the Building boiler, the other delivering gas to Office Unit 500 (for a stove). The gas used for heating is a common expense.

Electricity is provided by Consolidated Edison. The Office Units are directly metered. The Commercial Unit (cellar) is commonly metered together with the house service. The electric allocation costs of the Commercial Unit will be based on projected consumption. Usage will be determined by a qualified licensed engineer as discussed in Part I of the Offering Plan. The owner of the Commercial Unit shall have the right, at its sole cost and expense, to meter or submeter for its electric usage. If and when the Commercial Unit is metered or submetered, the Commercial Unit will pay for its electric consumption as measured by its separate meter or submeter (as applicable). In the case of a submeter, the Condominium Board will bill the Commercial Unit for electricity based on its consumption of electricity as measured by said submeter and the applicable utility rate paid by the Board, including sales tax.

The Roof Terrace Unit will not be provided with electricity or other Building services.

Electric costs of the common elements will be shared based on common interests.

Owners will make individual arrangements for cable television services with providers with direct billing to user (as available in the Building). The Building does not have common satellite reception, or a master antenna.

Telephone service is provided by the Verizon Telephone Company, a regulated utility. All Unit owners will make individual arrangements for direct billing to the Unit Owner.

e) SUB-SOIL CONDITIONS

1) Foundations

The Building has brick foundations. The vault walls extending under Vandam Street are stone. The foundations appear to be in fair condition, with no signs of settlement cracks, bulges, leaning conditions, or any other signs of distress, including the vaults.

2) Moisture

The cellar is dry and shows no sign of moisture or seepage from ground water. The vaults were visited after a severe rainstorm and some moisture (surface dampness) was detected in the walls and floor of the large vault.

3) Flooding

The nearest surface water body to the Building is the Hudson River, approximately 1,000 feet away. According to the U.S. Geological Survey map of the area, this Property is above mean sea-level and is not considered to be located in a flood prone area.

Flooding might occur in the event of a water main break in the street. No practical preventative action is suggested. Any goods stored in the cellar would be damaged in the event of a flood.

f) LANDSCAPPING AND ENCLOSURES

1) Grass

There is no grass.

2) Plantings

There are no plantings.

3) Trees

There are no trees.

4) Fencing

There are no fences.

5) Gates/enclosures

There are no gates or enclosures.

6) Garden Walls

There are no garden walls.

7) Retaining walls

There are no retaining walls.

8) Display pools and fountains

There are no fountains.

g) BUILDING SIZE

1) Height

According to Certificate of Occupancy 103641, the structure is approximately 76' feet high from grade to the main roof.

2) Crawl Spaces and vaults

There are no crawl spaces. There are two vaults, both extending under the Vandam Street sidewalk. The larger vault contains the Building's sprinkler station (pumps and valves), and the domestic water intake, line and meter. This vault surfaces appear intact. The smaller vault, which had the house trap pit, once provided access to the sidewalk grate, but appears to have been closed off. The vault surfaces are intact. The ceiling has recently been cemented.

3) Cellar

The cellar includes the entire footprint of the Building.

4) Number of floors

The Building has seven levels:

Cellar	(cellar on the Certificate of Occupancy)
Ground floor (Lobby)	(1st floor on the Certificate of Occupancy)
1st floor	(2nd floor on the Certificate of Occupancy)
2nd floor	(3rd floor on the Certificate of Occupancy)
3rd floor	(4th floor on the Certificate of Occupancy)
4th floor	(5th floor on the Certificate of Occupancy
5th floor	(6th floor on the Certificate of Occupancy)

This report will use the Building designation of the floors, and not the Certificate of Occupancy.

There are no Units on the ground floor (except for a 91 square foot egress area for the Commercial Unit as indicated on the plans put forth in the Offering Plan). Except for the Commercial Unit area, this level is only used for stair egress and the Building entrance/elevator lobby.

The Sponsor reserves the right to use the bottom floor as either a cellar or basement and to designate this floor as either on the Certificate of Occupancy (see the Number of buildings and use Section).

5) Equipment rooms

There is an elevator machine room located in a bulkhead on the roof. The cellar has a boiler room, water pump room (which also contains the fire control panel cabinet), gas meter room and electric room. The sprinkler station/water intake room is located in the cellar vault. The Sponsor reserves the right to alter or consolidate these rooms, and to relocate them within the cellar.

6) Parapets

The roof parapets vary in height with a minimum height of 3'-11".

h) STRUCTURAL SYSTEMS

1) Exterior of Building

(i) Walls and floors

The Building has load bearing, brick peripheral walls. There are cast iron columns on the lower floors, and wood columns above, on the 4th and 5th floors. The columns show indications of past insect penetration, and past wood vertical splitting. The wood columns have metal collars for reinforcement. The 1st and 2nd floors are supported by masonry/steel arches, and the floors above have wood joists. There are metal "stars" located on the facades of the Building. These are usually indicative of cable bracing. Some areas of steel framing and metal decking were observed in the cellar ceiling. The structural system appears to be in fair condition. There were no signs of settlement cracks, bulges, leaning conditions, or any other signs of distress at the brick foundation walls, or at the actual walls of the Building. Given the age of the Building, the walls are probably not insulated. 94 Vandam Street is a matching building to 100 Vandam Street, suggesting that both Buildings may share a party wall.

The Greenwich Street and Vandam Street facades consist of articulated brick with a band of corbelled brick above the 1st floor, and a crenellated brick crown at the top of the Building. The windows have brick lintels, including curved sections. The brick is in fair condition. The facades also have stone banding above the basement windows, above the 1st floor and above the 4th floor, as well as stone quoin detailing at the corners. Some of the stone surfaces in the banding and at the ground, have slight spalling. The estimated cost of sealing and stabilizing the surfaces is estimated to currently be approximately $ 1,500. This is a special Risk.

There are metal beams that provide the framing for the canopy at the Building entrance on Vandam Street. The lintels above the cellar windows are also metal. The metal is in fair condition. The south side of the Building has a façade composed of common brick. The brick is intact and in fair condition, but there are areas where the grout is beginning to gap. This means that the façade will need to be pointed in the 5 to 7 years at a current approximate estimated at $ 20,000. This is a Special Risk.

There is an approximately 3 story, octagonal, brick smoke stack on the roof. The smoke stack has metal reinforcement along its vertical edges, and horizontal ties connecting the vertical metal. There is a large vertical crack in the brick, and some corrosion in the metal work. Generally, the smoke stack appears to be stable and intact, but in the next 5 years the brick should be pointed as required, cracks in the brick should be filled, and the metal should be refurbished. The estimated current cost of this work is approximately $ 12,500. This is a Special Risk.

The Building is not subject to Local Law 11 façade inspection requirements. The Building walls are not insulated.

ii Windows

The Building has double pane, insulated glass and wood windows, set in wood frames. The windows are double hung, and are 20 years old. The windows and frames are in fair condition, as are the stone stills and brick lintels. The windows do not have insect screens or window guards.

There are wire glass and wood frame, fixed windows in the stair enclosure facing Vandam Street, also in fair condition. There are metal grills in front of the cellar windows, and they are in fair condition.

Office Units 200 (one window), 400 (three windows) and Office Unit 500 (six windows) have lot line windows located on the south façade of the Building. In the future, a new building could be built on the adjacent lot to the south or east. A new building on the southern lot would block all of the windows on the south facade. This could necessitate the removal of the lot line windows and blocking them up. It is estimated that it would currently cost approximately $ 2,000 to remove each window, fill in the opening, and patch surfaces. If a new building were to be built on the adjacent property, it is possible that all of the windows in Office Units 400 and 500 would be blocked up, making those Units reliant on mechanical ventilation (see Air conditioning Section). This is a Special Risk.

Office Unit 200 has a supplemental, through-window air conditioner in its single lot line window, which would need to be removed in the event of new construction on the adjacent lot to the south. This is a Special Risk. The Office Unit 200 window is not required for light and air.

The lot line windows are not fire rated, not having wire glass as is currently required by code. Should it be necessary to replace the existing lot line windows with fire rated units, the estimated current cost is approximately $ 2,000 per window. This is a Special Risk.

The Sponsor states that any caulking would utilize silicone base compounds or similar.

2) Parapets and Copings

The Building has brick parapets on the roof, and are a minimum of 3'11" high, which includes 3-1/2" concrete copings. The copings are in fair condition. Some areas of un-even brick have been recently re-pointed.

3) Chimneys and caps

The Building has a brick chimney which appears to be in fair condition. The chimney has a metal cap and tapered metal flue, which are in fair condition.

The three story smokestack on the roof is discussed in the Structural Section. It is part of an abandoned flue that descends down to the cellar, and is currently used for boiler room combustion air. The Sponsor reserves the right to use the smokestack as a riser for mechanical, electric and plumbing equipment.

4) Balconies and Terraces

There are no balconies or terraces, except for the unbuilt Roof Terrace Unit, which is to occupy a specified area of the main roof reserved for such purpose comprising

approximately 5,274 square feet as indicated on the plans contained in Document 5 in Part II of the Offering Plan. This roof area, which is accessed by a common element stair, is reserved for the exclusive use of the Roof Terrace Unit. The Roof Terrace Unit, when built, is to consist of decking or pavers, supporting pedestals and safety railings (which are required for using the area as a terrace). The Roof Terrace Unit is being offered and sold as unimproved roof space. The Sponsor states that it will not install the decking (or pavers and pedestal supports) or railings allowing use of the roof area as a Roof Terrace Unit, and that it will be the responsibility of the Roof Terrace Unit purchaser to install such items. It is estimated to currently cost approximately $ 110,000 to install decking and railings, including Building Department filing fees and associated costs such as required asbestos tests. This is a Special Risk (see Section A of the Offering Plan for alteration and work requirements). The Sponsor states that the installation of decking (or pavers and supporting pedestals) and railings, will be subject to the Reasonable Approval and requirements of the Condominium Board, and the Sponsor, and compliance with the requirements of the New York City Building Department and all other Departments having jurisdiction. The Sponsor reserves the right, Freely and Without Consent,, Payment or Restriction (other than compliance with applicable Work Requirements contained in Section 15.2 of the Declaration), to install the roof decking (or pavers and support pedestals), railings and appurtenances without Board approval.

5) Exterior entrances

(i, ii) Exterior doors and frames

The main entrance to the Building is located on Vandam Street, and consists of a pair of 2'5-1/2" X 7', metal and glass, self closing, out-swinging doors, situated in a 1'6" deep, recessed alcove. The doors are have locks activated by an electric strike connected to the Building intercom system. A door release button is located in the vestibule. The doors are in good condition. The doors are not as wide as the code currently requires. Generally, such Building conditions are permitted non-conforming conditions if they were in place before the current, specific code requirements were enacted. This is a Special Risk for non-conforming conditions, which may remain in older buildings, where the condition does not meet current code standards, which potentially may be made retroactive so as to require non-conforming conditions to be corrected and conform to the then current requirements.

The entry alcove is clad in steel, as are the window openings directly above the entrance. and there is a large metal and glass canopy above the entry secured to the Building by metal struts. The metal work and canopy are in fair condition. The entry slopes up approximately 3" from the sidewalk. There are two exterior incandescent light fixtures at the Building entrance. There are 5" X 13", aluminum mailboxes located in the vestibule for tenant's use.

The vestibule has a pair of self-closing, out-swinging, 2'6" X 7', frameless glass doors, flanked by a 6" and a 3'9" wide, glass side panel, with a 1'6" high, metal and glass transom above. The doors open into the main lobby. The

assembly is in fair condition, except for some chips located at the edges of the doors.

The Commercial Unit, which occupies a portion of the cellar space, is accessed by a pair of 5' X 7'10", out-swinging, self closing, metal doors with metal frame set in a shallow alcove. There is some corrosion at the bottom of the doors, but they are basically intact. There is a 3" high, 1'2" deep, steel rimmed, concrete curb in front of the doors.

(iii) Exterior stairs.
There are no exterior stairs.

(iv) Railings
There are no railings.

(vi) Lighting
There are exterior light fixtures at the Building entrance, as well as. illumination from a single ceiling mounted fixture located inside the entrance doors.

6) Service entrances

(i-iv) Doors and frames
There are no service entrances. There is a 3' X 6'8", exit door that opens onto Greenwich Street that is in fair condition. The door is not self-closing (as is currently required). The metal door and frame are in good condition. No fire rating label was found on the door. There is also a 3'7" X 7', self-closing, steel clad, exit door that opens onto Vandam Street. Both metal door and frame are in good condition.

(i) Gates
There are no gates.

(ii) Exterior stairs
There is an open grate, 3'6" wide, steel stairway (3 risers) with integrated landing leading down from the stair bulkhead to the roof, and a second metal stairway (4 risers) and landing, leading up from the roof to the elevator bulkhead door. Both stairs are in fair condition.

(iii) Railings
The roof stairs have 1-3/4" steel pipe rails in fair condition.

7) Roof and roof structures

(i) Type of roof
The roof surface consists of 3 layer, built up, un-painted, asphalt/bitumin strip roofing with rigid insulation (value is not available). A new asphalt cap sheet

was installed in October, 2008 by Greene CIA, and is in good condition. The cap sheet is guaranteed against leakage for 12 years, expiring on October 9, 2020, and includes labor and materials. The guarantee excludes damage caused by negligent or improper use, failure to use reasonable care in maintaining the roof, structural defects, settlement, expansion, contraction, harmful chemical deposits ,new construction, acts of God or failure of the substrate/insulation. The guarantee is non-transferable. There is aluminum counter-flashing.

(ii) Drains

The roof has 2 internal drains that appear to be functioning properly. The 2 roof bulkheads have leaders and gutters. Drainage appears to be adequate.

The leaders and gutters on the roof bulkheads are standard, extruded aluminum. The leaders are located at the corners of the bulkheads. The roof slopes down to the two, standard, metal receptor, cast iron, internal drains. Drainage is adequate.

(iii) Skylights

There are four, 2' X 2'. Acrylic skylights that provide light to the top floor (Office Unit 500). These skylights, which are in fair condition, are part of the Roof Terrace Unit and provide light to Office Unit 500 under a revocable license from the Roof Terrace Unit. The Roof Terrace Unit Owner will have the right at any time, at its sole cost and expense, to deck over the skylights, replacing them with roofing. If the Roof Terrace Unit Owner exercises such right, such owner will be responsible, at its sole cost and expense, to patch and laminate the affected area of the Office Unit 500 ceiling with painted gypsum board to match as near as reasonable and economically practical the adjacent ceiling areas. The Office Unit 500 Owner will be responsible for maintaining the skylights while they are extant, and will have a right of access over and across the Roof Terrace Unit in order to repair and maintain the skylights (such right of access will end if and when the skylights are removed). Such right of access shall be subject to compliance with certain Access Requirements contained in Part I of the Plan. Should the skylights be removed, the light level in Office Unit 500 will be diminished. The approximate current cost of removing the skylights and infilling the openings is estimated to be approximately $ 25,000, including Building Department filing fees and associated costs such as required asbestos tests. This is a Special Risk.

The stairway bulkhead has a 2'6" X 3', acrylic skylight, in fair condition.

(iv) Bulkheads

There are two bulkheads on the roof, one housing the elevator machine room, the other the stairway. The bulkheads are stucco finished, with metal deck ceilings, and are in fair condition. There is metal edging on the roof.

The Sponsor reserves the right to build a new private roof stairway bulkhead and stairway, as allowed by code, to connect Office Unit 500 with

the Roof Terrace Unit, as well as rooftop and bulkhead lighting, and electric service.

(v) Metal work at roof

The Building has steel dunnage that supports air conditioning equipment. The dunnage, which is in fair condition, consists of metal beams secured to the parapets and to the brick base of the smokestack.

The smokestack has metal reinforcement (see structural Section). The ventilation stacks on the roof are in fair condition, as are the toilet exhaust fans, the large smoke exhaust fan, and gooseneck air intakes, notwithstanding some minor surface rust.

(vi) Rooftop facilities

There are no rooftop facilities, except for HVAC and telecommunications equipment.

Fire escapes

There are no fire escapes.

(8) Yards and courts

There are no yards or courts. The Building occupies the entire site.

(9) Interior stairs

(i) Number of stairs

The Building has a stairway that extends from the ground floor on Greenwich Street up to the roof. There is also a stairway that ascends from the cellar up to the Greenwich Street exit. A second stairway starts at the ground floor lobby and terminates on the 5th floor. A separate stairway ascends from the cellar up to an exit door on Vandam Street.

(ii) Enclosure

The stairways are set in fire rated enclosures.

(iii, iv ,v ,vi) Construction, stringers, treads, and risers

The stairways are steel pan with concrete poured treads. The stringers and risers are also steel. The stairways are 3'-3'3" wide, and are in fair condition.

(vii) Stair railing

The stairways have side railings on the walls, and 3' high, metal railings on the inner sides, with 1" metal hand rails and ½" dowels set 5" on center. The railings are in good condition.

(viii) Balustrades

There are no balustrades.

(ix) Other stairs

There is a 4th floor communicating stairway that descends to the 3rd floor between Office Units 300 and 400. It has been closed off with gypsum board partitions on the third floor. The Sponsor states that the stair will be removed and the floor slab will be filled in, as part of the Sponsor's Work (the square footage of the stairway is counted in both Office Unit 300 and 400).

There is a temporary wood stair, without railings, in the Commercial Unit that ascends from the cellar floor up to the entrance doors on Greenwich street.

(10) Interior doors and frames

(i, ii,) Entry doors, interior doors, and corridor doors

There are a variety of entrance doors, all in fair condition.

There are different styles and materials of interior doors in the Units, predominantly in fair or good condition. The stairway enclosures have self-closing, 3' X 6'11", metal doors and frames, in good condition. Fire-rating labels were not found. The 3' X 7', exit door in the ground floor lobby is clad in stone, and is in fair condition.

(iii) Cellar doors

The cellar has metal doors set in metal frames. Fire rating labels were not observed.

(iv) Roof doors and frames

There are self-closing, 3' X 6-11", metal doors and frames, located at the stairway and the elevator machine room bulkheads on the roof. There is some peeling paint on the doors, but they are otherwise in fair condition.

Fire-proofing labels were not observed on the roof doors. If doors with fire labels were to be installed on the roof, the estimated current cost would be approximately $ 4,000. This is a Special Risk.

(11) Elevator

(i) Number of passenger and service elevators

There is one elevator. On May 6, 2008, and in a subsequent conversation in December 2008, Otis Elevator Company stated that the elevator was in fair condition. In their opinion, the existing controller, although functional, is obsolete and will need to be replaced in the next five years. At that time the motor would be converted from DC to AC power. The total current estimated cost of this work is approximately $ 50,000. This is a Special Risk.

(ii) Manufacturer, age, speed and capacity

The elevator was installed in 1988 (manufacturer not indicated). The elevator has a speed of 200 feet per minute. The elevator has a 3,500 pound (23 person) capacity.

(iii) **Type of operation and location**

The elevator is located in the center of the Building, and is accessed from the ground floor lobby (designated as "L"). The elevator has automatic operation.

(iv) **Controls**

The passenger cab has a digital floor indicator, up/down indicator, standard controls including door open/close, standard fireman control module, an alarm, and an emergency phone/intercom.

The elevator has a Thompson, Micro Flite electronic controller equipped with a Cory 99DS programmer.

The elevator has an Armor Elevator Company DC generator operating at 30 HP (220 volts, 78 amps, 3 phase).

(v) **Floors served**

The elevator services the cellar (designated basement on the controls), lobby level (ground floor), 1st floor, 2nd floor, 3rd floor, 4th floor and 5th floor. The elevator does not service the roof.

(vi) **Type**

The elevator is a geared traction machine (governor by Holis Whitney).

(vii) **Doors**

The elevator has a bi-parting, single opening. The doors are steel, and are 3'6" wide and 7' high, in fair condition, and has infrared sensors. The door operation is "open loop", which is functional but more abrupt than closed loop operation.

(viii) **Machine room location**

The elevator machine room is located on the top of the Building in a roof bulkhead. The room has two ventilation louvers, a through wall air conditioner, and an electric space heater.

(ix) **Motor**

The elevator has an Imperial DC motor operating at 25 HP (1150 rpm at 240 volts/90 amps).

(12) Elevator Cab

(i) **Kind**

The elevator is a standard, rectangular sling cab. The cab is 5'4" deep X 6'8" wide, and has a back rail.

(ii) **Floor**

The cab has 12" stone tile floors. Five of the tiles have cracks, but the floor is intact.

(iii) **Walls**
The cab has plastic laminate paneled walls in fair condition., notwithstanding some minor chips at the bottom of one of the panels

(iv) **Ceiling**
The cab has a plastic laminate ceiling in fair condition.

(v) **Lighting**
The cab has 9 small recessed down lights providing subdued, but adequate illumination.

(i) AUXILIARY FACILITIES

1) **Laundry rooms**
There is no laundry room.

2) **Refuse disposal**

(i, ii, iii) **Incinerator, compactor, jurisdiction approvals**
There is no compactor or incinerator in the Building. There are no jurisdictional approvals required for refuse removal.

(iv,) **Initial storage location**
Tenants currently deposit their trash on the sidewalk for pick-up. Future trash arrangements will be formulated by the Condominium Board. There are currently no trash storage locations. All the Units will make their own, separate trash collection arrangements (in New York City commercial trash hauling is not a municipal service), per the regulations of the Condominium Board.

(j) PLUMBING AND DRAINAGE

1) **Water supply**
Water and sewer service is provided by The City of New York as part of its services, via two metered lines, one approximately 6" diameter line for the sprinkler system, and a 3" diameter line for domestic use. The Building relies on 3" distribution piping.

Water service is a common cost that is part of the common expenses. The Sponsor and the Condominium Board reserves the right to install new water lines in all Units.

The Building does not have a backflow preventer. The water lines are partially insulated.

The exposed sections of piping appear to be in fair condition.

Office Units 100, 200, 300, and 400 each have separate, electric hot water heaters located on each floor, providing domestic hot water for that Office

Unit. Office Unit 500 and the Commercial Unit do not have hot water heaters, and do not have domestic hot water.

2) Fire protection system

(i –v) Standpipes, hose racks, sprinkler heads, siamese connection

The Building is fully sprinklered. The sprinkler valve station and controls are located in the cellar vault under Vandam Street. The system has a booster pump and pump by-pass, and feeds a 4" riser. The pump appears to be in fair condition. The Building has a variety of dry system sprinkler heads: exposed pendant up in the Commercial Unit, pendant down in Office Units that have slab ceiling areas, and "button" type recessed heads in areas where there are suspended ceilings.

The Building has a siamese connections on Vandam Street. There are no hose racks, and no standpipes.

3) Water storage tanks and enclosures

(i-v) Number, type, location

The Building has a domestic water pressure tank (working in tandem with a pump), and a diaphragm expansion tank (Nat'l Bd, installed in 1988) working in conjunction with the boiler. There are no exterior tanks. The sprinkler and domestic water systems rely on interior pumps to circulate water.

4) Water pressure

Toilets were flushed on various floors of the Building, and the pressure was adequate. The Building relies on incoming municipal water pressure assisted by a 2 horsepower booster pump by Federal used in conjunction with a pre-pressurized pump tank. Calculations indicate that the water pressure is a minimum of 25 pounds per square inch (psi) which is adequate. There is no residential use in this Building.

(5) Sanitary sewage system

(i, ii, iii) Material, pumps, disposal

The sanitary sewage system works by gravity. Drain lines are cast iron. and in fair condition. There are two, 6" house traps that discharge into an 8" outtake that drains into the Vandam Street sewer. All exposed piping is in fair condition.

The Sponsor reserves the right to connect future cellar lavatories to the Building drainage system and ventilation stacks.

(6) Plumbing permits required

Plumbing permits are not required, since no work is contemplated.

(7) Storm drainage system

The Storm drainage system is combined with the sanitary sewage system as described above.

(i) Catch basins

There are no catch basins.

(ii, iii) Yard and roof drains

There are no yards. The roof has 2 internal drains that appear to be functioning properly. The 2 roof bulkheads have leaders and gutters. Drainage appears to be adequate.

(iv) Ejector or sump pumps

There is a sump pump located in the boiler room, used for cleaning purposes. There is also a pit in the water pump room that has a sump pump that is directly connected to a Building drain line. The Sponsor reserves the right to install an ejector pump in the cellar, including common areas and vaults, to service the future installation of lavatories and commercial kitchen in the cellar.

(k) HEATING

1,2,3,4,5) System distribution, number of boilers, and description.

The Building has a gas fired, hot water boiler by Weil-McLain (specified as model BGL-788W) with Honeywell controls, equipped with a Power Flame, ½ horsepower burner (WCR2-G-15), fed from a 1-1/4" gas line. The boiler and burner were installed in 1988, and provide adequate heat to the Units (see Radiator Section below for a description of heat distribution in common areas). The bottom of the boiler panels has some corrosion indicating that there was a leak in the past. There is no indication of any present leakage, and none has been observed by the Superintendent (in place for two years). The boiler has full electronic controls, with a thermostat that can be programmed to the outside temperature. A fan/shaft arrangement appears to provide combustion air (using the abandoned flue). The Heating pipes are insulated. There are two, 3 phase, Baldor circulating pumps that cycle each other, and a diaphragm expansion tank.

Calculations based upon an internal temperature of 65 degrees and ambient temperature of 15 degrees, indicate that the heating system adequately meets the legally required conditions under anticipated weather conditions. The burner, which has a 2,200 MBH capacity, should last another five years with proper maintenance.

The boiler breeching, which is the ductwork that connects the boiler to the chimney, has recently been replaced.

There was a discontinued, gas boiler on the 5th floor that previously provided heat to Office Unit 500, which has been removed (with lines

capped). Office Unit 500 is now using Building heat. There is also a capped, hot water heater in the space.

Radiators

The Office Units are heated by hot water fin-tube convectors running along the peripheral walls, which are part of the Building heating system. There are no individual thermostatic controls.

The Commercial Unit has three, ceiling mounted, Unit heaters (part of the common expenses of the Building). The heaters use hot water, which is part of the Building heating system, and electric fans, which is powered by the house service.

There is a radiator in the vestibule, but not in the main ground floor lobby. There are also convectors in the intermediate landings of the Vandam Street stairway enclosure.

(7,8,9) Fuel

There is no oil usage. The Building uses Consolidated Edison gas.

(l) GAS SUPPLY

There is a single, 4" Consolidated Edison gas service that splits into two separately metered lines, one 4" diameter, black steel pipe to the boiler room, and a 1-1/2" diameter, black steel pipe delivering gas to the Office Unit 500 stove. The gas used for heating is a common expense. The exposed sections of pipe appear to be in fair condition.

(m) AIR CONDITIONING

(1,2,3,4) Air Conditioning

There is no central air conditioning system. Individual Units have individual split system air conditioning installations as described in the table, with the compressors on the roof, and the handlers in the Unit. It is the individual Unit purchaser's responsibility to ascertain the adequacy and distribution of air conditioning in the individual Unit. There is no residential use in this Building. The air conditioners are powered from the Unit electric panels. The equipment appears to be in fair condition. Distribution of the air conditioners is as follows:

Office Unit	Floor	Model
1. 500	5	Sanyo C2412
2. 500	5	Sanyo C2412
3. 500	5	Sanyo C2412
4. 500	5	Sanyo C2412
5. 500	5	PU30EK1
6. 500	5	PU30EK1
7. 300	3	Lennox HS19 651-5P
8. 100	1	Lennox HS19-511V-4P

9. 200	2	Lennox HS17-813-4Y
10. 500	5	Sanyo C3622
11. 400	4	Carrier 38HD C060510
12. 400	4	Carrier 38AK-007-501
13. 500	5	Sanyo C2412
14. 500	5	Sanyo C2412

Commercial Unit cellar No air conditioning
Common areas are not air conditioned.

Office Unit 200 has a supplemental air conditioner located in a lot line window, which would be removed if a building were to be built on the adjacent property, as discussed in the Window Section

If a new building were to be built on the adjacent property to the south, it is possible that all of the lot line windows in Office Unit 400 and 500 would be blocked up, making those Units reliant on mechanical ventilation, as discussed in the Window Section as a Special Risk. The Sponsor states that in this eventuality, Office Unit 400 and 500 Owners would have the right to extend ventilation, plumbing, and electric lines through the 4th and 5th floor common areas, up to the roof (common areas), and to install rooftop equipment on the common roof area as required to satisfy ventilation requirements with the location to be approved by the Condominium Board and (during the Sponsor Veto Control Period and until the issuance of said new or amended Certificate of Occupancy changing the caretaker's apartment to office use and authorizing the Commercial Unit) Sponsor. The estimated current cost of adding ventilation to these Units is approximately $ 7,000 per Unit. This is a Special Risk. Lot line/ventilation issues are discussed in the Air Conditioning Section above.

Some of the rooftop air conditioning equipment, serving and part of Office Units 400 and 500, are located on the area of the roof reserved for the Roof Terrace Unit. These Office Unit Owners will have a right to access their equipment for maintenance and repair, while located on the Roof Terrace Unit, subject to compliance with certain Access Requirements contained in Part I of the Plan. The Roof Terrace Unit Owner will have the exclusive right, at any time, at its sole cost and expense, to relocate any air conditioning equipment to the rooftop common areas, including bulkhead roofs, and removal of existing dunnage and installation of new dunnage in the common area as required, or other areas of the Roof Terrace Unit. The Roof Terrace Unit Owner will also have the right to re-route electric, refrigerant and plumbing lines currently connecting the rooftop air conditioning equipment on the roof (compressors) to the air conditioning equipment (handlers) in Office Units 400 and 500, within the Unit or behind walls, and in connection therewith will patch and repair all affected finishes to match the adjacent areas to as near as reasonable and economically practical. The Owner of the Roof Terrace Unit will give the affected Owner of Unit 400 or 500 (as applicable) reasonable advance notice before commencing such removal work and is to endeavor in good faith to

minimize to the extent reasonable and economically practical any inconvenience caused by such work and interruption in air-conditioning service. The estimated, approximate current cost of relocating the equipment is $ 2,000 per compressor, with the air conditioning out of service for a period estimated at approximately of one week per compressor. This is a Special Risk.

(n) VENTILATION

The lavatories in the Building are mechanically ventilated and satisfy the code requirement for air circulation (50 cubic feet per minimum).The Sponsor reserves the right to connect future cellar lavatories to the Building mechanical system.

The Units rely on windows for ventilation (except for the Commercial Unit). There are also split system air conditioners that provide ventilation. Some of the interior rooms are not ventilated nor are they required to be if their use is limited to storage and equipment purposes.

The Sponsor reserves the right in the future to install ventilation ductwork in common areas to provide ventilation (including commercial kitchen ducts and lavatories) to the cellar, for possible future uses of the cellar Commercial Unit, such as use as a restaurant.

(o) ELECTRICAL SYSTEM

(1-5) Service, Adequacy

Electricity is provided by Consolidated Edison. The Service Entrance Conductor has a capacity of 3,040 amps (8 sets of #4-500 KCMIL in 4" conduit from the Con Ed End Box to the main distribution panel), with Switch sizes, distribution to the Units, and adequacy described below. There are four service switches, all 3 phase:
1,200 amps, feeding floors 1 through 4
800 amps, SPARE
400 amps, house service
400 amps, 5th floor

All switches contain copper conductors and all material is EMT conduit and trough. The switching equipment is located in a locked room and is in fair condition.

Electricity is provided by Consolidated Edison. The Units are directly metered except for the Commercial Unit (cellar) which is metered together with the house service, and the Roof Terrace Unit, which is not provided with electricity. The electric allocation costs of the Commercial Unit will be based on projected consumption. Usage will be determined by a qualified licensed engineer as discussed in Part I of the Offering Plan. Electric costs of the common elements will be shared based on common interests.

Electric equipment appears to be in fair condition, as are the exposed portions of electric conduits, switches and panels.
Power distribution is as follows:

Unit	Location	Amps
Commercial Unit	Cellar	Shares power with the house service

Office Unit 100 — 1st floor — Two, 200 amp panels
(One 400 amp/3-phase switch fed from the 1,200 amp main distribution switch. One meter with 500 KCMIL feeder to two, 200 amp panels with 84 total circuits, of which 39 circuits are not being used per the panel labeling (typical). The riser is EMT conduit)

Office Unit 200 — 2nd floor — Two, 200 amp panels
(One 400 amp/3-phase switch fed from the 1,200 amp main distribution switch. One meter with 500 KCMIL feeder to two, 200 amp panels with 84 total circuits, of which 11circuits are not being used per the panel labeling. The riser is EMT conduit)

Office Unit 300 — 3rd floor — Single 400 amp distribution panel
(One 400 amp/3-phase switch fed from the 1,200 amp main distribution switch. One meter with 500 KCMIL feeder to distribution panels. There is an LP panel with 42 circuits, of which 15 are not being used, a power panel with 42 circuits, all of which are being used, and an MDP panel of 24 circuits, of which 3 circuits are not being used. The riser is EMT conduit)

Office Unit 400 — 4th floor — Two, 200 amp Panels
(One 400 amp/3-phase switch fed from the 1,200 amp main distribution switch. One meter with 500 KCMIL feeder to two, 200 amp panels, one with 60 total circuits, of which 2 circuits are not being used, and another panel of 42 circuits, of which 17 circuits are not being used, per the panel labeling. The riser is EMT conduit)

Office Unit 500 — 5th floor — 400 amps
(One 400 amp/3-phase switch and one, 200 amp/3 phase switch fed from the 400 amp main distribution switch. One meter with 500 KCMIL feeder to two, amp panels with 84 total circuits, of which 10 circuits are not being used per the panel labeling. The riser is EMT conduit)

Roof Terrace Unit — Roof — None

Common area power is provided by a dedicated, 400 amp, main distribution Switch with a single meter feeding:
200 amp/3 phase switch for CA panel, with 72 circuits, of which 20 are not being used,
100 amp. 3 phase switch for the elevator,
100 amp/3 phase switch for the EPS panel,
100 amp/3phase switch for the PPBR panel, with 24 circuits, of which 5 circuits are not being used,
60 amp/3 phase switch for the exhaust fan
All conduits are EMT.

Each floor is receiving approximately 400 amps, which is adequate for modern office usage.

The Sponsor reserves the right to install new electric risers in the Building, and to allocate unused electric power to any Unit from the service panels. There is a spare 800 amp electric switch.

Outlets in the lavatories and pantries have ground fault interrupter circuits.

There is no residential use in this Building, therefore no opinion is offered as to the capacity to handle residential appliances, or how many circuits there are in apartments

(p) INTERCOMMUNICATIONS, CABLE TV, & PHONE

The intercommunication system consists of a voice intercom system used in conjunction with an electric strike door release at the entrance doors. A caller identifies his or her presence through a call box located outside of the Building. The occupant of the Unit can hear who is calling and can communicate back through their intercom and activate the door release letting the caller into the vestibule and then into the Building.
A second intercom is located in the vestibule but is not presently used.

There is no master antennae in the Building. Phone service and cable television service is available by individual arrangement with the utility providers. Installation and operation costs of telecommunications and television equipment are to be borne by the individual Unit Owners. Unit Owners desiring cable TV and phone installation within their Units will be responsible to engage contractors to perform such work at the Unit Owner's sole cost and expense, subject to entering into an alteration agreement with the Board of Managers .The location of any visible or concealed wiring in public areas will be subject to the approval of the Board. The Building is not equipped with satellite reception.

A small amount of communications/television gear was observed on the roof.

(q) PUBLIC AREA LIGHTING

Circular, surface mounted, florescent lights illuminate the stairway enclosures, and the vestibules leading into them. There are florescent strip lights in the equipment rooms. The lighting is adequate.

The main lobby has two, direct/indirect, surface mounted fixtures, while the vestibule has one. The lighting is subdued but adequate.

The 4th floor hallways have recessed florescent and incandescent fixtures, and the 5th floor hallway has recessed incandescent lighting, all of which is adequate.

(r) GARAGES AND PARKING AREAS

There are no parking facilities in the Building. There is limited private parking in the area of the Building serving the public. Street parking is severely restricted.

(s) SWIMMING POOL

There is no swimming pool in the Building.

(t) TENNIS COURTS, PLAYGROUNDS, RECREATION FACILITIES

There are no tennis courts, or playgrounds, or recreation facilities.

(u) REQUIRED PERMITS

The Building is required to have the following ongoing inspections and certifications:

1) The elevator must be inspected every year, with an additional test every 2nd year, and a safety test conducted every five years.
2) The sprinklers need to be inspected monthly, and yearly (by private vendors with authorization of the Fire Department), and every 5 years in the presence of the Fire Department
3) The boilers must be inspected every year. Issuance of a Certificate of Operation from the Department of Air Resources is required every three years.

As of January 6, 2009, approximately 28 applications and amendments were listed in the Building Department summary that is appended to this Report, dating back to 1992. Some of the applications are for work done in individual Units, others are for common area work. The Sponsor states that it will not be obligated to obtain sign offs for open applications. It is estimated that the current cost of having a filing consultant process the sign-offs at the Building Department would be approximately $ 3,000 (assuming that work is complete and that responsible parties are available to sign-off their work). This is a Special Risk.

Application 110411634 has been filed with the New York City Building Department. It is an Alteration number 1 application which will allow the following work:
1) Changing the designation of the 5th floor caretaker's apartment (in Office Unit 500) to commercial use (per the submitted plans),
2) Creating a commercial space in the cellar, which will comprise the Commercial Unit (per the submitted plans),
3) Specifications for a new ceiling in the cellar space (Commercial Unit).
Building Department approval of the application for the above work is pending.

Application 110404189 has been filed with the New York City Building Department. It is an Alteration number 2 application removing the communicating stair between the 3rd and 4th floors (connecting Office Units 300 and 400).

(u) VIOLATIONS

As of December 15, 2008, there was one listed Building Department violation (944286101 of 11/18/08 for elevator), and there was one Environmental Control Board violation, number 38180203H of 12/3/07, pertaining to the elevator. The Sponsor states that it will cure the the violations as part of the Sponsor's Work.

As of May 15, 2008, no violations were listed at the Department of Housing, Preservation and Development.

As of April 22, 2008, there were no violations listed at the New York City Fire Department

(v) UNIT INFORMATION

All of the Units were visited. All public areas were visited as well. The Units have varying partition configurations. The approximate configuration of floors (as delineated in the plans put forth in Part II of the Offering Plan, including partition layouts) is as follows:

Unit	Location	Configuration
Commercial Unit	Cellar	Single Unit and equipment rooms
Lobby	Ground floor	No Unit (except for 91 square foot egress area that is part of the Commercial Unit)
Office Unit 100	1st floor	Single Unit
Office Unit 200	2nd floor	Single Unit
Office Unit 300	3rd floor	Single Unit
Office Unit 400	4th floor	Single Unit
Office Unit 500	5th floor	Single Unit
Roof Terrace Unit	Roof	Single Unit

Office Units 100, 300 and 400, have pantries. Office Unit 500 has a full kitchen equipped with a refrigerator, gas stove and range top, dishwasher, stone counters, and plastic laminate cabinetry. The pantries and kitchen are in fair to good condition.

1) Finishes for Units

The Units have a variety of finishes but the predominant surfaces are as follows

A) wood (tongue and groove, oak with polyurethane finish) floors. Some of the wood is original and has wide gaps. There are also carpeted, rubber tile and vinyl tile floors. (concrete for the Commercial Unit without baseboard). An area of Office Unit 500 has a raised floor.

B) wood baseboard (no baseboard for the Commercial Unit)

C) suspended acoustical and gypsum board ceilings with recessed florescent or incandescent lighting fixtures, or exposed slab/arch ceilings with pendant fixtures (fireproofing left exposed). The ceiling of the Commercial Unit is unfinished.

D) Painted gypsum board partitions. Many of the peripheral walls of the Building are brick, including the Commercial Unit.

Generally, the finishes range from fair to good.

(2,3) Type and condition of lavatory and bathroom fixtures

The Building has the following lavatory distribution:

Unit	Lavatories
Commercial Unit	No lavatories
Office Units 100, 200 and 300,	Men's room w/ 1 toilet1, 1 urinal, 2 sinks Women's room w/ 2 toilets, 2 sinks
Office Unit 400,	Men's room w/ 1 toilet, 1 urinal, 2 sinks Women's room w/ 2 toilets, 2 sinks, plus Single bathroom w/ w/ 1 toilet, 1 sink and shower

Office Unit 500	3 lavatories, each With 1 toilet & 1 sink plus Single bathroom w/ w/ 1 toilet, 1 sink and bathtub
Roof Terrace Unit	No lavatories

Office Unit 500 has its own slop sink.

Sinks are set in vanities. The floors and walls have ceramic or stone tile finishes. The finishes, fixtures, faucets, mirrors and accessories in the lavatories and bathrooms are in good condition.

The Office Unit 500 bathtub is set in a platform, and is accessed by steps (3 risers). The Building Department may require the removal of the Office Unit 500 bathtub, as part of the application to amend the Certificate of Occupancy (from caretaker apartment to office), as described in the Number of Buildings and use Section.

There are slop sinks located in closets, and drinking fountains, on the 1st, 2nd, and 3rd floors. There is a slop sink on the 4th floor, but no drinking fountain (the plumbing connections for a drinking fountain, located in the storage room of Office Unit 400, remain in place). There is a slop sink on the 5th floor, located in Office Unit 500, but no drinking fountain.

Some lavatory toilet stall clearances may be insufficient to meet current handicap code requirements. Generally, such Building conditions are permitted non-conforming conditions if they were in place before the current, specific code requirements were enacted. This is a Special Risk for non-conforming conditions, which may remain in older buildings, where the condition does not meet current code standards, which potentially may be made retroactive so as to require non-conforming conditions to be corrected and conform to the then current requirements

(w) FINISH SCHEDULE OF AREAS OTHER THAN UNITS

AREA	FLOORS	BASE	WALLS	CEILING
VESTIBULE	Stone	Stone	Stone	Gypsum board
GROUND FLOOR ENTANCE LOBBY	Stone w/ embedded glass block	Stone	Stone	Gypsum board
CELLAR EQUIPMENT ROOMS	Concrete	No base	Gypsum board	Gypsum board/exposed decking

4TH FLOOR HALLWAY	Ceramic tile	No base	Ceramic tile	Acoustic tile
5TH FLOOR HALLWAY	12" vinyl tile	Wood	Gypsum board	Gypsum board ceiling

The finishes in the public areas are in fair or good condition consistent with their age.

5" X 13", aluminum mailboxes, in fair condition, are located in the vestibule. Mail is not distributed.

A single piece of stone crown molding is missing in the main lobby, and will be replaced as part of the Sponsor's Work.

The 4th floor hallway has a combination of original and new, 5" oak planking. The original flooring has wide gaps but is in fair condition. Some of the floor tile in the 5th floor hallway is cracked, but the floor is in generally fair condition and intact.

(x) SAFETY AND WARNING DEVICES

The Building has a Class "E", central station, fire alarm system with the command station in the main lobby, and the equipment control cabinet in the cellar. There are pull stations and phones on the floors, as well as illuminated, emergency lighting.

(z) ADDITIONAL INFORMATION

(0) Site plan

Site plan is attached.

(1) Area map

Area map is not required (urban area).

(2) Floor plans

Floor plans are attached

(3) Floor to ceiling heights of Units

The following prevailing heights are approximate and vary within the Units, and do not include dropped ceilings, soffits, or beams.

Cellar	16'7"
Lobby (ground fl)	8'0"
1st floor	14'6"
2nd floor	10'9"
3rd floor	10'9"
4th floor	10'9"
5th floor	12'6"

The cellar Commercial Unit has an area of the floor, in the proximity of Greenwich Street, which is 2'2" higher than the rest of the floor.

(4) Total area for each Unit.

The approximate interior floor area of each Unit has been measured horizontally from the exterior side of the Building Walls enclosing the Unit (but not beyond the Property Line), or from the public side of a Party Wall separating the Unit from the public corridor or egress stair, or from the mechanical space side of a Party Wall separating the Unit from an elevator shaft, mechanical equipment space or any other Common Elements. The floor area occupied by any Common Elements bordering or within a Unit (such as the Building Walls, vents, chase walls or areas, conduits, ducts, shafts, pipes, columns and any Structural components) have been included in the computation of the floor area of the Unit.

The configuration, fenestration and dimensions are approximate within reasonable tolerances. The square footages on the floor plans are estimates based on an extrapolation of the square footage of overall Unit dimensions, as described above. The square footage shown are taken from the exterior side of the boundary walls enclosing the Unit and thus substantially exceed the Unit's usable floor area The Sponsor states that minor inaccuracies between a Unit's overall size and its actual square footage will not excuse a Purchaser from completing the purchase of a Unit without abatement in price and without recourse against the Sponsor, regardless of any other inaccuracies in dimensions. The Sponsor reserves the right to make changes to the Unit in accordance with the Offering Plan.

Unit	Location	Approximate square feet
Commercial Unit	Cellar	4,836 square feet, plus 91 square feet on the ground floor (4,927 SF total)
Office Unit 100	1st floor	5,663 square feet
Office Unit 200	2nd floor	5,663square feet
Office Unit 300	3rd floor	5,672 square feet
Office Unit 400	4th floor	5,658 square feet
Office Unit 500	5th floor	5,631 square feet
Roof Terrace Unit	Roof	5,274 square feet

Office Unit 300 and 400 square footage includes the area occupied by the communicating stairway between the Units, which will be removed as part of the Sponsor's Work. The opening will be framed, and a wood floor will be installed on the 4th floor and a gypsum board ceiling installed on the third floor, matching as near as reasonable and economically practical, the adjacent floor and ceiling areas.

(5) Master floor plans

Unit adjacencies are as indicated on accompanying floor plans.

(ab) FURTHER DEVELOPMENT

There are up to approximately an estimated 32,826 square feet of unused development rights available to the Property. This figure is based on several assumptions and contingencies: Commercial Floor Area Ratio (FAR) of 10 times the site area of approximately 6,436 square feet minus the existing square footage of approximately 31,538 gross square feet (which includes a mechanical space deduction of 2,463 square feet). If the Building would qualify for a zoning bonus of 2, bringing the FAR to 12, the remaining unused development rights would total 45,694 square feet. These calculations assume that the bottom floor is counted as a cellar.

The Sponsor states that all unused development rights of the Property associated with its unused floor area or unimproved air space ("Unused Development Rights"), whether now existing or hereafter acquired or available, shall belong exclusively to the Sponsor, who shall have the unfettered and unconditional right, Freely and Without Consent, Payment or Restriction, except as herein expressly limited, to make any use or Disposition of the Unused Development Rights as it determines, including selling, transferring and conveying all or a portion of the Unused Development Rights to a Unit Owner or to an adjacent or nearby property owner under a so-called "zoning lot merger agreement", and/or granting a so-called "easement of light and air" to an adjacent property owner, and/or otherwise, but may not add new Units to the Building or elsewhere on the Property.

The Unused Development Rights also may be transferred to an adjacent property from other nearby properties. A transfer of Unused Development Rights from this and/or other nearby properties to the property directly to the south or east of the Building potentially could result in a 20 story (approximate) building being built. This could result in shadows being cast onto the facades of the Building, reducing available light. Views from the windows of the Building would not be affected, except for lot line windows that would be blocked up if the new building is built on the adjacent south lot. Construction could also generate construction noise and dust disturbing occupants of the Building. This is a Special Risk.

The Condominium Board and other Unit Owners shall have no interest in the Unused Development Rights, shall have no control over the Disposition of the Development Rights, and shall not share in any proceeds realized from any use, sale, assignment, transfer or other Disposition of the Unused Development Rights, and shall not be regarded as a "party in interest", as such quoted term is defined under the definition of "Zoning Lot" in Section 12-10 of the Zoning Resolution of the City of New York. Sponsor states that no Disposition of the Unused Development Rights is being planned by Sponsor at the date of this Report.

(ac) ASBESTOS

An asbestos survey was carried out by a licensed asbestos consultant The Report is in Part I of the Plan).

(ad) ADDITIONAL INFORMATION

(1) Lead

Based on the age of the Building, lead-based paint may have been used in the painting of some surfaces of the Building. The Building was not tested for lead-based paint. The Sponsor states that it does not intend to remove any lead-based paint that may be in the Building. In the future, if the walls and ceilings of the Units are demolished or altered, the protocol to test for the presence of lead-based paint and (if present) handling thereof, under applicable law and the Condominium Documents, must be followed.

(2) Radon

The Building has not been tested for radon. According to area radon information from the New York Department of Health, Manhattan has an average radon concentration of 1.5 picocuries per liter (pCi/L). Since the USEPA action level for residential radon is 4.0 pCi/L, the Building is not considered to be in a radon prone area.

(3) Roof rights

There are no roof rights.

The Sponsor reserves the right to install and operate commercial telecommunications equipment on the roof of the Building and attached to walls and parapets, including antennas, canopies, and required dunnage to support equipment. The Sponsor also reserves the right to install commercial telecommunications equipment anywhere in the cellar common areas of the Building, and to allocate unused electric power to the telecommunications equipment or any Unit from the service panels. The Sponsor also reserves the right to install risers either inside the Building, or along the exterior facades, to connect the rooftop and cellar equipment.

The Sponsor reserves the right to install heating, ventilation, plumbing, and air conditioning equipment and dunnage on the main roof and roof bulkheads(common areas), and to install ducts and risers, including electric risers in common areas.

The Sponsor reserves the right, during the Sponsor Veto Control Period only, to approve any new or change in use of the common areas of the roof and roof bulkheads, including installation of any equipment, by the Condominium, which may be withheld for any or no reason.

(4) Construction regulations

The Board of Managers will have access to all areas of the Building for the purpose of making inspections and Repairs and in case of emergency per Declarations and Bylaws.

The Board of Managers shall regulate all aspects of construction in the Building by Purchasers including:

a) time periods when work is permitted;
b) the manner in which construction debris will be handled;
c) measures which must be taken to prevent compromising the security of the Building during construction;
d) the interruption of services during construction; and
e) liability insurance for contractors during construction.
The Sponsor, as Owner of Unsold Units, will not be subject to these regulations.

(5) Sponsor Work

Sponsor will perform all work listed throughout this report as "Sponsor Work". The Sponsor states that the sale of any Unit shall not be conditioned upon the completion of Sponsor's Work. The Sponsor Work will include:

1) amending the Certificate of Occupancy , as required, to include commercial use of the cellar space, and removing the 5th floor caretaker's apartment, both described in c) Site, 2) Number of Buildings and use,
2) Curing the elevator violations as described in u) Violations.
3) Removing the communicating stair between Office Units 300 and 400 per h) Other stairs, Ix.
4) Replacing the single piece of missing crown molding in the ground floor lobby per w) Finish Schedule.

(6) No undertaking to repair

The Sponsor has not undertaken to correct or repair any existing conditions noted in this Report, including the special risk section, unless otherwise expressly provided.

Price estimates contained in this Report are approximate and are good faith projections, without an inflation factor, based solely on the experience of Marc Kemeny. They are not based on any specifications or documentation of the work, and are not derived from bids by contractors or vendors . Actual costs may substantially vary from the cost estimates in the Report. There is no guaranty as to the actual cost for any item of work described in this Report, if and when undertaken.

(7) Warranties

There will be no warranties or guarantees for any of the work, equipment, or materials in the Building, except as provided in the Plan. This exclusion includes windows, roof, elevator, electricity, heating, ventilation, brickwork, structural systems, air conditioning equipment, or any other components or construction defects, except as may be expressly provided in the Plan.

SPECIAL RISKS

(1) No undertaking to repair

The Sponsor has not undertaken to correct or repair any existing conditions noted in this Report, including the special risk section, unless otherwise expressly provided.

Price estimates contained in this Report are approximate and are good faith projections, without an inflation factor, based solely on the experience of Marc Kemeny. They are not based on any specifications or documentation of the work, and are not derived from bids by contractors or vendors . Actual costs may substantially vary from the cost estimates in the Report. There is no guaranty as to the actual costs for any items of work described in this Report, if and when undertaken.

(2) Structural conditions

The south side of the building has a façade composed of common brick. The brick is intact and in fair condition, but there are areas where the grout is beginning to gap. This means that the façade will need to be pointed in the 5 to 7 years at a current approximate cost estimated at $ 20,000.

There is an approximately 3 story, octagonal, brick smoke stack on the roof. The smoke stack has metal reinforcement along its vertical edges, and horizontal ties connecting the vertical metal. There is a large vertical crack in the brick, and some corrosion in the metal work. Generally, the smoke stack appears to be stable and intact, but in the next 5 years the brick work should be pointed as required, cracks in the brick should be filled, and the metal should be refurbished. The estimated current cost of this work is approximately $ $ 12,500.

The facades also have stone banding above the basement windows, above the 1st floor and above the 4th floor, as well as stone quoin detailing at the corners. Some of the stone surfaces in the banding and at the ground. have slight spalling. The estimated cost of sealing and stabilizing the surfaces is estimated to currently be approximately $ 1,500.

(3) Lot line windows and ventilation

Office Units 200 (one window), 400 (three windows) and 500 (six windows) have lot line windows located on the south façade of the Building. In the future, a new building could be built on the adjacent lot to the south or east, blocking all of the windows on the south façade if built on the adjacent south lot. This could necessitate the removal of the lot line windows and blocking them up. It is estimated that it would currently cost approximately $ 2,000 to remove each window, fill in the opening, and patch surfaces. If a new building were to be built on the adjacent property, it is possible that all of the windows in Office Units 400 and 500 would be blocked up, making those Units reliant on mechanical ventilation (see Air conditioning Section).

Office Unit 200 has a supplemental, through-window air conditioner in its single lot line window, which would need to be removed in the event of new

construction on the adjacent lot to the south. This is a Special Risk. The Office Unit 200 window is not required for light and air.

The lot line windows are not fire rated, not having wire glass as is currently required by code. Should it be necessary to replace the existing lot line windows with fire rated units, the estimated current cost is approximately $ 2,000 per window.

If a new building were to be built on the adjacent property to the south, it is possible that all of the lot line windows in Office Unit 400 and 500 would be blocked up, making those Units reliant on mechanical ventilation. The Sponsor states that in this eventuality, Office Unit 400 and 500 Owners would have the right to extend ventilation, plumbing, and electric lines through the 4th and 5th floor common areas, up to the roof (common areas), and to install rooftop equipment on the common roof area as required to satisfy ventilation requirements with the location to be approved by the Condominium Board and (during the Sponsor Veto Control Period and until the issuance of said new or amended Certificate of Occupancy changing the caretaker's apartment to office use and authorizing the Commercial Unit) Sponsor. The estimated current cost of adding ventilation to these Units is approximately $ 7,000 per Unit.

(4) Open applications

As of January 6, 2009, approximately 28 applications and amendments were listed in the Building Department summary that is appended to this Report, dating back to 1992. Some of the applications are for work done in individual Units, others are for common area work. The Sponsor states that it will not be obligated to obtain sign-offs for open applications. It is estimated that the current cost of having a filing consultant process the sign-offs at the Building Department would be approximately $ 3,000 (assuming that work is complete and that responsible parties are available to sign-off their work).

(5) Elevator

There is one elevator. On May 6, 2008, and in a subsequent conversation in December 2008, Otis Elevator Company stated that the elevator was in fair condition. In its opinion, the existing controller, although functional, is obsolete and will need to be replaced in the next five years. At that time the motor would be converted from DC to AC power. The total current estimated cost of this work is approximately $ 50,000.

(6) Non-conforming conditions

The Building is a typical example of older buildings throughout the City that do not completely conform to current New York City Building Code standards. Generally, these include insufficient bathroom clearances, or entry doors that are not as wide as currently required. Such conditions are permitted non-conforming conditions if they were in place before the current, specific code requirements were enacted. Changes in law potentially may be made retroactive so as to require non-conforming conditions to be corrected and conform to then current code requirements.

(7) **Rooftop doors**

Fire-proofing labels were not observed on the roof doors. If doors with fire labels were to be installed on the roof, the estimated current cost would be approximately $ 4,000.

(8) **Roof Terrace Unit**

The Roof Terrace Unit is being offered and sold as unimproved roof space. The Sponsor states that it will not install the decking (or pavers and pedestal supports) or railings allowing use of the roof area as a Roof Terrace Unit, and that it will be the responsibility of the Roof Terrace Unit purchaser to install such items. It is estimated to currently cost approximately $ 110,000 to install decking and railings, including Building Department filing fees and associated costs such as required asbestos tests.

(9) **Skylights**

The Roof Terrace Unit Owner will have the right at any time, at its sole cost and expense, to deck over the skylights, replacing them with roofing. If the Roof Terrace Unit Owner exercises such right, such owner will be responsible, at its sole cost and expense, to patch and laminate the affected area of the Office Unit 500 ceiling with painted gypsum board to match as near as reasonable and economically practical the adjacent ceiling areas. The Office Unit 500 Owner will be responsible for maintaining the skylights while they are extant, and will have a right of access over and across the Roof Terrace Unit in order to repair and maintain the skylights (such right of access will end if and when the skylights are removed). Such right of access shall be subject to compliance with certain Access Requirements contained in Part I of the Plan. Should the skylights be removed, the light level in Office Unit 500 will be diminished. The approximate current cost of removing the skylights and infilling the openings is estimated to be approximately $ 25,000, including Building Department filing fees and associated costs such as required asbestos tests.

(10) **Rooftop air conditioning equipment**

Some of the rooftop air conditioning equipment, serving and part of Office Units 400 and 500, are located on the area of the roof reserved for the Roof Terrace Unit. These Office Unit Owners will have a right to access their equipment for maintenance and repair, while located on the Roof Terrace Unit, subject to compliance with certain Access Requirements contained in Part I of the Plan. The Roof Terrace Unit Owner will have the exclusive right, at any time, at its sole cost and expense, to relocate any air conditioning equipment to the rooftop common areas, including bulkhead roofs, and removal of existing dunnage and installation of new dunnage in the common area as required, or other areas of the Roof Terrace Unit. The Roof Terrace Unit Owner will also have the right to re-route electric, refrigerant and plumbing lines currently connecting the rooftop air conditioning equipment on the roof (compressors) to the air conditioning

equipment (handlers) in Office Units 400 and 500, within the Unit or behind walls, and in connection therewith will patch and repair all affected finishes to match the adjacent areas to as near as reasonable and economically practical. The Owner of the Roof Terrace Unit will give the affected Owner of Unit 400 or 500 (as applicable) reasonable advance notice before commencing such removal work and is to endeavor in good faith to minimize to the extent reasonable and economically practical any inconvenience caused by such work and interruption in air-conditioning service. The estimated, approximate current cost of relocating the equipment is $ 2,000 per compressor, with the air conditioning out of service for a period estimated at approximately of one week per compressor

(11) Development rights

The Sponsor states that all unused development rights of the Property associated with its unused floor area or unimproved air space ("Unused Development Rights"), whether now existing or hereafter acquired or available, shall belong exclusively to the Sponsor, who shall have the unfettered and unconditional right, Freely and Without Consent, Payment or Restriction, except as herein expressly limited, to make any use or Disposition of the Unused Development Rights as it determines, including selling, transferring and conveying all or a portion of the Unused Development Rights to a Unit Owner or to an adjacent or nearby property owner under a so-called "zoning lot merger agreement", and/or granting a so-called "easement of light and air" to an adjacent property owner, and/or otherwise, but may not add new Units to the Building or elsewhere on the Property.

The Unused Development Rights also may be transferred to an adjacent property from other nearby properties. A transfer of Unused Development Rights from this and/or other nearby properties to the property directly to the south or east of the Building potentially could result in a 20 story (approximate) building being built. This could result in shadows being cast onto the facades of the Building, reducing available light. Views from the windows of the Building would not be affected, except for lot line windows that would be blocked up if the new building is built on the adjacent south lot. Construction could also generate construction noise and dust disturbing occupants of the Building.

September 25, 2008

100 Vandam, a Condominium
100 Vandam Street
New York , New York 10013

Re: Architect's Report
Attorney General File Number: CD08-074

The architect's Description of Property and Existing Building Conditions, dated August 25, 2008, is hereby amended with the following additional language:

b) Status of Construction, 4)Alteration Permit Numbers
Application 110 210 432 has been filed with the New York City Building Department. It is an Alteration number 1 application which will allow the following work:
1) Changing the designation of the 5th floor handyman apartment (in Office Unit 500) to commercial use (per the submitted plans),
2) Creating a commercial space in the cellar Commercial Unit (per the submitted plans),
3) Elimination of the communicating stair between the 3rd and 4th floors (connecting Office Units 300 and 400),
4) Specifications for a new ceiling in the cellar space (Commercial Unit).
Building Department approval of the application for the above work is pending.

c) Site, 3) Streets owned or maintained by the project
Paving, curbing, catch basins and street lighting are in conformity with the New York City code.

h) Structural systems, 1-i) Walls
The Building is not subject to Local Law 11 façade inspection requirements. The Building walls are not insulated.

h) Structural systems, 1-ii) Windows
The Sponsor states that any caulking would utilize silicone base compounds or similar.

a) Location and use of Property, 3) Zoning
The Building is not a landmark and is not in a historical district.

h) Structural systems, 5-i) Exterior doors and frames
There are two exterior incandescent light fixtures at the Building entrance.
There are 5" X 13", aluminum mailboxes located in the vestibule for tenant's use.

h) Structural systems, 6-ii) Exterior stairs
The exterior stairs and railings are steel.

h) Structural systems, 7-i) Type of roof
The roof surface consists of un-painted, asphalt. Insulation value is not available. There is no bond or guarantee.

h) Structural systems, 7-ii) Drains
The leaders and gutters on the roof bulkheads are standard, extruded aluminum. The leaders are located at the corners of the bulkheads. The roof slopes down to the two, standard, metal receptor, cast iron, internal drains. Drainage is adequate.

h) Structural systems, (10-iv Roof doors and frames
Fire-proofing labels were not observed on the roof doors. If doors with fire labels were to be installed on the roof, the estimated current cost would be approximately $ 4,000. This is a Special Risk.

h) Structural system, 12-I Elevator cab
The elevator cab has a standard fireman control module, an alarm, and an emergency phone/intercom.

j) Plumbing, 2-i) Sprinkler heads
The Building has a variety of dry system sprinkler heads: exposed pendant up in the Commercial Unit, pendant down in Office Units that have slab ceiling areas, and "button" type recessed heads in areas where there are suspended ceilings.

j) Plumbing, 3) Water storage tanks
There are no exterior tanks. The sprinkler and domestic water systems rely on interior pumps to circulate water.

j) Plumbing, 4) Water pressure
Calculations indicate that the water pressure is a minimum of 25 pounds per square inch (psi) which is adequate. There is no residential use in this Building.

u) Required permits
Application 110 210 432 has been filed with the New York City Building Department. It is an Alteration number 1 application which will allow the following work:
1) Changing the designation of the 5th floor handyman apartment (in Office Unit 500) to commercial use (per the submitted plans),
2) Creating a commercial space in the cellar Commercial Unit (per the submitted plans),
3) Elimination of the communicating stair between the 3rd and 4th floors (connecting Office Units 300 and 400),
4) Specifications for a new ceiling in the cellar space (Commercial Unit)
Building Department approval of the application for the above work is pending.

k) Heating
Calculations based upon an internal temperature of 65 degrees and ambient temperature of 15 degrees, indicate that the heating system adequately meets the legally required

conditions under anticipated weather conditions. The burner, which has a 2,200 MBH capacity, should last another five years with proper maintenance.

m) Air conditioning
There is no central air conditioning system. Individual Units have individual split system air conditioning installations as described in the table. It is the individual Unit purchaser's responsibility to ascertain the adequacy and distribution of air conditioning in the individual Unit. There is no residential use in this Building.

n) Ventilation
The lavatories are mechanically ventilated, and satisfy the code requirement for air circulation (50 cubic feet per minimum).

o) Electrical system
The Service Entrance Conductor has a capacity of 3,040 amps. Switch sizes, distribution to the Units, and adequacy (a Special Risk) are described in the Report.

o) Electrical system
There is no residential use in this Building, therefore no opinion is offered as to the capacity to handle residential appliances, or how many circuits there are in apartments.

(g) Building size, 2) Vaults
(ad) Additional information, 5) Sponsor Work
The vault ceiling has been cemented

(k) Heating
The disused 5th floor boiler has been removed, and the plumbing lines have been capped.

h), 2) Parapets
(ad) Additional information, 5) Sponsor Work
Sponsor work pertaining to the re-pointing of the roof parapet walls has been completed.

Marc Kemeny
Architect,
For K Square Designs, Inc.

REGISTERED ARCHITECT
MARC KEMENY
No. 018280-1
STATE OF NEW YORK

January 14, 2009

100 Vandam
100 Vandam Street
New York , New York 10013

Re: Architect's Report
Attorney General File Number: CD08-074

The architect's Description of Property and Existing Building Conditions, dated August 25, 2008, is hereby amended with the following additional language:

o) Electrical system
The electric service panels have fuses to provide overload protection.
The Building system voltage is 3 phase, 208 volts.

Marc Kemeny
Architect,
For K Square Designs, Inc.

REGISTERED ARCHITECT
MARC KEMENY
No. 018280-1
STATE OF NEW YORK

DOCUMENT 4A

GEORGE KAN, Ph.D., P.E.
Consulting Engineer

P.O. Box 102, Bronx, New York 10471
Phone and Fax - 718-796-4761 E-mail: LANYUH1@aol.com

April 21, 2008

Beck Street Capital
Attention: Mr. Costa Petrunoff
100 Vandam Street, 4th Floor
New York, NY 10013

Re: Owner's Operations and Maintenance(O&M) Program for 100 Vandam Street, Manhattan

Dear Mr. Petrunoff:

On April 15, 2008, I visited the above referenced address and investigated portions of the surfaces of the building. It is a 5-story building with a cellar. There are many commercial units in the building. All the units appeared to have been recently renovated. I inspected the main roof, hallways, stairwells, about 80 to 90% of the commercial units from 1st floor through 5th floor. I also inspected the ground floor lobby; cellar's main space, electrical room, fire alarm room, boiler room and sprinkler pump room. I took thirty bulk samples of suspected asbestos containing material(ACM). The samples were delivered to the Laboratories for testing. Testing were conducted by using polarized light microscopy(PLM) method. An asbestos investigation report dated April 18, 2008 and based on my field observations and Laboratories' testing results is attached.

The following is a summary of the identified inventory of ACM, recommendations, operations and maintenance(O & M) program.

Description & Location	Asbestos Type & Concentration	Amount of ACM	Condition
Roof sheets(black)	Assumed ACM	6000 square feet	Good
Waterproofing material(on parapet, black)	9.8% chrysotile	100 square feet	Good
Plastic floor tile, 5th floor, tan (may also present in other areas)	Assumed ACM	about 200 sq ft	Good

GEORGE KAN, Ph.D., P.E.
Consulting Engineer

P.O. Box 102, Bronx, New York 10471
Phone and Fax – 718-796-4761 E-mail: LANYUH1@aol.com

Notes: Some of the building spaces may have plastic floor tiles not listed in page *1*. It is known that these tiles may contain asbestos. If they do, they are not regarded as friable unless they are cut or ground. In other words, they are not considered hazardous unless being cut or ground, thereby releasing airborne asbestos. This report is based on the investigations of portions of the surfaces of the building, inaccessible units and areas and spaces hidden behind the surfaces may contain additional asbestos containing material(ACM) not listed in the table on page 1. Also, in the cavity of the walls, the pipes may have asbestos containing insulations on them. However, even these pipes do have ACM insulations, the chances for the asbestos to become airborne is very small. They will be of a concern only if the ACM insulations are going to be disturbed by repairing or construction activities. Sometimes, hidden areas of building wall or floor may be coated with ACM waterproofing material or mastic similar to those on the parapet walls.

Recommendations:

The identified ACM found in the building can be left undisturbed at present time because they are normally non-friable. However, it is always a good practice to remove the ACM as they pose as a potential health hazard to the workers. In the cavity of the walls, if there are pipes found to be insulated with ACM, it is recommended to have the insulation abated. This is because in case of emergency repair of failed pipes, if ACM pipe insulation is going to be disturbed, the proper procedure is to have the ACM removed by certified asbestos handlers first. This is not practical in most cases but it is illegal to do it otherwise.

Operations and Maintenance(O & M) Program:

The owner's operations and maintenance program is designed to set forth a set of work practices and procedures to prevent or to minimize the release of airborne asbestos fibers to the private units and common areas thereby endangering the occupants and workers. The owner of the

GEORGE KAN, Ph.D., P.E.
Consulting Engineer

P.O. Box 102, Bronx, New York 10471
Phone and Fax – 718-796-4761 E-mail: LANYUH1@aol.com

asbestos containing material(ACM) has the responsibility to implement the O&M program. The intent of the O&M program is to ensure that the following steps are taken until all asbestos containing materials are removed from the private units and common areas.

1. To monitor the conditions of ACM.

2 To clean up previously released asbestos fibers.

3. To prevent further release by minimizing ACM disturbance and repairing the existing damages.

The following are some major components of the owner's O&M program:

A. Management:

1. Owner or knowledgeable representative:

In-house leadership is most important for a successful O&M program. It should not be left to workers with only awareness training.

2. Notification:

a. The owner should send written notification to tenants or sub-leasees and workers regarding the presence of ACM and the existence of an O&M program to protect human health and the environment.

b. Temporary workers should be notified of the presence of ACM by the Owner. Examples of temporary workers are plumbers, electricians, house keepers, cleaners and telephone workers. Those workers are not supposed to disturb the ACM in the course of their work.

GEORGE KAN, Ph.D., P.E.
Consulting Engineer

P.O. Box 102, Bronx, New York 10471
Phone and Fax - 718-796-4761 E-mail: LANYUH1@aol.com

3. Education and Training:

All members of the maintenance and custodial staff should receive at least two hours of awareness training.

4. Records Keeping:

Accurate records logged by the owner regarding ACM in the private units or common areas should be duly kept. The owner's O&M program should be constantly updated and revised.

B. Cleaning, Repairing and Removing:

Any future ACM abatement activities such as cleaning, repairing and removing, should be carried out in accordance with NYS DOL ICR 56 and/or NYC DEP Asbestos Rules. The workers should be protected in accordance to OSHA standards.

Future handling, maintenance and abatement of ACM should be done only by people certified by NYC as asbestos handler and by NYS as asbestos worker. Wet cleaning and High Efficiency Particulate Air(HEPA) vacuum cleaning should be conducted before, during and after those activities.

C. Surveillance:

Periodic air monitoring and visual surveillance should be carried out once every six months. The results of air monitoring and visual observations must be kept in the owner's file.

GEORGE KAN, Ph.D., P.E.
Consulting Engineer

P.O. Box 102, Bronx, New York 10471
Phone and Fax - 718-796-4761 E-mail: LANYUH1@aol.com

D. Prevention:

The prevention of accidental fiber release episodes is of great importance in an O&M program. This can be achieved by the following actions:

a. Awareness program for the staff of common areas by the co-op/condominium ownership.

b. Awareness program for workers and/or sub-leasees by unit owners.

c. Controlling access to certain areas.

d. Repair and/or removal of ACM.

e. Establishing protocol for remodeling, repairing and renovating projects.

f. Warning signs.

E. Response to Emergency:

Procedures and personnel should be prepared for response to uncontrolled or unintentional disturbance of ACM.

F. Worker Protection:

Respirator and HEPA vacuum cleaner should be available to workers.

GEORGE KAN, Ph.D., P.E.
Consulting Engineer

P.O. Box 102, Bronx, New York 10471
Phone and Fax - 718-796-4761 E-mail: LANYUH1@aol.com

G. Warning Signs:

In the areas where ACM is found, a warning sign should be attached immediately adjacent to the ACM. All signs shall be prominently displayed in readily visible locations and shall remain posted until the ACM that is labeled is removed.

The warning sign shall read, in print which is readily visible because of large size or bright color, as follows:

CAUTION

HAZARDOUS ASBESTOS MATERIAL

DO NOT DISTURB WITHOUT PROPER

TRAINING AND EQUIPMENT

Sincerely,



George Kan, Ph.D., P.E.

Attachments: 1. My qualifications sheet.
2. Asbestos investigation report dated April 18, 2008.

Qualifications of Dr. George Kan

Dr. George Kan has over thirty years of U.S. industrial experience. He worked in the fields of engineering, construction, inspection, research and testing. He received his Master & Ph.D. degrees in chemical engineering from Montana State University and City College of New York respectively. He learned the basics of chrystallography and polarized light microscopy when he was in graduate school working on identification of different rocks. He has successfully completed the following courses:

a. Microscopical Identification of Asbestos - offered by McCrone Research Institute.
b. Sampling and Evaluating Airborne Asbestos Dust - offered by NIOSH.
c. Asbestos Investigator Course-NYC Department of Environmental Protection Certified - offered by Asbestos Training Academy.

For the past twenty years, he has finished hundreds of projects relating to building survey of asbestos, asbestos testing and monitoring, engineering control of asbestos abatement projects. He holds the following certification and/or has participated the following national asbestos laboratory 'certification' programs:

a. NYC certified asbestos investigator, certificate #107006
b. NYS certified inspector, management planner, certificate # 91-03031
c. EPA sponsored Quality Assurance program for Asbestos Identification, Lab. # 2294, currently accredited by EPA.
d. National Institute of Standards and Technology(formerly National Bureau of Standards), US Department of Commerce, National Voluntary Laboratory Accreditation Program(NVLAP), NVLAP Lab Code 1430
e. American Industrial Hygiene Association(AIHA) accredited laboratory PAT # 10471-001. The PAT program is approved by the Centers for Disease Control (CDC), National Institute for Occupational Safety & Health(NIOSH).
f. NYS Department of Health certification for bulk and air asbestos analysis, ELAP Lab ID Number 11091

Dr. Kan is familiar with the OSHA regulations, EPA Guidelines, NYC Local Law 76 and 70, Title 15 of Rules of the City of New York, NYS "Attorney General's Asbestos Disclosure Report", NYS Department of Labor Industrial Code Rule No. 56.

GEORGE KAN, Ph.D., P.E.
Consulting Engineer

P.O. Box 102, Bronx, New York 10471
Phone and Fax - 718-796-4761 E-mail: LANYUH1@aol.com

April 18, 2008

Beck Street Capital
Attention: Mr. Costa Petrunoff
100 Vandam Street, 4th Floor
New York, NY 10013

Re: Asbestos Investigation – 100 Vandam Street, Manhattan

Dear Mr. Petrunoff:

On April 15, 2008, I visited the above referenced address and investigated portions of the surfaces of the building. I took suspected asbestos containing samples then delivered them to the Laboratories for testing. The following is a summary of my field observations and Laboratories' testing results by using polarized light microscopy(PLM) method.

Sample Description(homogeneous unless otherwise noted)	Asbestos Content
---------- Roof sheets, black, about 6000 sq ft total	Assumed ACM
041508V1 – Waterproofing material #1, on parapet, black, area included in waterproofing material #2	trace chrysotile (less than 0.25%)
041508V2 – Waterproofing material #2, on parapet, black, about 100 sq ft total	9.8% chrysotile
041508V3 – Waterproofing material #3, on parapet, black, area included in waterproofing material #2	Assumed ACM
041508V7 – Wallboard, tan	None
041508V8 – Fireproofing material #1, 3rd fl., A/C rm, sprayed-on steel beam, tan	None
041508V9 – Fireproofing material #2, 3rd fl., A/C rm, sprayed-on steel beam, tan	None
041508V10 – Fireproofing material #3, 3rd fl., A/C rm, sprayed-on steel beam, tan	None
041508V11 – Stucco material #1, 2nd fl., adjacent to window, light brown	None
041508V12 – Stucco material #2, 2nd fl., adjacent to window, light brown	None
041508V13 – Stucco material #3, 2nd fl., adjacent to window, light brown	None
041508V14 – Mortar #1, 2nd fl., tan	None
041508V15 – Mortar #2, 2nd fl., tan	None
041508V16 – Mortar #3, 2nd fl., tan	None
041508V17 – Fireproofing material #4, 2nd fl. elev. lobby, sprayed-on ceiling, tan	None
041508V18 – Fireproofing material #5, 2nd fl. elev. lobby, sprayed-on ceiling, tan	None
041508V19 – Fireproofing material #6, 2nd fl. elev. lobby, sprayed-on ceiling, tan	None

GEORGE KAN, Ph.D., P.E.
Consulting Engineer

P.O. Box 102, Bronx, New York 10471
Phone and Fax – 718-796-4761 E-mail: LANYUH1@aol.com

Continued.....100 Vandam Street, Manhattan.....April 18, 2008

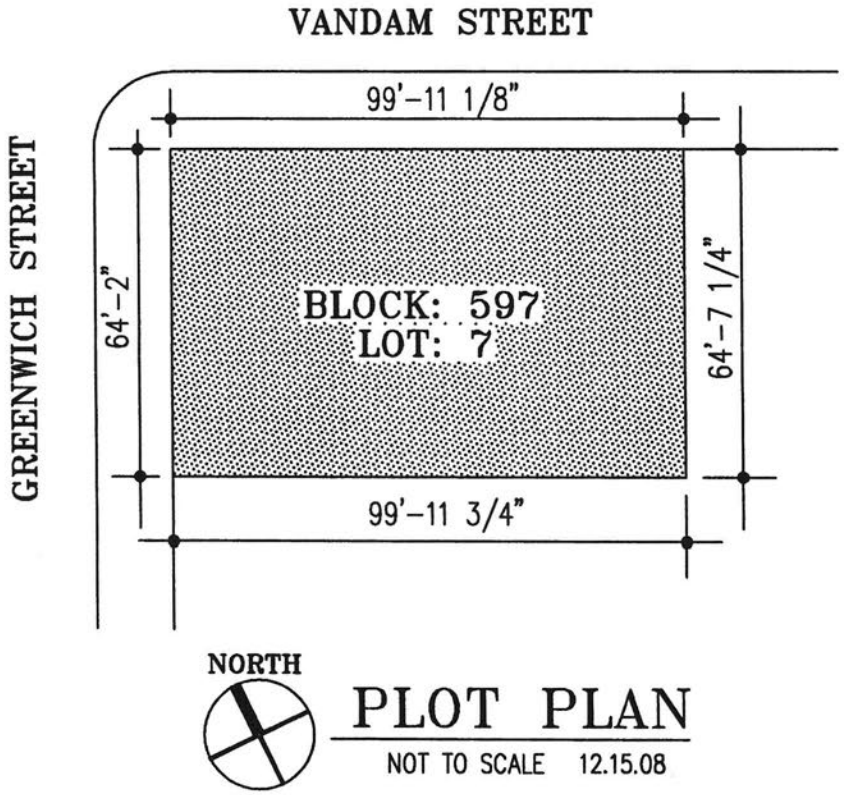
Sample Description(homogeneous unless otherwise noted)	Asbestos Content
041508V20 – Fireproofing material #7, 1st fl. storage area, sprayed-on ceiling, tan	None
041508V21 – Fireproofing material #8, 1st fl. storage area, sprayed-on ceiling, tan	None
041508V22 – Fireproofing material #9, 1st fl. storage area, sprayed-on ceiling, tan	None
041508V23 – Fireproofing material #10, cellar, sprayed-on column, tan	None
041508V24 – Fireproofing material #11, cellar, sprayed-on column, tan	None
041508V25 – Fireproofing material #12, cellar, sprayed-on column, tan	None
041508V26 – Mortar #4, cellar, tan	None
041508V27 – Mortar #5, cellar, tan	None
041508V4 – Plaster wall #1, cellar, alley behind fire alarm room, black	None
041508V5 – Plaster wall #2, cellar, alley behind fire alarm room, black	None
041508V6 – Plaster wall #3, cellar, alley behind fire alarm room, black	None
041508V28 – Fireproofing material #13, cellar, sprayed-on ceiling, tan	None
041508V29 – Fireproofing material #14, cellar, sprayed-on ceiling, tan	None
041508V30 – Fireproofing material #15, cellar, sprayed-on ceiling, tan	None

Sincerely,

George Kan, Ph.D., P.E.

This Page Intentionally Left Blank

DOCUMENT 5



PLOT PLAN

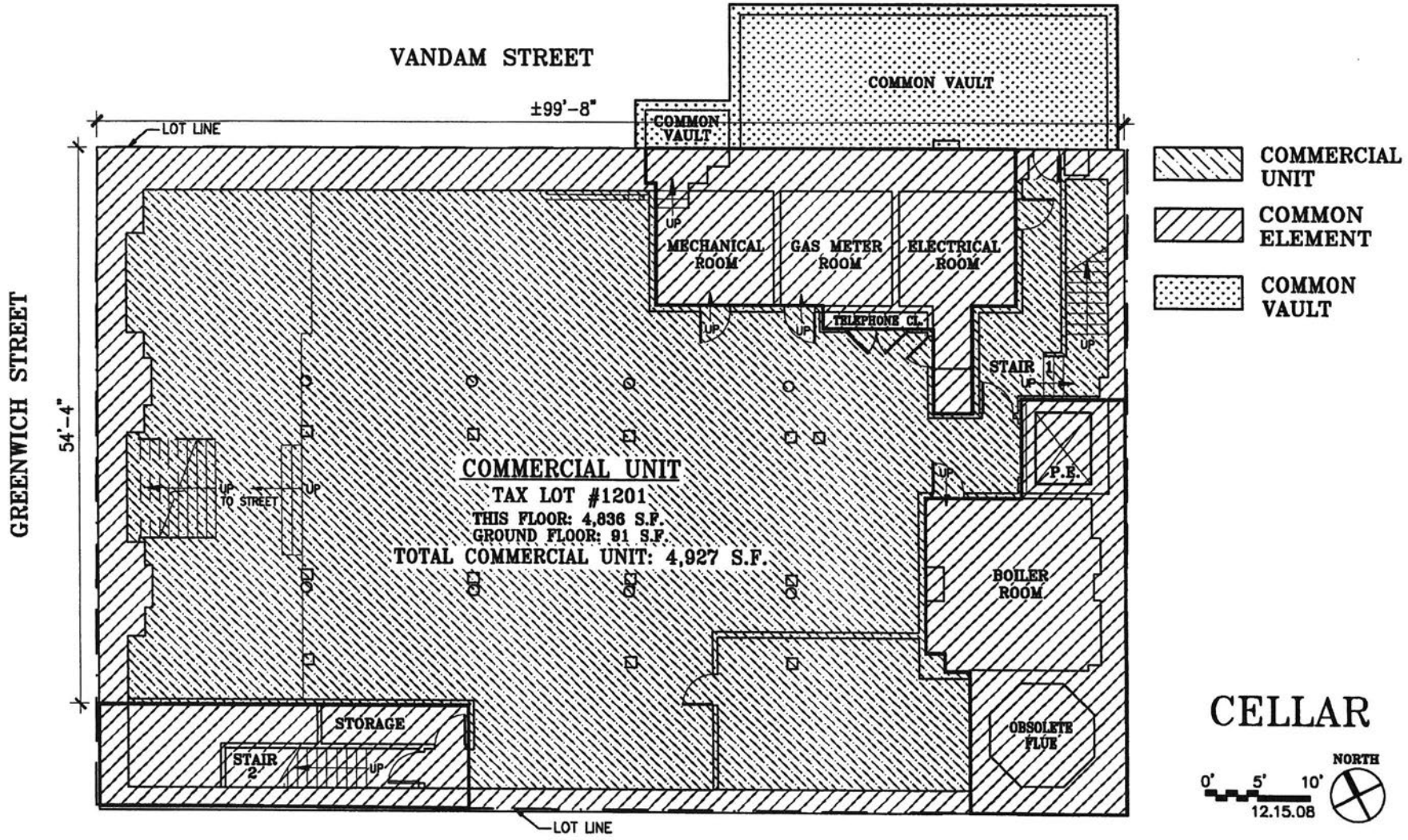
NOT TO SCALE 12.15.08

DOC 5-1

THE UNIT SQUARE FOOTAGE, LAYOUT AND OVERALL DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON FIELD MEASUREMENTS OR (IN THE CASE OF THE COMMERCIAL AND ROOF TERRACE UNITS) CONSTRUCTION DRAWINGS. THE COMMERCIAL UNIT, WHEN BUILT, WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE IS MEASURED FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS AND SUBSTANTIALLY EXCEEDS THE USABLE FLOOR AREA. CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE, LAYOUT OR OVERALL DIMENSIONS AS SHOWN ON THIS FLOOR PLAN WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013

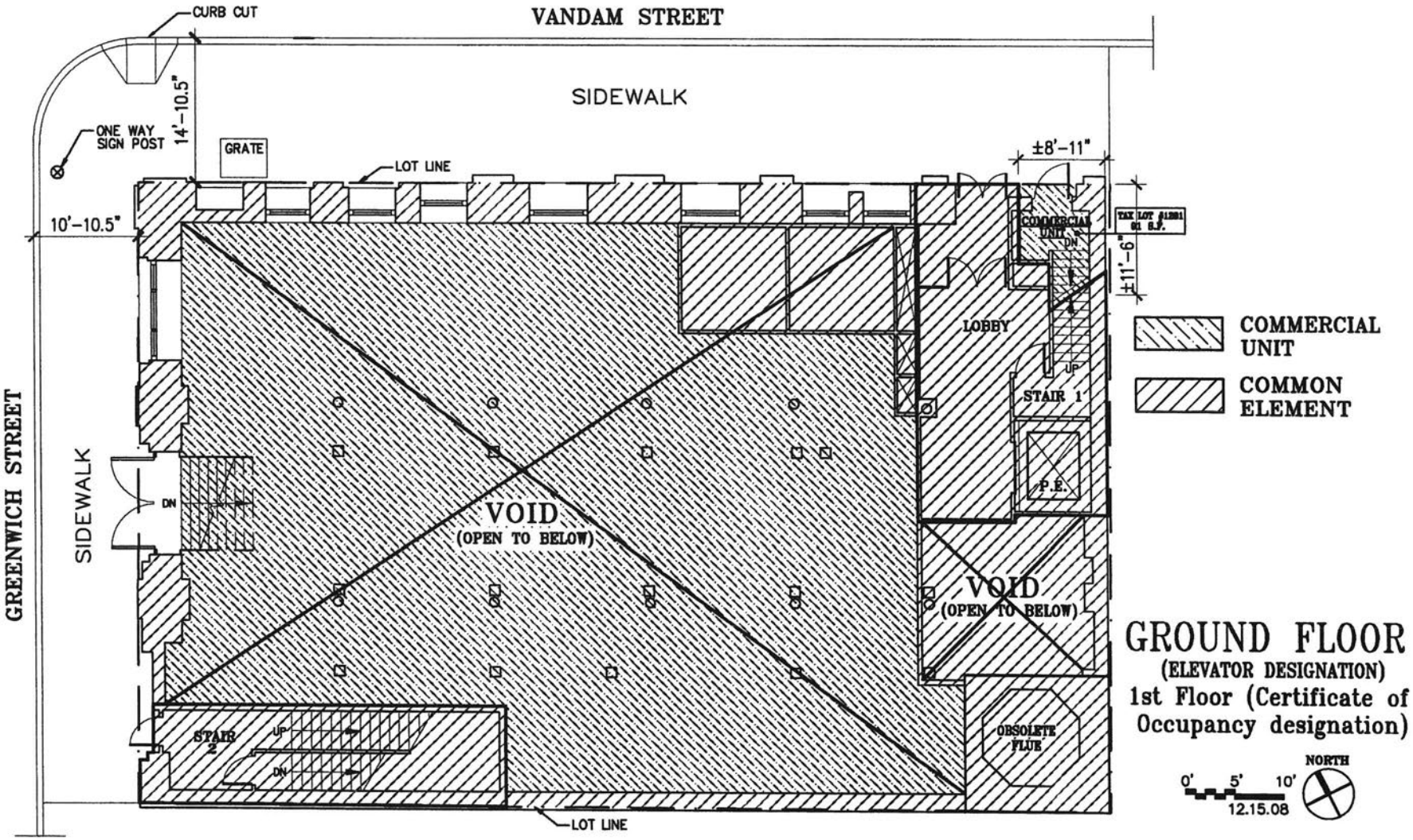


DOC 5-2

THE UNIT SQUARE FOOTAGE, LAYOUT AND OVERALL DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON FIELD MEASUREMENTS OR (IN THE CASE OF THE COMMERCIAL AND ROOF TERRACE UNITS) CONSTRUCTION DRAWINGS. THE COMMERCIAL UNIT, WHEN BUILT, WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE IS MEASURED FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS AND SUBSTANTIALLY EXCEEDS THE USABLE FLOOR AREA. CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE, LAYOUT OR OVERALL DIMENSIONS AS SHOWN ON THIS FLOOR PLAN WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013

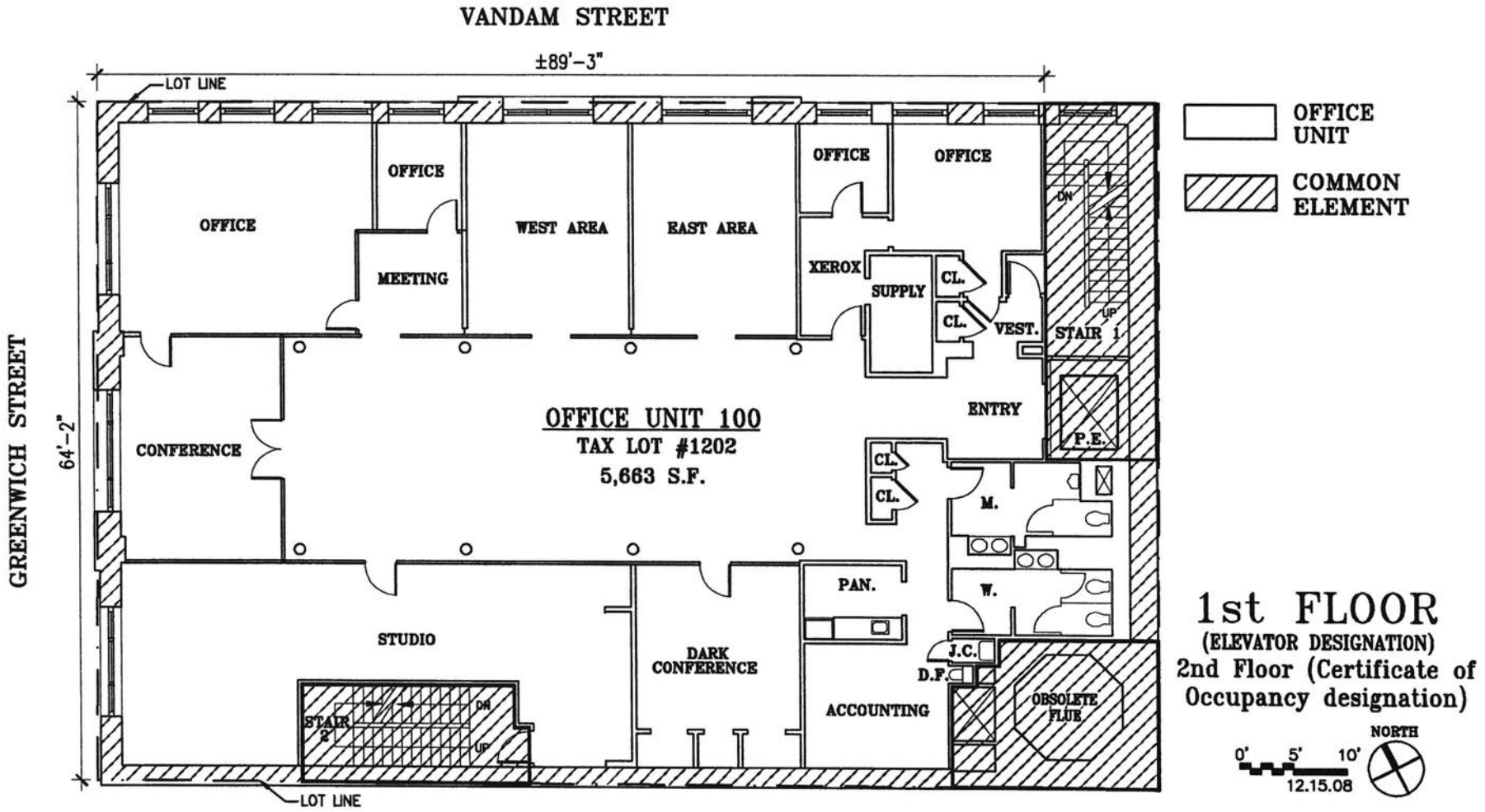


DOC 5-3

THE UNIT SQUARE FOOTAGE, LAYOUT AND OVERALL DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON FIELD MEASUREMENTS OR (IN THE CASE OF THE COMMERCIAL AND ROOF TERRACE UNITS) CONSTRUCTION DRAWINGS. THE COMMERCIAL UNIT, WHEN BUILT, WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE IS MEASURED FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS AND SUBSTANTIALLY EXCEEDS THE USABLE FLOOR AREA. CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE, LAYOUT OR OVERALL DIMENSIONS AS SHOWN ON THIS FLOOR PLAN WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013

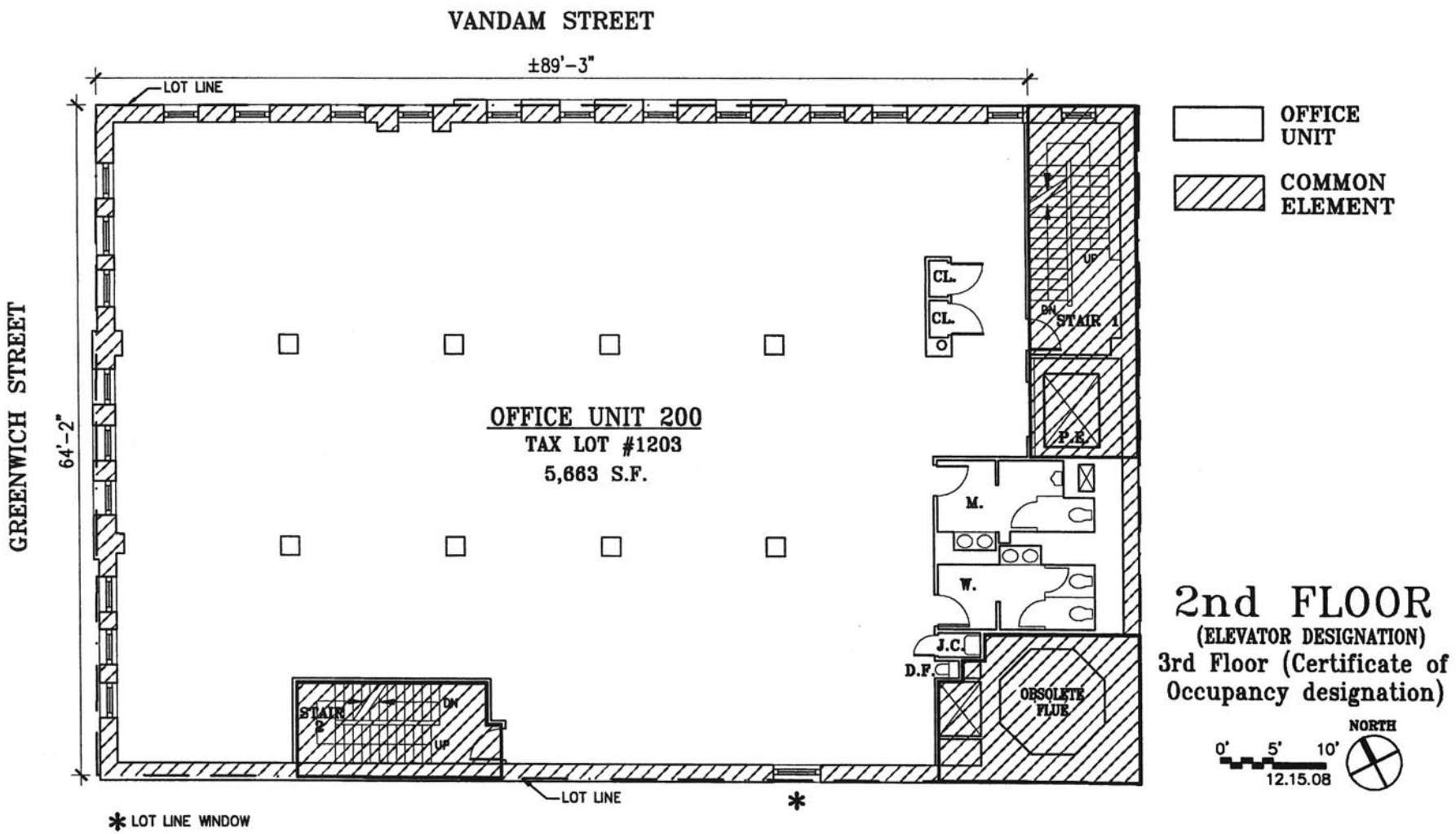


DOC 5-4

THE UNIT SQUARE FOOTAGE, LAYOUT AND OVERALL DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON FIELD MEASUREMENTS OR (IN THE CASE OF THE COMMERCIAL AND ROOF TERRACE UNITS) CONSTRUCTION DRAWINGS. THE COMMERCIAL UNIT, WHEN BUILT, WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE IS MEASURED FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS AND SUBSTANTIALLY EXCEEDS THE USABLE FLOOR AREA. CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE, LAYOUT OR OVERALL DIMENSIONS AS SHOWN ON THIS FLOOR PLAN WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013

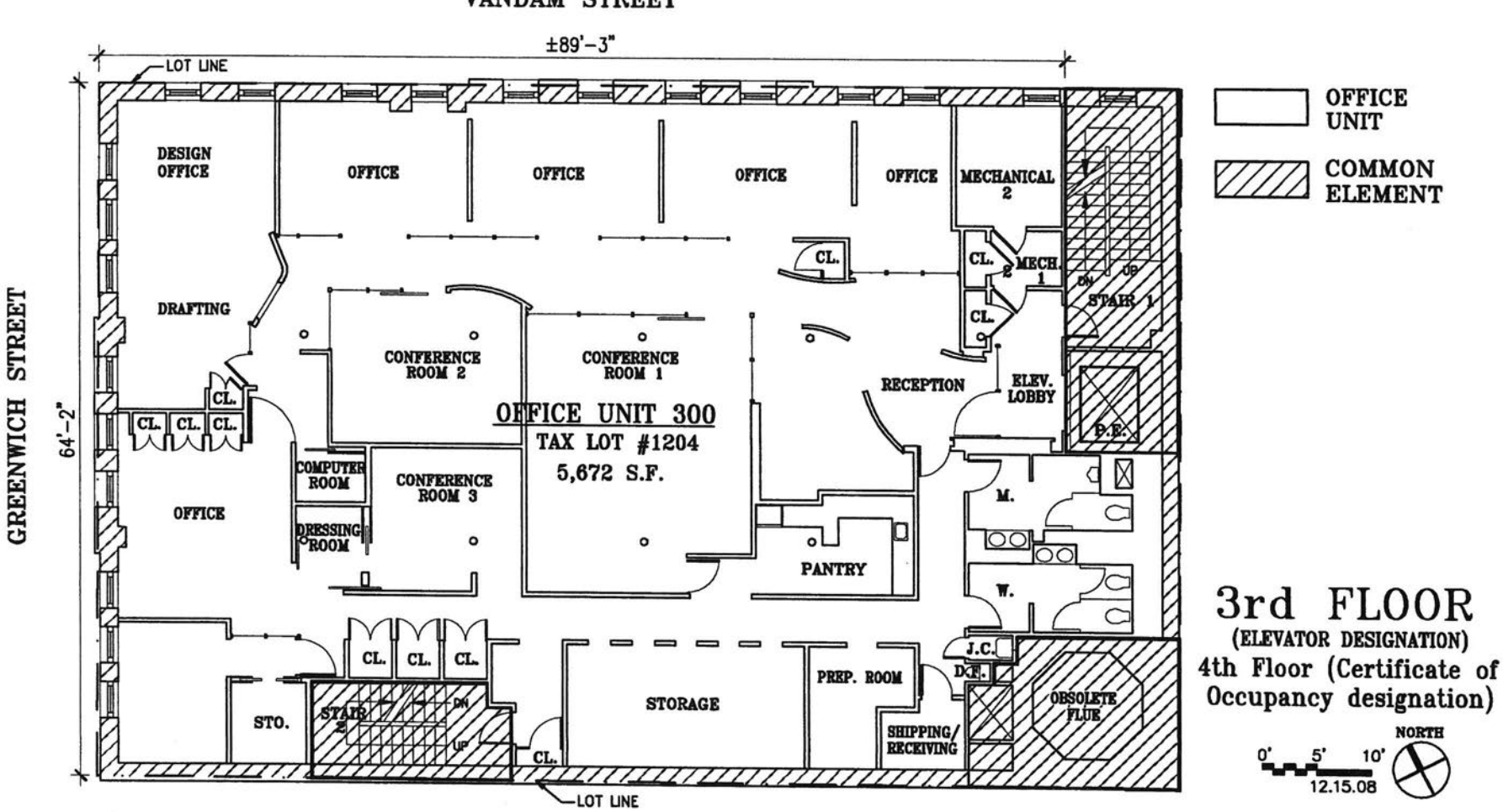


DOC 5-5

THE UNIT SQUARE FOOTAGE, LAYOUT AND OVERALL DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON FIELD MEASUREMENTS OR (IN THE CASE OF THE COMMERCIAL AND ROOF TERRACE UNITS) CONSTRUCTION DRAWINGS. THE COMMERCIAL UNIT, WHEN BUILT, WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE IS MEASURED FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS AND SUBSTANTIALLY EXCEEDS THE USABLE FLOOR AREA. CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE, LAYOUT OR OVERALL DIMENSIONS AS SHOWN ON THIS FLOOR PLAN WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013

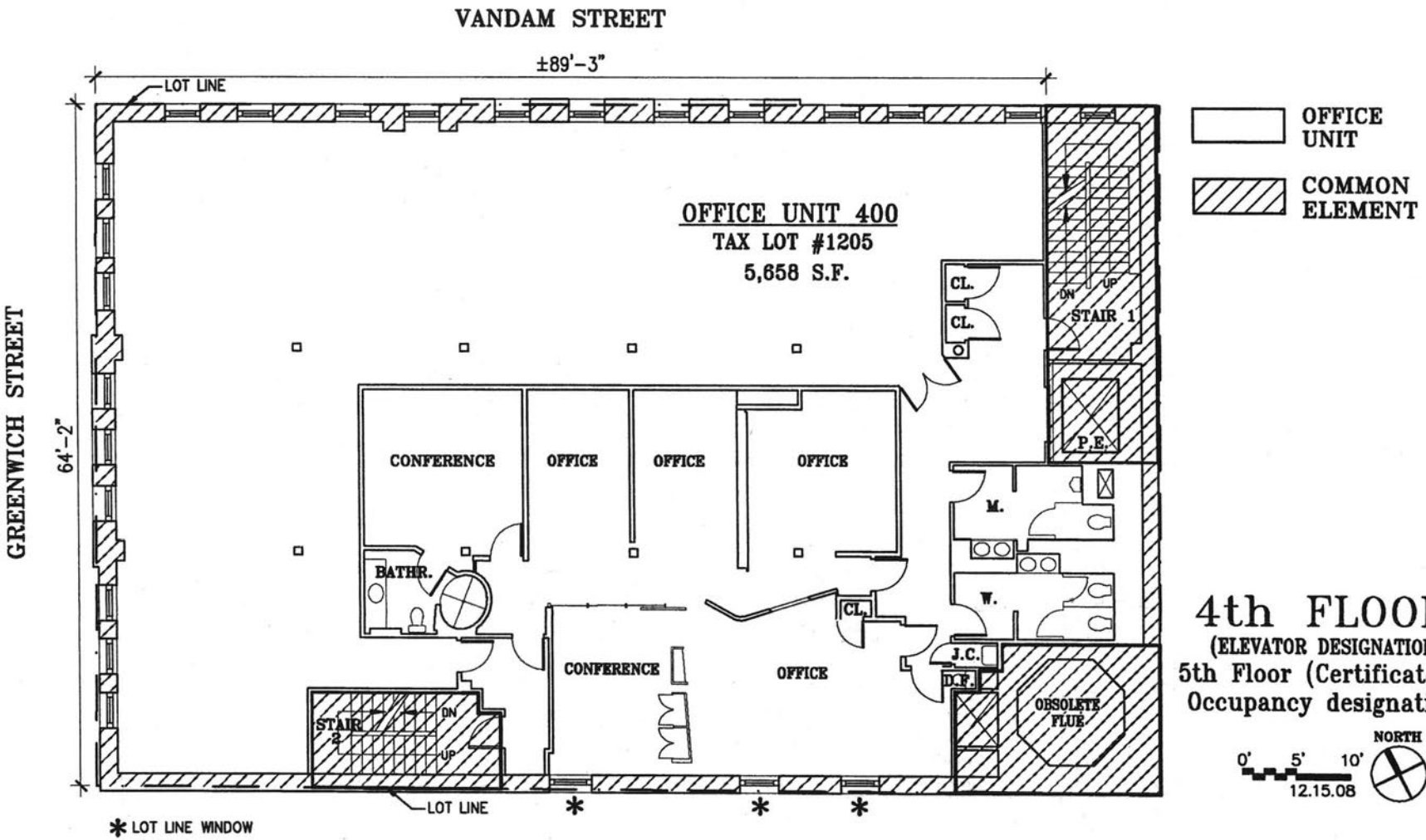


DOC 5-6

THE UNIT SQUARE FOOTAGE, LAYOUT AND OVERALL DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON FIELD MEASUREMENTS OR (IN THE CASE OF THE COMMERCIAL AND ROOF TERRACE UNITS) CONSTRUCTION DRAWINGS. THE COMMERCIAL UNIT, WHEN BUILT, WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE IS MEASURED FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS AND SUBSTANTIALLY EXCEEDS THE USABLE FLOOR AREA. CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE, LAYOUT OR OVERALL DIMENSIONS AS SHOWN ON THIS FLOOR PLAN WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013

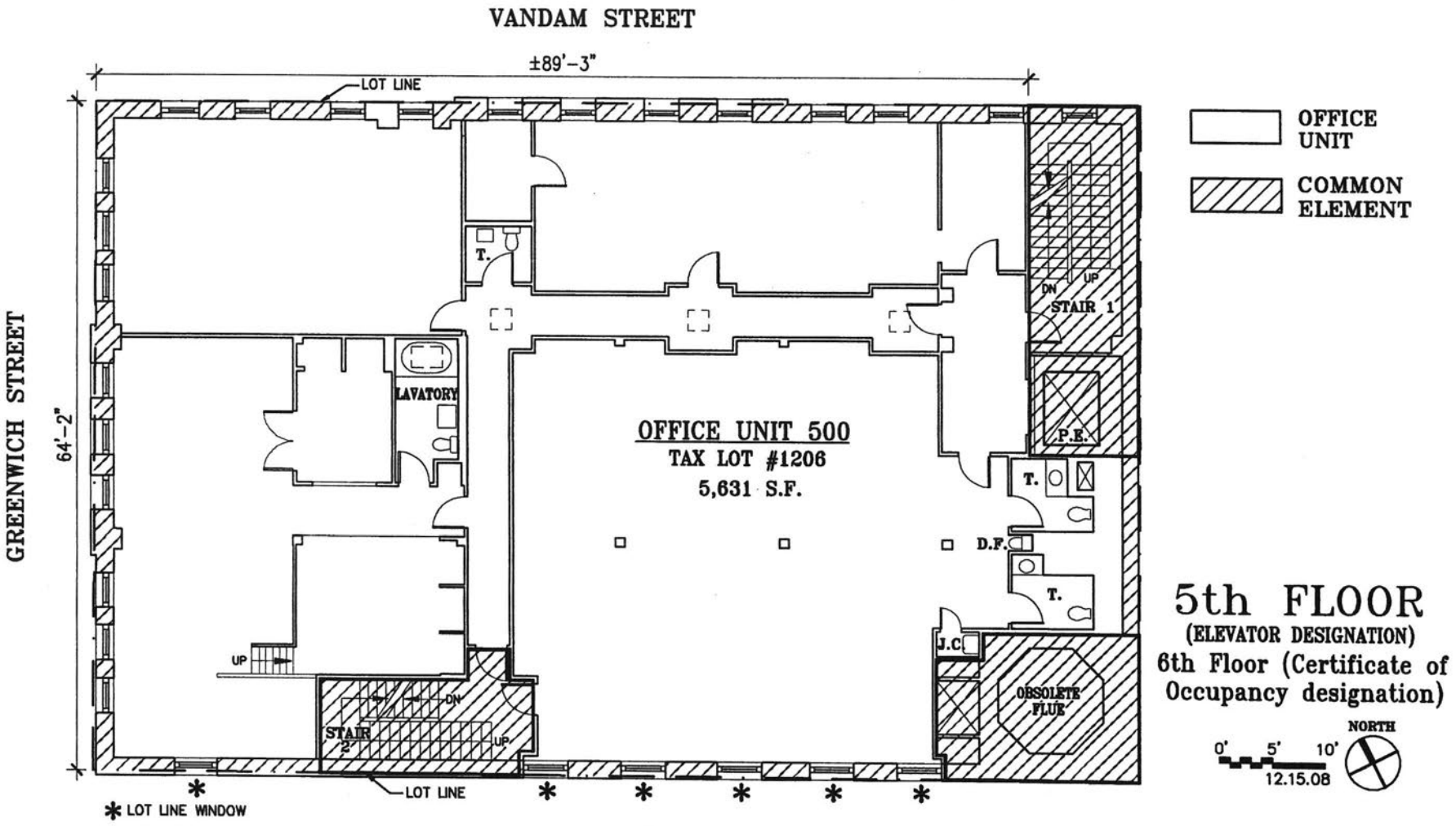


DOC 5-7

THE UNIT SQUARE FOOTAGE, LAYOUT AND OVERALL DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON FIELD MEASUREMENTS OR (IN THE CASE OF THE COMMERCIAL **AND ROOF TERRACE** UNITS) CONSTRUCTION DRAWINGS. THE COMMERCIAL UNIT, WHEN BUILT, WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE IS MEASURED FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS AND SUBSTANTIALLY EXCEEDS THE USABLE FLOOR AREA. CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE, LAYOUT OR OVERALL DIMENSIONS AS SHOWN ON THIS FLOOR PLAN WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013



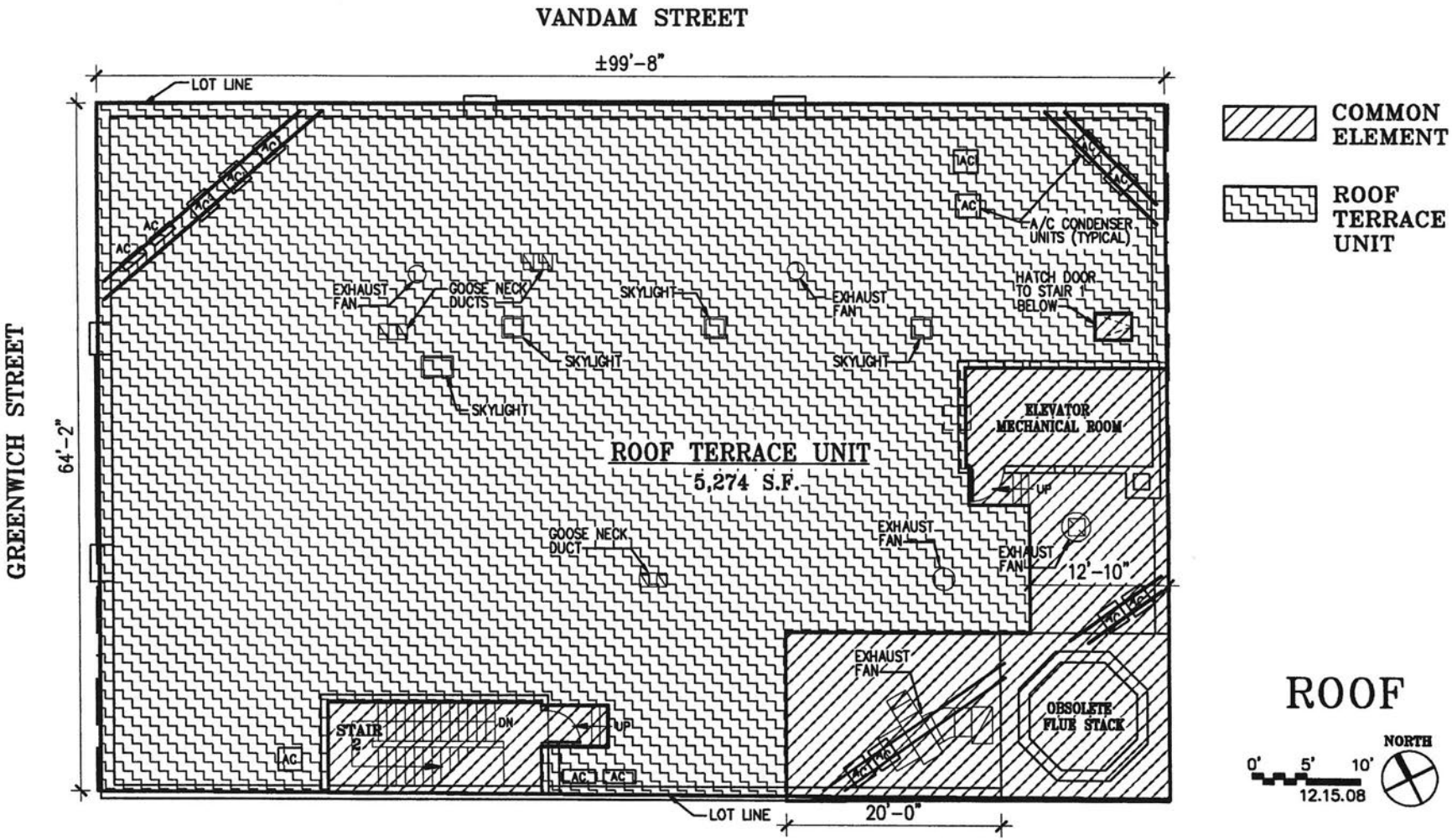
5th FLOOR
(ELEVATOR DESIGNATION)
6th Floor (Certificate of Occupancy designation)

DOC 5-8

THE UNIT SQUARE FOOTAGE, LAYOUT AND OVERALL DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON FIELD MEASUREMENTS OR (IN THE CASE OF THE COMMERCIAL AND ROOF TERRACE UNITS) CONSTRUCTION DRAWINGS. THE COMMERCIAL UNIT, WHEN BUILT, WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE IS MEASURED FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS AND SUBSTANTIALLY EXCEEDS THE USABLE FLOOR AREA. CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE, LAYOUT OR OVERALL DIMENSIONS AS SHOWN ON THIS FLOOR PLAN WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013



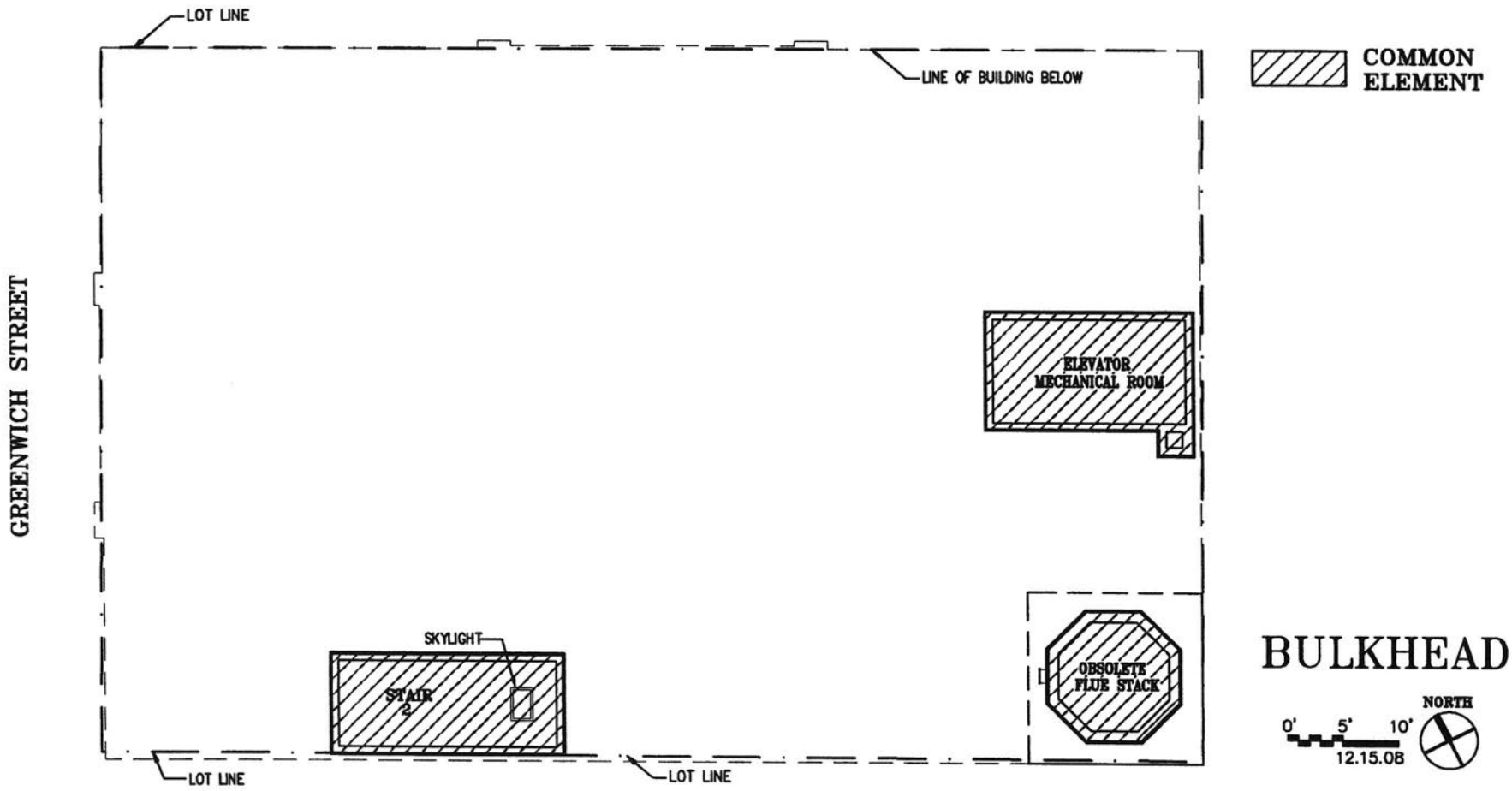
DOC 5-9

THE UNIT SQUARE FOOTAGE, LAYOUT AND OVERALL DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON FIELD MEASUREMENTS OR (IN THE CASE OF THE COMMERCIAL AND ROOF TERRACE UNITS) CONSTRUCTION DRAWINGS. THE COMMERCIAL UNIT, WHEN BUILT, WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE IS MEASURED FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS AND SUBSTANTIALLY EXCEEDS THE USABLE FLOOR AREA. CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE, LAYOUT OR OVERALL DIMENSIONS AS SHOWN ON THIS FLOOR PLAN WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013

VANDAM STREET



DOC 5-10

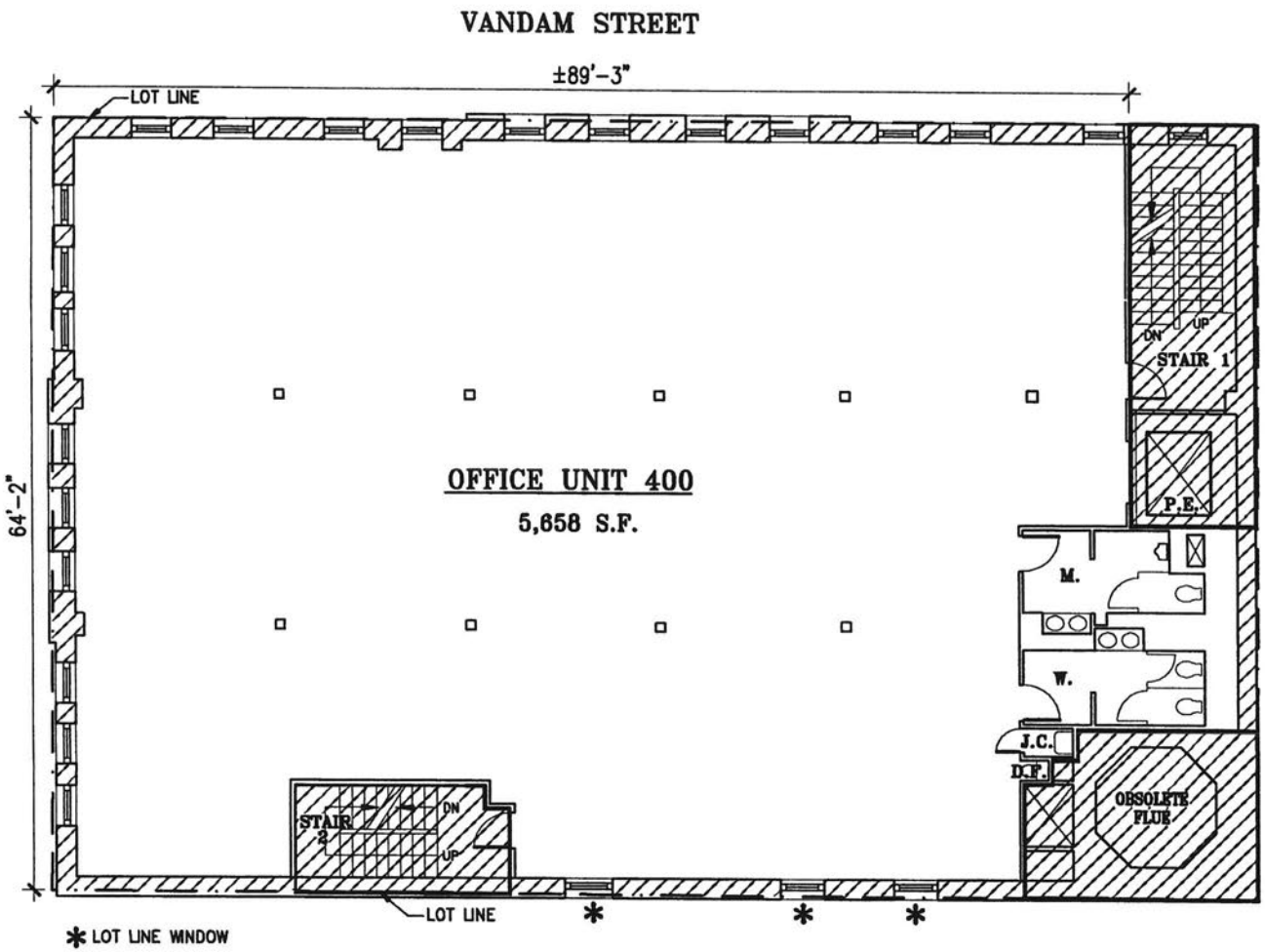
THE UNIT SQUARE FOOTAGE, LAYOUT AND OVERALL DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON FIELD MEASUREMENTS OR (IN THE CASE OF THE COMMERCIAL AND ROOF TERRACE UNITS) CONSTRUCTION DRAWINGS. THE COMMERCIAL UNIT, WHEN BUILT, WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE IS MEASURED FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS AND SUBSTANTIALLY EXCEEDS THE USABLE FLOOR AREA. CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE, LAYOUT OR OVERALL DIMENSIONS AS SHOWN ON THIS FLOOR PLAN WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013

DOCUMENT 5A

GREENWICH STREET



OFFICE UNIT

COMMON ELEMENT

4th FLOOR

(ELEVATOR DESIGNATION)

5th Floor (Certificate of Occupancy designation)

0' 5' 10'

12.15.08

NORTH

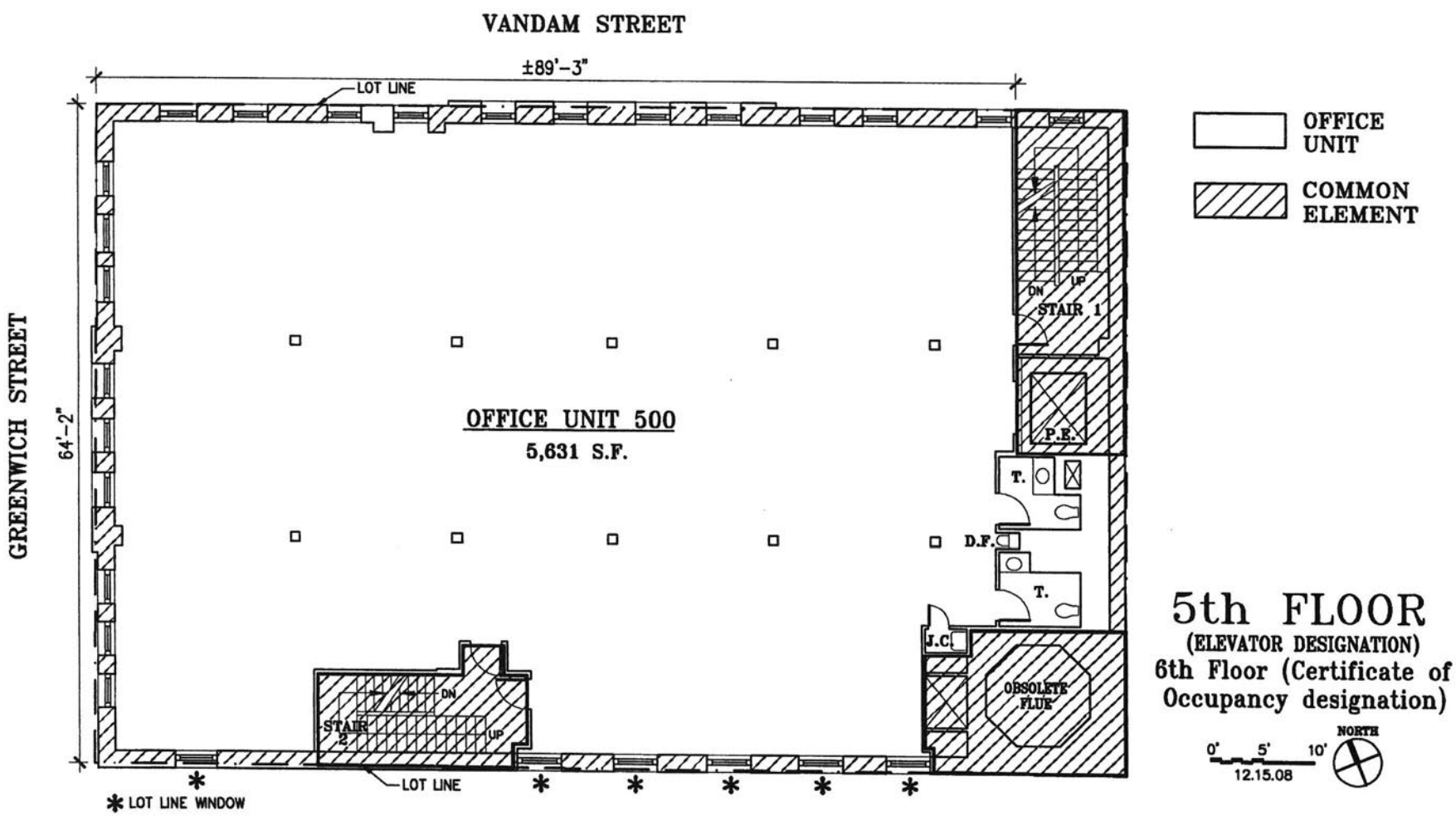
DOC 5A-1

THIS OPEN FLOOR PLAN DOES NOT SHOW THE PARTITIONS, CORRIDORS, LAYOUT OR OTHER IMPROVEMENTS OF THIS UNIT "AS BUILT" AND IS FOR MARKETING PURPOSES ONLY. THE UNIT IS BEING SOLD "AS BUILT" WITHOUT ANY OBLIGATION OF SPONSOR TO DEMOLISH PARTITIONS OR OTHER EXISTING IMPROVEMENTS OR TO MAKE ANY CHANGES.

THE UNIT'S SQUARE FOOTAGE AND OVERALL DIMENSIONS ARE APPROXIMATE WITHIN REASONABLE TOLERANCES, BASED ON FIELD MEASUREMENTS TAKEN FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS, AND THUS WILL SUBSTANTIALLY EXCEED THE UNIT'S USEABLE FLOOR AREA. CHASE WALLS, SHAFTS AND OTHER COMMON ELEMENTS WITHIN OR BORDERING THE UNIT ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE OR OVERALL DIMENSIONS WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF THIS UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO ANY UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013



DOC 5A-2

THIS OPEN FLOOR PLAN DOES NOT SHOW THE PARTITIONS, CORRIDORS, LAYOUT OR OTHER IMPROVEMENTS OF THIS UNIT "AS BUILT" AND IS FOR MARKETING PURPOSES ONLY. THE UNIT IS BEING SOLD "AS BUILT" WITHOUT ANY OBLIGATION OF SPONSOR TO DEMOLISH PARTITIONS OR OTHER EXISTING IMPROVEMENTS OR TO MAKE ANY CHANGES.

THE UNIT'S SQUARE FOOTAGE AND OVERALL DIMENSIONS ARE APPROXIMATE WITHIN REASONABLE TOLERANCES, BASED ON FIELD MEASUREMENTS TAKEN FROM THE EXTERIOR SIDE OF THE UNIT'S BOUNDARY WALLS, AND THUS WILL SUBSTANTIALLY EXCEED THE UNIT'S USEABLE FLOOR AREA. CHASE WALLS, SHAFTS AND OTHER COMMON ELEMENTS WITHIN OR BORDERING THE UNIT ARE NOT SUBTRACTED. MINOR INACCURACIES IN SQUARE FOOTAGE OR OVERALL DIMENSIONS WILL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF THIS UNIT, WITHOUT ABATEMENT IN PRICE OR RECOURSE OF ANY KIND AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO ANY UNIT IN ACCORDANCE WITH THE PLAN.

100 VANDAM

100 VANDAM STREET, NEW YORK, NEW YORK 10013

DECLARATION OF CONDOMINIUM

Establishing a Plan for Condominium Ownership
of the Premises known as and by the street number

100 Vandam Street
(a/k/a 96-100 Vandam Street and 527-531 Greenwich Street)
New York, NY 10013

Pursuant to Article 9-B of the Real Property
Law of the State of New York

Name of Condominium:	**100 Vandam**
Declarant:	**100 Vandam, LLC**
Declarant's Address:	**c/o Beck Street Capital LLC,** **100 Vandam Street, 4th Floor,** **New York, NY 10013**
Date of Declaration:	**_____ ____, 2008**
Location of Land:	**The Land affected by the within instrument lies in Section 2, Block 597 on the Tax Map of the Real Property Assessment Department of The City of New York, Borough of Manhattan, County and State of New York in Lots: F/K/A Lot 7, N/K/A Lots _____ to _____.**

RECORD AND RETURN TO:

Seyfarth Shaw LLP
620 Eighth Avenue
New York, New York 10018
Attention: Alan L. Kazlow, Esq.

©2009 Alan L. Kazlow, Esq.
Seyfarth Shaw LLP
All rights reserved.

TABLE OF CONTENTS

Page

ARTICLE 1 DEFINITIONS 2
Section 1.1 Glossary 2
Section 1.2 General 2
Section 1.3 Condominium and Condominium Association 2

ARTICLE 2 SUBMISSION OF THE PROPERTY 3
Section 2.1 Submission 3
Section 2.2 Filing 3

ARTICLE 3 NAME OF CONDOMINIUM 3
Section 3.1 Name 3
Section 3.2 Use by Unit Owners and Others 3

ARTICLE 4 THE LAND 3
Section 4.1 Location 3
Section 4.2 Area 3

ARTICLE 5 THE BUILDING 4
Section 5.1 Location 4
Section 5.2 Building and Floors 4
Section 5.3 Units and Common Elements 4
Section 5.4 Construction Materials 4

ARTICLE 6 THE UNITS 5
Section 6.1 Unit Designations 5
Section 6.2 Location 5
Section 6.3 Unit Information 5
Section 6.4 Floor Plans and Diagrams 5
Section 6.5 Borders 5
Section 6.6 Floor Area 5
Section 6.7 Included Areas 6
Section 6.8 Height 6
Section 6.9 Items Included in Unit 6
Section 6.10 Unit Equipment 8
Section 6.11 INTENTIONALLY OMITTED. 8
Section 6.12 Attachment to Perimeters 8

ARTICLE 7 THE COMMON ELEMENTS AND ASSOCIATION'S PROPERTIES 8
Section 7.1 Common Elements 8
Section 7.2 Items of Common Elements 10
Section 7.3 INTENTIONALLY OMITTED. 11
Section 7.4 Association's Properties 11
Section 7.5 No Partition 11
Section 7.6 Decision as to the Common Elements and the Association's Properties 11
Section 7.7 INTENTIONALLY OMITTED. 12
Section 7.7A INTENTIONALLY OMITTED. 12

Page

Section 7.8 Business Judgment Rule 12
Section 7.9 Declaration Governs 12
Section 7.10 Vaults 12

ARTICLE 8 THE COMMON INTERESTS 12
Section 8.1 Statutory Method Chosen 12
Section 8.2 Common Interests 12

ARTICLE 9 THE COMMON PROFITS AND COMMON EXPENSES 13
Section 9.1 Special Allocation and Apportionment 13
Section 9.1.4A INTENTIONALLY OMITTED. 14
Section 9.2 Budget of Condominium Operation 15
Section 9.3 Budget Requirement 15
Section 9.4 Budget Adoption Procedure 15
Section 9.5 Allocation or Apportionment Change 16
Section 9.6 Increase or Decrease in Common Charges 16
Section 9.7 Budget Reserves 17
Section 9.8 Budget Surplus and Reconciliation 18
Section 9.9 Prohibition 18
Section 9.10 Special Assessment 18
Section 9.11 Sponsor Veto Control 18
Section 9.12 Real Estate Taxes 19

ARTICLE 10 USES OF COMMON ELEMENTS, SIDEWALKS, VAULTS AND UNITS 20
Section 10.1 General Requirement 20
Section 10.2 General Prohibitions 20
Section 10.3 Common Use of Common Elements 21
Section 10.4 New Installations Affecting Common Elements, Sidewalks and Vaults. 22
Section 10.5 New Connections to Common Elements 23
Section 10.6 INTENTIONALLY OMITTED. 23
Section 10.7 INTENTIONALLY OMITTED. 23
Section 10.8 Limited Common Elements 23
Section 10.9 Sponsor's Rights to Use Common Elements and Immediately Adjacent Sidewalks 23
Section 10.10 Building's Walls and Immediately Adjacent Sidewalks 24
Section 10.11 Permitted Uses of Building Walls and Immediately Adjacent Sidewalks 24
Section 10.12 Permitted Uses of Vaults 25
Section 10.13 Permitted Uses and Occupancy of Sold Office Units. 25
Section 10.14 Furnishings and Painting of Units 28
Section 10.15 Permitted Uses of Unsold Units, Commercial Unit and Roof Terrace Unit 29

Section 10.16 Compliance with Laws 30
Section 10.17 Changes in Use of Unsold Units, Commercial Unit and Roof Terrace Unit 30
Section 10.18 Signs 30
Section 10.19 Limited Power of Attorney 31
Section 10.20 Cooperation of Board 31
Section 10.21 Construction Rights of Sponsor 32

ARTICLE 11 EASEMENTS, RIGHTS AND RESTRICTIONS AFFECTING THE COMMON ELEMENTS AND UNITS 32
Section 11.1 Common Elements 32
Section 11.2 INTENTIONALLY OMITTED. 33
Section 11.3 INTENTIONALLY OMITTED. 33
Section 11.4 Mutual Rights 33
Section 11.5 Limited Common Elements 33
Section 11.6 Subordination 33
Section 11.7 Easements Affecting Common Elements for Ingress, Egress, Access and Use 34
Section 11.8 Emergency 34
Section 11.9 Building Services. 35
Section 11.10 Relocation from Vaults 36
Section 11.11 Utility Easements and Rights 36
Section 11.12 Access by Utility 37
Section 11.13 Requirements for Access By Utility 37
Section 11.14 Communications and Other Installation Easements and Rights. 37
Section 11.15 Roof Terrace Unit. 39

ARTICLE 12 STANDARD AND RECIPROCAL EASEMENTS, RIGHTS AND RESTRICTIONS AFFECTING UNITS AND COMMON ELEMENTS 42
Section 12.1 Easements Affecting All Units and Common Elements. 42
Section 12.2 Reciprocal Easement Affecting the Commercial Unit 44
Section 12.3 Reciprocal Easement Affecting the Common Elements 45
Section 12.4 Easements of Support, Necessity, Utilities and Services 46
Section 12.5 Easements Allowing Encroachments 46
Section 12.6 Statutory Easements 46
Section 12.7 Sponsor Easements for Sponsor's Rights and Obligations 47
Section 12.8 Move-In and -Out Easements 48

ARTICLE 13 CHANGES IN UNITS AND COMMON ELEMENTS 48
Section 13.1 Changes 48
Section 13.2 Rights, Restrictions and Requirements 50

TABLE OF CONTENTS
(continued)

Page

ARTICLE 14 MAINTENANCE, REPAIRS, ALTERATIONS AND OTHER WORK TO UNITS, COMMON ELEMENTS, ASSOCIATION'S PROPERTIES AND SIDEWALKS 54
Section 14.1 Duty to Maintain and Repair the Units and Limited Common Elements 54
Section 14.2 Duty to Maintain and Repair the Common Elements and Association's Properties 55
Section 14.3 Maintenance, Repairs, Alterations and Work to Units and Limited Common Elements 56
Section 14.4 Maintenance, Repairs, Alterations and Work as to Common Elements and Association's Properties 56
Section 14.5 Requisite Approvals for Board Repairs and Alterations 56
Section 14.6 Base Floors and Ceilings, Roofs and Building Walls 57
Section 14.7 Acts, Omissions, Negligence, etc 57
Section 14.8 Cooperation 57
Section 14.9 Sidewalks 57
Section 14.10 Vaults. 58
Section 14.11 Lot Line Windows. 58

ARTICLE 15 WORK REQUIREMENTS 59
Section 15.1 Application 59
Section 15.2 Work Requirements 59
Section 15.3 Procedure to Obtain Approval 68
Section 15.4 Thirty (30) Days to Approve or to Deny 69
Section 15.5 No Assumption of Liability or Approval of Suitability. 69
Section 15.6 Remedies 70
Section 15.7 Correction of Defects 70

ARTICLE 16 ACQUISITION OF UNITS BY CONDOMINIUM BOARD 70
Section 16.1 Authority for Acquisition 70
Section 16.2 Acquisition By Nominee or Designee of Board 71
Section 16.3 Authority for Dispositions 71
Section 16.4 Included in Association Properties 72
Section 16.5 Costs and Expenses 72

ARTICLE 17 POWER OF ATTORNEY FROM EACH UNIT OWNER 72
Section 17.1 Grant of Limited Power of Attorney 72
Section 17.2 Power of Substitution 75
Section 17.3 Durability 75
Section 17.4 Unit Owner's Confirmatory Power of Attorney 75
Section 17.5 Limited Power of Attorney Unimpaired 75

ARTICLE 18 PRIORITY OF LIEN FOR COMMON CHARGES 75
Section 18.1 Liens of Prior Recorded First Mortgage 75
Section 18.2 Liability for Unpaid Common Charges 75

TABLE OF CONTENTS
(continued)

Page

ARTICLE 19 TERMINATION OF CONDOMINIUM 76
Section 19.1 Condominium Termination Events 76
Section 19.2 Partition 76

ARTICLE 20 COOPERATION AND FURTHER ASSURANCES 77
Section 20.1 Covenant to Cooperate 77
Section 20.2 Actions and Documents 77
Section 20.3 Rights and Obligations of Requesting Party 77
Section 20.4 Giving Assurances 78
Section 20.5 Giving Instruments and Documents 78
Section 20.6 Limited Power of Attorney. 78

ARTICLE 21 COVENANTS TO RUN WITH THE LAND; COMPLIANCE WITH CONDOMINIUM ACT 79
Section 21.1 Covenants Run With Land 79
Section 21.2 Binding Effect 79
Section 21.3 Acceptance, Adoption and Ratification 79
Section 21.4 Invalidity and Reformation 79
Section 21.5 Deemed Inclusion of Necessary Provisions 80
Section 21.6 Correction Declaration 80

ARTICLE 22 AMENDMENTS TO DECLARATION 80
Section 22.1 Application to Declaration and By-Laws 80
Section 22.2 Requirements 80
Section 22.3 Illustration 81
Section 22.4 Restrictions 82
Section 22.5 Acknowledgment and Recording 82
Section 22.6 Signatories 83
Section 22.7 Floor Plans 83
Section 22.8 Limited Power of Attorney 83
Section 22.9 Filing of Conformed Copy 84
Section 22.10 Filing with Secretary of State 84

ARTICLE 23 CONSENT OF SPONSOR 84
Section 23.1 Consent of Sponsor 84
Section 23.2 Consent of Unsold Unit Owner 84
Section 23.3 Supremacy of Sponsor 85
Section 23.4 Expiration 85

ARTICLE 24 SERVICE OF PROCESS 85
Section 24.1 Designation of Secretary of State 85
Section 24.2 Person and Address to Whom Process is To Be Sent 85
Section 24.3 Foreign Entity 86

ARTICLE 25 INCORPORATION IN DECLARATION 87
Section 25.1 Incorporation of Exhibits, Floor Plans and Offering Plan 87

TABLE OF CONTENTS
(continued)

Page

ARTICLE 26 CHANGES AND WAIVER 87
Section 26.1 Changes 87
Section 26.2 No Waiver of Consent 87
Section 26.3 Waiver in Writing 88
Section 26.4 No Inference of Waiver 88

ARTICLE 27 SEVERABILITY 88
Section 27.1 Valid and Enforceable 88
Section 27.2 Condominium Act is Paramount 88

ARTICLE 28 SPONSOR'S RIGHTS 88
Section 28.1 Who May Exercise 88
Section 28.2 Other Unit Owners 89
Section 28.3 Covenants with Land Supplemented 89

ARTICLE 29 INDEMNIFICATION 89
Section 29.1 Indemnification Generally 89
Section 29.2 Contribution 90
Section 29.3 Application 90
Section 29.4 Notice of Claims or Lawsuit 90
Section 29.5 Selection of Attorneys and Settlement 90
Section 29.6 Cooperation of Indemnified Party 90
Section 29.7 Participation of Indemnified Party 90
Section 29.8 Allocation of Costs and Expenses 90
Section 29.9 Indemnification of Board Parties. 91

ARTICLE 30 MISCELLANEOUS: USAGES AND GRAMMAR 94
Section 30.1 Table of Contents and Captions 94
Section 30.2 References 94
Section 30.3 Grammar 94
Section 30.4 Notices 94
Section 30.5 Governing Law 94
Section 30.6 Day 94

EXHIBIT A: Description of Land ..... EXH A-1
EXHIBIT B: Description of Units ..... EXH B-1
EXHIBIT C: Glossary ..... EXH C-1
EXHIBIT D: By-Laws of 100 Vandam ..... EXH D-1
EXHIBIT E: Unit Owner's Power of Attorney ..... EXH E-1
EXHIBIT F: Diagrams of Units and Common Elements ..... EXH F-1

DECLARATION
OF
CONDOMINIUM

(Pursuant to Article 9-B of the Real
Property Law of the State of New York)

100 Vandam, LLC, the Declarant and Sponsor, having a business address (and for notices) at c/o Beck Street Capital LLC, 100 Vandam Street, 4th Floor, New York, New York 10013, does hereby declare, reserve and grant as follows:

ARTICLE 1

DEFINITIONS

Section 1.1 **Glossary**. The words frequently used in this Declaration (whether uppercase or lowercase) are defined in EXHIBIT C: Glossary to this Declaration and apply wherever these words appear in this Declaration or the EXHIBITS to this Declaration (that is, EXHIBIT A: Description of the Land; EXHIBIT B: Description of the Units; EXHIBIT D: By-Laws and Rules and Regulations appended to the By-Laws; EXHIBIT E: Unit Owner's Power of Attorney; and EXHIBIT F: Diagrams of Units and Common Elements), regardless of whether such words are expressly stated to be defined in said EXHIBIT C, unless the context in which such words are used shall otherwise require. Any elevator numbers, elevator shaft numbers, elevator machine room numbers, shaft numbers, egress or exit stair numbers and other room numbers or designations correspond to those set forth on the Floor Plans.

Section 1.2 **General**. The meanings stated for the words within quotation marks in any provision of this Declaration or the EXHIBITS to this Declaration (including EXHIBIT C: Glossary), whether initial uppercase or lowercase, apply wherever these words appear in this Declaration or such EXHIBITS, unless the context in which they are used shall otherwise require. All references in this Declaration, the By-Laws, and the Rules and Regulations to: (a) Declarant or Sponsor shall mean and include the following with respect to each Unit owned by it: (a-1) an Unsold Unit Owner; (a-2) an Involuntary Transferee of Sponsor or an Unsold Unit Owner; and (a-3) a Successor in Interest to Sponsor, an Unsold Unit Owner or an Involuntary Transferee; or (b) a Unit Owner shall mean the Person who owns a Unit at the time in question, but only while such Person owns the Unit.

Section 1.3 **Condominium and Condominium Association**. The term "**Condominium**" means the Property submitted to the provisions of the Condominium Act (Article 9-B of the Real Property Law of the State of New York). The term "**Condominium Association**" or "**Association**" refers to the unincorporated association of Unit Owners. The membership of the Association at all times shall consist exclusively of all the Unit Owners or, following the withdrawal or termination of the Condominium, all former Unit Owners entitled to share the net proceeds of any partition sale or award in a Taking by a Governmental Authority in condemnation or by eminent domain, as applicable.

ARTICLE 2

SUBMISSION OF THE PROPERTY

Section 2.1 **Submission**. The Land which is the subject of this Declaration is identified on the first (cover) page of this Declaration and is more particularly identified in EXHIBIT A hereto. The Land together with the Building and other improvements erected on and under the Land known as and by the street address 100 Vandam Street for the Office Units (a/k/a 96-100 Vandam Street and 527-531 Greenwich Street), in the Borough of Manhattan, in the City, County and State of New York are hereafter collectively called the **"Property"**. Declarant (i.e., Sponsor) hereby submits the Property to the provisions of Article 9-B of the Real Property Law of the State of New York (a/k/a Condominium Act) and, pursuant thereto, does hereby establish a regime for condominium ownership of the Property as more particularly set forth herein and in the By-Laws. The Property being submitted hereby to condominium ownership also includes all easements, rights and appurtenances belonging thereto, and all other property (real, personal or mixed) used or intended for use in connection with the Land or Building.

Section 2.2 **Filing**. Declarant shall, at its sole Cost and Expense and with reasonable promptness following the recording hereof, file this Declaration with the Department of State of the State of New York in accordance with Section 339-s of the Condominium Act and the rules, regulations or requirements of said Department of State.

ARTICLE 3

NAME OF CONDOMINIUM

Section 3.1 **Name**. The Condominium shall be known as 100 Vandam and shall not be changed or modified without the prior written consent or approval of Sponsor while Sponsor owns any Unsold Unit.

Section 3.2 **Use by Unit Owners and Others**. Declarant hereby reserves for itself as to any Unit owned by Declarant and grants to each Owner of a Unit (including an Unsold Unit and a Sold Unit) and to those tenants and occupants of each such Unit who are so expressly authorized in writing by its Owner (including the Declarant or an Unsold Unit Owner), the right, Freely and Without Consent, Payment or Restriction, to use the name of the Condominium in connection with the Use and Enjoyment of their respective Units.

ARTICLE 4

THE LAND

Section 4.1 **Location**. The Land is located in the Borough of Manhattan in the City, County and State of New York and is more particularly described in EXHIBIT A annexed hereto and the volume of air space thereover.

Section 4.2 **Area**. The Land is owned by Declarant in fee simple absolute and the parcel comprising a portion of the Land has an area of approximately 6,434 square feet.

ARTICLE 5

THE BUILDING

Section 5.1 **Location**. The Building is located on the Land, which lies in Section 2, Block 597, in Lot F/K/A Lot 7 and N/K/A Lots ____ to _____ on the Tax Map of the Real Property Assessment Department of the City, State and County of New York.

Section 5.2 **Building and Floors**. The Building contains a cellar, six (6) above-grade floors, a main Roof and two (2) bulkheads (one bulkhead enclosing a public stair and one bulkhead enclosing elevator equipment). The floors above the cellar are numbered ground (lobby) and 1 to 5. The Building contains a main entrance for the Office Units at 100 Vandam Street and two entrances for the Commercial Unit, whose primary entrance is from Greenwich Street and its secondary entrance is from Vandam Street.

Section 5.3 **Units and Common Elements**. Initially, the Building contains a total of seven (7) condominium Units and most of the Common Elements. Those Common Elements not in or on the Building include the parcel comprising a portion of the Land described in EXHIBIT A hereto. The portions of the air space comprising the Land that are occupied by Common Elements or the Units are included in and part of the Common Elements or Units, respectively. The portions of the Land comprising all of the unused development rights of the Property associated with it unused floor area or unimproved air space ("**Unused Development Rights**"), whether now existing or hereafter available, shall be owned exclusively by Sponsor and shall be part of any Unit owned by Sponsor from time to time, but only while such Unit is owned by Sponsor, and shall continue to be owned exclusively by Sponsor after it no longer owns any Unit.

Section 5.4 **Construction Materials**. The Building is classified as Class 3, non-fireproof. The principal construction materials of the Building are as follows. The foundation walls are made of brick. The Building has load bearing brick peripheral walls with cast iron columns on the lower floors and wood columns, with metal reinforcements, on floors 4 and 5. Floors 1 and 2 are supported by masonry/steel arches. The floors above have wood joists. Metal stars are located on the facades of the Building. The cellar ceiling contains steel framing and metal decking. The windows have brick lintels. The lintels above the cellar windows have metal. An approximate three story high brick smokestack is located on the Roof. There is also a brick chimney with a metal cap and tapered metal flue. Windows are double pane, insulated glass set in wood frames, with metal grills in front of the cellar windows. The parapets are made of brick and the copings are made of concrete. The main entrance at 100 Vandam Street consists of a pair of metal and glass, out-swinging doors. The entry alcove is clad in steel. The Roof consists of a three layer, built-up asphalt/bitumen strip roofing with rigid insulation. Flashing consists of asphalt roofing rolling up to the parapets. There are four acrylic skylights serving, and part of, Office Unit 500, and one acrylic skylight serving the public stair bulkhead. The two bulkhead are made of stucco with metal deck ceilings and metal edging on their roofs. The two public stairs are steel pan with concrete poured treads, steel stringers and risers, and metal railings. The public stairs have metal frames and doors.

ARTICLE 6

THE UNITS

Section 6.1 **Unit Designations**. The seven (7) Units are designated as follows: five (5) Units are designated as Office Units, one (1) Unit is designated as Commercial Unit and one (1) Unit is designated as Roof Terrace Unit.

Section 6.2 **Location**. The Office Units are located on portions of floors 1 through 5. The Commercial Unit is located on portions of the cellar, with its primary entrance from Greenwich Street and a secondary entrance from Vandam Street. The Roof Terrace Unit is to be installed on a specified portion of the main Roof of the Building reserved for such purpose.

Section 6.3 **Unit Information**. EXHIBIT B annexed hereto sets forth the following data with respect to each Unit necessary for its proper identification: (a) its Unit designation; (b) its tax lot number; (c) its approximate location in the Building; (d) its approximate floor area; (e) its approximate height; (f) the portions of the Common Elements to which the Unit has immediate access; and (g) its appurtenant Common Interest.

Section 6.4 **Floor Plans and Diagrams**. A more precise location of each Unit within the Building is shown on the Floor Plans of the Condominium. The Diagrams of Units and Common Elements (EXHIBIT F hereto) also show the location of Units on each floor.

Section 6.5 **Borders**. The indoor area of each Office and Commercial Unit consists of the area bordered horizontally by the Building's facade or exterior walls ("**Building Walls**") or the interior boundary walls separating a Unit from a portion of the Common Elements ("**Party Walls**"), and vertically by the wood joists, metal decking or other construction material that encloses the Unit (hereafter, "**Base Floors**" and "**Base Ceilings**", respectively). The Roof Terrace Unit is bordered horizontally by Building Walls, a public stair bulkhead and certain areas or rooms housing Common Elements. The term "Building Walls" also includes all heads, jambs and exterior sills, as well as all furring, insulation, studs and gypsum wallboard (other than the finishing on the Unit side thereof), but excludes Unit windows (which are part of each Unit) and the street entrances of the Commercial Unit (which are part of the Commercial Unit). The term "Base Floors" excludes any subflooring, wood flooring, tiles, carpeting or other flooring material thereover within a Unit, which are part of the Unit. The term "Base Ceilings" includes any gypsum wallboard or other construction material thereon, but excludes any paint, plaster or other finishing surface or material thereon, which are part of the Unit. The Building Walls, Party Walls, Base Floors and Base Ceilings enclosing a Unit are part of the Common Elements and not part of the Unit.

Section 6.6 **Floor Area**. The approximate floor area of each Office, Commercial and Roof Terrace Unit has been measured from the exterior side of the Building Walls at the Building line (but not beyond the Property line) enclosing the Unit or from the public area side or public stair side of a Party Wall separating the Unit from a public area or public stair, respectively, or from the unexposed mechanical space side of an interior Party Wall separating the Unit from an elevator shaft or any other Common Elements. Generally, the floor area of each Unit is measured from the exterior side of all boundary walls enclosing the Unit.

Section 6.7 **Included Areas**. The floor area occupied by any Common Elements within a Unit (such as Building Walls, vents, chase walls or areas, conduits, shafts, pipes and any Structural Components) have been included in the computation of the floor area of the Unit, which is one of the factors used to determine the Common Interest appurtenant to such Unit, but such Common Elements are not part of the Unit.

Section 6.8 **Height**. Measured vertically, each Office and Commercial Unit consists of the volume from the top of the Base Floor (located under the finished flooring and sub-flooring materials, if any) to the underside of the Base Ceiling above (located above the gypsum wallboard, paint, plaster or other finished ceiling material).

Section 6.9 **Items Included in Unit**. The following items are part of, and for the exclusive use of, each Office and Commercial Unit or (where applicable or indicated) only an Office or Commercial Unit and the property of the Unit Owner, whether existing at the date of recording this Declaration or the date of conveyance of the Unit by Declarant (and replacements thereof), regardless of their location in the Unit or elsewhere on, under or adjacent to the Building:

(a) Entrance and Interior Doors: all entrance and interior doors (including their frames, hinges, levers, pulls, knobs, locks and saddles; and the two street entrances and their entrance doors to the Commercial Unit (including the steps leading to the Commercial Unit), which are part of such Unit;

(b) Partitions: all interior partitions;

(c) Windows: all windows (including frames, muntins, panes, glass, latches and mechanisms) and interior sills;

(d) Window Treatments: all window blinds, shades and treatments;

(e) Appliances and Fixtures: all kitchen and bathroom appliances and fixtures;

(f) Plumbing, Lighting and Other Fixtures: all plumbing, lighting, trade and business fixtures;

(g) Cabinets and Countertops: all cabinets and countertops;

(h) Finishes: all finishes and coverings on the interior side of the Unit's boundary walls (e.g., plaster, paint, tiles, fabric, wood paneling, baseboards and moldings), Base Floors (e.g., wood flooring, tiles and carpeting) and Base Ceilings (e.g., plaster and paint), and any dropped ceilings (including soffits, coves, shelves or the like);

(i) Individual Systems: all individual plumbing, electric, gas, heating, ventilating, air-conditioning, hot water, telephone, cable, television, intercom, lighting, sprinkler and other individual mechanical Systems (e.g., individual radiators, air-conditioning units, exhaust fans and related Installations) and the portions of any Building-wide Systems that serve exclusively the Unit, whether exposed to view or concealed behind walls or partitions (including: ducts, pipes; electrical wiring, conduits, outlets, switches, circuit

breakers, meters and submeters; sprinkler heads, distribution pipes and related sprinkler Installations; jacks; and ventilation fans);

(j) General: all other Equipment Facilities and Installations that now exist or are hereafter installed for the exclusive use, service or benefit of a Unit are included in, and part of, the Unit, unless expressly stated herein to be part of the Common Elements, including: (j-1) Decorations of any kind whatsoever (including furniture, furnishings and office equipment); and (j-2) business and trade fixtures;

(k) Land: the portions of the air space comprising the Land occupied by each Unit are part of, and included in, such Unit; and

(l) Unused Development Rights: all portions of the Land comprising the Unused Development Rights of the Property are owned exclusively by Sponsor and shall be included in, and part of, any Unit owned by Sponsor from time to time, but only while such Unit is owned by Sponsor, and all Unused Development Rights of the Property shall continue to be owned exclusively by Sponsor after it no longer owns any Unit.

Roof Terrace Unit. The Roof Terrace Unit currently consists of unimproved Roof space. The Owner of the Roof Terrace Unit (including Sponsor or a Purchaser of the Roof Terrace Unit under the Plan) shall be responsible, at such Owner's sole Cost and Expense, to construct and install decking, pavers or other protective flooring, supporting pedestals and safety railings in order to use the portion of the main Roof designated for use as the Roof Terrace Unit. The installation of the Roof Terrace Unit by such Purchaser shall be subject to obtaining the prior written Reasonable Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of a new or amended Certificate of Occupancy changing the caretaker's apartment in Office Unit 500 for use as an office and authorizing the Commercial Unit for permitted retail and office uses) Sponsor. The Board may condition its approval or consent on the Owner of the Sold Roof Terrace Unit entering into the Building's standard form alteration agreement, with such modifications as may be required by, and otherwise in substance satisfactory to, the Condominium Board (in its sole and absolute judgment), setting forth the terms and conditions of the installation (including the Board's work rules, insurance requirements, lien waiver, security deposit and an indemnity in favor of the Board, all Unit Owners and Related Parties from and against all Claims and Liabilities and Expenses arising out of such Work). The foregoing requirements are applicable only to a Purchaser or other Owner of the Sold Roof Terrace Unit, but shall not apply to Sponsor while it owns the Roof Terrace Unit. Sponsor, as Owner of the Roof Terrace Unit, reserves the right, Freely and Without Consent, Payment or Restriction, to install the Roof Terrace Unit, i.e., without the approval or consent of the Condominium Board or other Unit Owners, without entering into an alteration agreement with the Board and without compliance with any requirements or restrictions, other than the requirement to comply with the applicable Work Requirements contained in Section 15.2 below.

Office Unit 500 Skylights. The area of the Roof to be occupied the Roof Terrace Unit contains skylights, which are part of the Roof Terrace Unit and provide light to Office Unit 500 under a revocable license. The Roof Terrace Unit Owner shall have the right at any time, Freely and Without Consent, Payment or Restriction (except as otherwise expressly provided in

Section 11.15.2 below), to revoke said license and, at its sole Cost and Expense, to remove, seal and deck over said skylights with roofing material (see Section 11.15 below for full discussion).

Office Units 400 and 500 Equipment. The air-conditioning Equipment and related Installations serving, and part of, each of Office Units 400 and 500 are located on portions of the area of the main Roof reserved for installation of the Roof Terrace Unit. The existence of said air-conditioning Equipment and related Installations in their current locations are permitted under a revocable license from the Roof Terrace Unit Owner. The Owner of the Roof Terrace Unit shall have the right, at its sole Cost and Expense, at any time and from time to time, Freely and Without Consent, Payment or Restriction (except as otherwise expressly provided in Section 11.15.3 below), to remove and relocate said air-conditioning Equipment and related Installations and supporting dunnage to another area of the Roof Terrace Unit or the common area of the Roof chosen by the Roof Terrace Unit Owner (see Section 11.15 below for full discussion).

Section 6.10 **Unit Equipment**. The Equipment, Facilities and Installations (wherever located) that serve or benefit exclusively a Unit (collectively, "**Unit Equipment**") and do not serve or benefit any other Unit or the Common Elements, are part of such Unit and include the components of all Systems internal to such Unit and the portions of all Building-wide Systems that serve exclusively such Unit.

Section 6.11 **INTENTIONALLY OMITTED**.

Section 6.12 **Attachment to Perimeters**. All Equipment Facilities and Installations now or hereafter installed in a Unit may be secured to the perimeter Party Walls, Base Floors and Base Ceilings enclosing such Unit by nails, screws, bolts or other devices, provided: (a) the structural integrity of the Unit or another Unit or the Building is not impaired or compromised; (b) any visible, rentable or commercially useable or habitable space of another Unit is not penetrated; and (c) the applicable Work Requirements set forth in Section 15.2 below and the requirements of the By-Laws are followed (if and to the extent applicable).

ARTICLE 7

THE COMMON ELEMENTS AND ASSOCIATION'S PROPERTIES

Section 7.1 **Common Elements**. The portions of the Property for the common use, service or benefit of two (2) or more Units are called the "**Common Elements**" and generally consist of the following: (a) the portions of the Land occupied by the Common Elements are part of the Common Elements; and (b) all spaces or areas of the Property, and the Equipment, Facilities and Installations in, on, above, under or adjacent thereto, which serve or benefit two (2) or more Units or the Common Elements or necessary or convenient to their existence, Maintenance and safety, or normally in common use, unless expressly stated to be part of a Unit. The Unit Owners own, in common, a proportionate undivided interest in the Common Elements in fee simple absolute ("**Common Interest**").

A Common Element that (if established) will be limited or restricted completely or primarily for the exclusive or substantially exclusive use, service and/or benefit by a specified Unit is herein called a "**Limited Common Element**".

However, the common use of the Common Elements are subject and subordinate to: (a) compliance with this Declaration and the By-Laws, (b) the exclusive right of the Condominium Board, subject and subordinate to the Sponsor's Rights, to determine the use and Disposition of the Common Elements, including to establish new and additional Rules and Regulations and to amend the Rules and Regulations from time to time governing the use and Disposition of the Common Elements by the Owners and Permitted Tenants/Occupants/Invitees of Sold Units, but not governing the use and Disposition thereof by the Owners and Permitted Tenants/Occupants/Invitees of Unsold Units (the initial Rules and Regulations are attached to, and part of, the By-Laws); (c) certain restrictions, as well as certain rights and easements reserved to Sponsor and granted to the Condominium Board, Unsold Unit Owners and the Commercial Unit Owner, and their respective Permitted Tenants/Occupants/Invitees, and other Persons, all as and to the extent set forth elsewhere in this Declaration, the By-Laws, the Plan and the Condominium Act; and (d) the restriction against using the Unused Development Rights of the Property without obtaining the prior written Discretionary Approval or Consent of Sponsor in each instance. These rights and easements in favor of Sponsor and the Commercial Unit Owner include in particular (but are not limited to) the following:

(a) a right and easement in favor of Sponsor to use non-public portions of the Common Elements (including the rooms in the cellar, chase walls, shafts, conduits, ducts, the elevator and stair bulkheads on the main Roof and its appurtenant Roof Structures, and the public stairs) for the following purposes: (a-1) to house Unit Equipment and related Facilities Installations of an Unsold Unit now or hereafter serving such Unit wherever located, including all replacements of existing Unit Equipment and Installations and additions thereto; and (a-2) to erect and install new Equipment (including Communications Equipment and Other Installations), all as provided more fully in Articles 10 and 11 below;

(b) a right and easement in favor of Sponsor of access to, from, through, across and on portions of the Common Elements (including the 100 Vandam Street Public Areas, the elevator, the public corridors, the cellar meter and equipment rooms, the public stairs, the Roof and other public or common areas) and the Commercial Unit in order to Maintain, Repair, Alter and otherwise Operate said Unsold Unit Equipment, Facilities and Installations (and all such replacements thereof and additions thereto); and

(c) a right and easement in favor of the Commercial Unit Owner to install, affix, hang, erect, Maintain, Repair, Alter and Operate, from time to time, all manner of Signs on the Commercial Signage Easement Area (which consists of the portion of the Building Walls that are parallel to the boundary walls of the Commercial Unit on Greenwich Street and extend from the sidewalk immediately adjacent to the entire frontage of the Commercial Unit on Greenwich Street to a horizontal lane running on, along and immediately below the exterior window sills or (if none) windows of floor 1 (i.e., the construction floor above the ground floor) on Greenwich Street, and on or immediately adjacent to the Greenwich Street and Vandam Street entrances to the Commercial Unit).

The Sponsor and the Commercial Unit Owner may exercise all of the foregoing rights and easements Freely and Without Consent, Payment or Restriction, other than the requirement to comply with the Installation Requirements set forth in Section 10.4 below and the applicable Work Requirements set forth in Section 15.2 below.

Section 7.2 **Items of Common Elements**. Subject and subordinate to a Description Change of Units (as provided in Section 13.1 below), the Common Elements consist of all portions of the Property designated on the Floor Plans and EXHIBIT F to this Declaration as Common Elements and include the following areas, Equipment, Facilities, Installations and Systems now existing or hereafter installed (including replacements thereof), whether or not so designated on the Floor Plans or said EXHIBIT F and regardless of their location in, bordering or adjacent to a Unit:

(a) Land: the Common Elements include the parcel comprising the Land and the air space thereover occupied by the Common Elements, but exclude the air space thereover occupied by Units, which are part of each Unit, and exclude further all Unused Development Rights of the Property, which are owned exclusively by Sponsor;

(b) All Structural Components: the Common Elements include all Structural Components of the Building, including the following (if and to the extent existing): (b-1) foundation walls and structural columns; and (b-2) all Base Floors, Base Ceilings, Building Walls, Roofs and Roof Structures, including the main Roof and the bulkheads enclosing the public stair and elevator equipment; and

(c) On the Cellar Level: the Common Elements include: (c-1) the license or right to use the two (2) Vaults and the equipment housed therein which serve or benefit two (2) or more Units or the Common Elements; (c-2) the mechanical room; (c-3) the electrical room; (c-4) the boiler room; (c-5) the storage room; (c-6) the telephone closet; (c-7) public stairs 1 and 2; (c-8) the elevator shaft and pit; and (c-9) the obsolete flue (i.e., the smoke stack);

(d) On the Ground Floor: the Common Elements include: (d-1) the Vandam Street public entrance, vestibule and lobby (collectively, the "**100 Vandam Street Public Areas**"); (d-2) the passenger elevator shaft; (d-3) public stairs 1 and 2; and (d-4) the obsolete flue;

(e) On Floors 1 through 5: the Common Elements include: (e-1) the passenger elevator shaft; (e-2) public stairs 1 and 2; and (e-3) the obsolete flue;

(f) On the Main Roof: the Common Elements include: (f-1) the main Roof (excluding the skylights of Unit 500 (which are part of the Roof Terrace Unit) and its Roof Structures; (f-2) the elevator mechanical room and its bulkhead, but exclude each air-conditioning condenser unit serving exclusively a Unit, which is part of such Unit; (f-3) the public stair 2 and its bulkhead; and (f-4) the obsolete flue;

(g) Equipment, Facilities, Installations and Systems: the Common Elements include, generally, the elevator and HVAC/Mechanical/Utility Building Systems, and the portions of all Building-wide Equipment, Facilities, Installations and Systems serving exclusively or primarily the Common Elements or two (2) or more Units, regardless of their location within or bordering a Unit or elsewhere in, on, under or adjacent the Building, but excludes those portions of these items that serve exclusively one (1) Unit (which are part of such Unit);

(h) Walls, Floors and Ceilings: the Common Elements include: (h-1) the walls enclosing or within the rooms or areas comprising the Common Elements, and (h-2) the Base Floors and Base Ceilings enclosing a Unit or the Common Elements;

(i) Shafts, Ducts, Conduits and Chases: the Common Elements include (if and to the extent applicable) those shafts, ducts, conduits and chases that house Equipment or Installations comprising or serving the Common Elements or two (2) or more Units;

(j) Decorations and Systems: generally, the Common Elements include all Decorations and Systems or portions of Systems (including HVAC/Mechanical/Utility Building Systems), wherever located, if and to the extent same serve exclusively or primarily the rooms, areas, spaces and Equipment comprising the Common Elements or two (2) or more Units; and

(k) Omnibus: overall, the Common Elements include all portions of the Building and its Systems in, under, above or adjacent to the Building or the Land (other than those portions expressly stated to be part of a Unit) that are either: (k-1) for the common use, service or benefit of two (2) ore more Units; or (k-2) necessary or convenient for the Use and Enjoyment of the Property as a whole, and are not expressly stated to be part of a Unit.

Section 7.3 **INTENTIONALLY OMITTED.**

Section 7.4 **Association's Properties.** All assets owned, leased, licensed or otherwise held from time to time by the Condominium Board on behalf of the Condominium Association, whether real or personal property, chattel real, intangibles or otherwise, constitute, and are herein called, the **"Association's Properties"**. The Association's Properties include any Unit purchased or leased pursuant to the Board's "Right of First Refusal", the monies collected from payments of the Common Charges and payments to the Working Capital Fund, and any interest or investment income earned on all such monies. All assets comprising the Association's Properties will be owned, leased or held by the Condominium Board on behalf and for the account of all Unit Owners. All references herein to the Condominium Board shall include any nominee or designee, incorporated or otherwise, organized by the Board to act on behalf of the Condominium Association. Unless otherwise expressly indicated, the references in this Declaration and the By-Laws to the rights, requirements and obligations with respect to any Disposition of the Common Elements shall apply to the Association's Properties.

Section 7.5 **No Partition.** The Common Elements and the Association's Properties 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 19 hereof.

Section 7.6 **Decision as to the Common Elements and the Association's Properties.** Subject and subordinate to the rights and easements reserved to Sponsor and granted to Unsold Unit Owners, the Commercial Unit Owner, the Roof Terrace Unit Owner and other Persons in the Condominium Documents, the Plan and the Condominium Act (which are superior and paramount over those granted to the Condominium Board and Sold Unit Owners), all decisions concerning the Use and Enjoyment of the Common Elements and the Association's

Properties shall be made by a majority of those Board Members attending a duly constituted Board meeting at which a quorum is present. Any dispute under this Section 7.6 shall be resolved by arbitration in accordance with the By-Laws.

Section 7.7 **INTENTIONALLY OMITTED.**

Section 7.7A **INTENTIONALLY OMITTED.**

Section 7.8 **Business Judgment Rule**. The decisions and transactions of the Condominium Board or the Sponsor Board Member(s) (as to the decisions and transactions authorized in the Condominium Documents to be made or transacted by the Sponsor Board Member(s) on behalf or in the name of the Condominium Board) shall have the equivalent status of the decisions and transactions of a cooperative housing corporation as to which the so-called "business judgment rule" articulated in Levandusky v. One Fifth Ave Corp. (75 NY2d 530 [1990]) ("**Levandusky**") shall apply, except said "business judgment rule" shall not apply to any decisions or transactions affecting, directly or indirectly, the Sponsor or other Owner of an Unsold Unit, the Commercial Unit Owner (with respect to the Commercial Signage Easement Area), the Sponsor's Rights or an Unsold Unit. Instead, the decisions and transactions of the Condominium Board that affect, directly or indirectly, the Sponsor or other Owner of an Unsold Unit, the Commercial Unit Owner (with respect to the Commercial Signage Easement Area), the Sponsor's Rights or an Unsold Unit shall be subject to scrutiny and determined solely on the merits by a court, arbitration panel or other forum having jurisdiction, without any deference, weight or favorable assumption being given to the Condominium Board or the Office Board Members (as applicable).

Section 7.9 **Declaration Governs**. In the event of any conflict between the description of the Common Elements set forth above and the Floor Plans or EXHIBIT F hereto, the description set forth in this Declaration shall be paramount, govern and prevail, except the Floor Plans and said Exhibit F shall be paramount, govern and prevail with respect to any Common Elements shown thereon and omitted from the description set forth herein.

Section 7.10 **Vaults**. The licenses or rights granted by The City of New York to use the Vaults adjacent to the Property are included in or part of the Common Elements and are to be used by the Condominium Board for the service and benefit of all Unit Owners.

ARTICLE 8

THE COMMON INTERESTS

Section 8.1 **Statutory Method Chosen**. The Common Interest of each Unit is based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit, in accordance with 39-i(1)(iv) of the Condominium Act.

Section 8.2 **Common Interests**. The Common Interest of each Unit is set forth on EXHIBIT B hereto and constitutes the proportionate undivided interest of the Owner of such Unit in the Common Elements and the Association's Properties. The Common Interest

appurtenant to each Unit cannot be separated from the Unit. Accordingly, the conveyance, mortgage or similar Disposition of the fee title interest in a Unit shall include and (in the absence thereof) shall be deemed to include, the Unit's Common Interest.

ARTICLE 9

THE COMMON PROFITS AND COMMON EXPENSES

Section 9.1 **Special Allocation and Apportionment**.

Section 9.1.1 Definitions. The "**Common Profits**" are the excess of: (a) all receipts of rents, profits and revenues from the Common Elements and the Association's Properties; over (b) the Common Expenses. The "**Common Expenses**" are the Costs and Expenses: (a) to Operate and make any Disposition of the Common Elements and the Association's Properties (including any Unit owned, leased, held or Operated by the Condominium Board or its designee or nominee); (b) to provide services to Unit Owners; and (c) to conduct the affairs of the Condominium Association.

Section 9.1.2 Special Allocation and Apportionment Rule. The Common Expenses generally shall be allocated, apportioned and assessed to all Units Pro Rata to their respective Common Interests. However, the amount of a projected Condominium Association expense item that is fairly and properly attributable to a Unit due to its "Usage" (defined below) shall be specially allocated, apportioned and assessed to such Unit in accordance with Section 339-m of the Condominium Act ("**Section 339-m**"), this Declaration and the By-Laws (herein called the "**Special Allocation and Apportionment Rule**"). The special use of a Unit or the special use of the Common Elements by a Unit is herein called "**Usage**". For example, an increase in the Building's insurance premium due solely to a more hazardous use of a Unit, or an extraordinary consumption of utilities or extraordinary costs of services provided to a Unit, will be specially allocated and assessed to only such Unit.

All projected Common Expenses in the First Year's Budget (SCHEDULE B in Section E of Part I of the Plan) have been charged to all Units Pro Rata to their respective Common Interests, other than electricity, which is separately metered for all Office Units, but not the Commercial Unit. Until the Commercial Unit is separately metered or submetered for electricity, the estimated cost of electricity provided to the Commercial Unit shall be specially allocated and assessed to the Commercial Unit based on an electrical consumption survey prepared by a qualified licensed consulting or electrical engineer chosen by the Condominium Board and the applicable utility rates paid by the Board, including sales tax, in accordance with the Special Allocation and Apportionment Rule and Section 339-m.

For the first year of Condominium operation, the projection of electricity consumption by the Commercial Unit prepared by Mottola Rini Engineers P.C. (see SCHEDULE B-1 in Section E of Part I of the Plan) shall be followed. The Commercial Unit Owner shall have the right, at any time, at its sole Cost and Expense, to separately meter or submeter the consumption of electricity by the Commercial Unit. If submetered, from and after the date the submeter is operational, the Board shall bill the Commercial Unit for the cost of electricity consumed by the Commercial Unit as measured by said submeter and the applicable utility rates and sales tax paid by the Board. In the event the Commercial Unit is separately metered, the Commercial Unit shall no

longer be billed for its electricity consumption from and after the date its individual meter becomes operational.

In addition, the First Year's Budget assumes that the use of the Commercial Unit will not increase the projected insurance premiums for the Property. If the actual use of the Commercial Unit increases the cost of insurance for the Property, the Condominium Board shall specially allocate and assess the amount of such increase to the Commercial Unit in accordance with the Special Allocation and Apportionment Rule.

The Roof Terrace Unit will pay its share of all Common Expenses Pro Rata to its Common Interest. Since the Roof Terrace Unit does not use any HVAC/Mechanical/Utility Building Systems or any other Building services, the Common Interest of the Roof Terrace Unit reflects its lack of Usage of the Common Elements in accordance with Section 339-i(1)(iv) of the Condominium Act.

Any dispute with respect to the application of the Special Allocation Rule shall be resolved by arbitration pursuant to Article 19 of the By-Laws.

Section 9.1.3 Real Estate Taxes: Until the Units are separately assessed and billed for real estate taxes, the real estate taxes assessed to the Property shall be included in the Common Expenses and allocated and assessed to all Units Pro Rata to their respective Common Interests), which is in accordance with the projected apportionment of real estate taxes as estimated by Lawrence J. Berger, P.C. in its opinion letter (see Section S, subsection S-8 of Part I of the Plan). The amounts so allocated and assessed to the respective Units shall be subject to adjustment for any overpayment or underpayment of real estate taxes as provided in "Section S. Real Estate Taxes" of Part I of the Plan (see also Section 9.12 below and subsection 9.1.7 of the By-Laws).

Section 9.1.4 INTENTIONALLY OMITTED.

Section 9.1.4A INTENTIONALLY OMITTED.

Section 9.1.5 Common Charges; and Additional Common Charges.

Common Charges: Each Unit Owner shall be charged monthly (or in such other periodic payments as the Board may determine), and shall be personally liable for, the Owner's proportionate share of the Condominium's expenses (the amounts charged are called "**Common Charges**") in accordance with the New York Condominium Act, Real Property Law ("**RPL**") Sections 339-i and 339-m.

Additional Common Charges: Each Unit Owner also shall be charged, and shall be personally liable for, amounts assessed by the Condominium Board for certain Condominium expenses and individual delinquencies (these amounts are called "**Additional Common Charges**"). The Additional Common Charges are payable in addition to the monthly Common Charges and consist of assessments ("**Special Assessments**") payable in one or more installments at such time or times as the Condominium Board shall determine to pay certain Common Expenses. The Additional Common Charges also include the amounts levied against a particular Unit Owner in connection with: (a) a default in paying the Common Charges, Special Assessments or other sums authorized under the Declaration or By-Laws (including the Rules and Regulations); or

(b) a default, breach or violation of any obligation, requirement or other provision of said Condominium Documents. In the event of non-payment of Additional Common Charges, the Condominium Board shall have all of the same rights and remedies as are available hereunder and under the By-Laws and the Condominium Act for non-payment of Common Charges, including the lien provided in RPL §339-z and the remedies provided in RPL §339-aa.

Section 9.1.6 Apportioning Common Expenses. All references in this Article 9 or elsewhere in this Declaration and the By-Laws to allocating or apportioning and assessing Common Expenses to all Units Pro Rata to their respective Common Interests (or words of similar import) shall mean in the ratio that the Common Interest appurtenant to each Unit bears to the total 100% Common Interests appurtenant to all Units.

Section 9.2 Budget of Condominium Operation. The Budget of Condominium Operation for each Budget Year shall consist of the projected Common Expenses (the Budget items relating thereto are hereafter called the "**Budget of Condominium Operation**").

Section 9.3 Budget Requirement. In so allocating and apportioning the Common Profits and Common Expenses and adopting a Budget of Condominium Operation each Budget Year, the principles, rules, requirements and procedures set forth in this Article 9, Section E of Part I of the Plan and the First Year's Budget of Condominium Operation (SCHEDULE B) contained therein shall govern, apply and strictly be observed.

Section 9.4 Budget Adoption Procedure. Before the start of each Budget Year, the Condominium Board shall prepare, adopt and distribute to all Unit Owners a Budget of Condominium Operation in accordance with the following procedure and requirements:

(a) any Board Member may propose a Budget of Condominium Operation for the next ensuing Budget Year by giving to all Board Members;

(b) all determinations with respect to the projected Common Expenses and their allocation and apportionment to all or certain Unit Owners for a Budget Year, and the adoption of such Budget, shall be made by majority of those Board Members attending a duly constituted Board meeting at which a quorum is present, but subject to strict compliance with the Special Allocation and Apportionment Rule;

(c) if a Budget of Condominium Operation is not timely adopted before the start of a Budget Year, the last duly adopted Budget shall remain in effect;

(d) any failure to agree or dispute (collectively, "**dispute**") as to the adoption of a proposed Budget of Condominium Operation shall be resolved by arbitration pursuant to the By-Laws;

(e) pending the final (non-appealable) resolution of the dispute, the last duly adopted Budget of Condominium Operation shall remain in effect; however, if the final resolution upholds an increase in Common Charges, then such increase shall be retroactive to the date it would have commenced had there been no dispute;

(f) a Unit Owner may elect to pay all or part of a disputed proposed increase in Common Charges, without prejudice to the right of such Unit Owner to contest (by arbitration) the proposed Budget;

(g) each Unit Owner shall be given a copy of the Budget of Condominium Operation adopted by the Board at least ten (10) calendar days before the start of the Budget Year to which it pertains (however, failure to timely receive such Budget shall not excuse a Unit Owner from the obligation to timely pay the full amount of Common Charges set forth in such Budget);

(h) the foregoing procedure and requirements shall apply to adopt a revision to a previously adopted Budget, except that any increase in Common Charges in such revised Budget shall not be applied retroactively and shall not be made for an expired Budget Year (however, this shall not prohibit an increase in Common Charges or a Special Assessment to pay a deficit for a prior period); and

(i) all approvals, decisions and actions (including approval of a proposed Budget or a proposed revised Budget and instituting or defending an arbitration of a dispute or an appeal) may be made and taken by Sponsor (while it owns any Unsold Unit) in place of the Sponsor Board Member(s).

Section 9.5 **Allocation or Apportionment Change**. In the event of a change in the allocation ("**Allocation Change**") or in the apportionment ("**Apportionment Change**") in the projected Common Expenses for a Budget Year resulting from a new or different use, service or benefit (other than an inconsequential or negligible change), the affected item(s) of projected Common Expense(s) shall be appropriately allocated or apportioned to the applicable Unit or Units to reflect such change in use, service or benefit that is fairly and properly attributable to such Unit or Units.

Section 9.6 **Increase or Decrease in Common Charges**. To increase or decrease the Common Charges of a Unit ("**Affected Unit**") based on an Allocation Change or an Apportionment Change (hereinafter collectively, "**Allocation/Apportionment Change**"), the following procedure and requirements shall apply:

(a) any Board Member may propose an Allocation/Apportionment Change in the projected Common Expenses for a Budget Year;

(b) the Party who is proposing the Allocation/Apportionment Change ("**Proponent**") shall give to all Board Members and the Owner of the Affected Unit a written opinion ("**Expert Opinion**") of a qualified expert selected and paid for by the Proponent setting forth: (b-1) a detailed explanation justifying the Allocation/Apportionment Change; (b-2) an express statement that, in the opinion of the expert, the proposed amount of increase or decrease (as applicable) in Common Charges of the Affected Unit reflects the amount of the Allocation/Apportionment Change that is fairly and properly attributable to the Affected Unit, together with a reasonably detailed explanation justifying such opinion; and (b-3) a statement of the qualifications of the expert;

(c) the Owner of the Affected Unit shall be given fifteen (15) business days after being given said Expert Opinion to rebut the Allocation/Apportionment Change, including a written Expert Opinion of a qualified expert selected and paid for by said Affected Unit Owner;

(d) the majority of those Board Members attending a duly constituted Board meeting at which a quorum is present is necessary to increase or decrease (as applicable) the Common Charges of the Affected Unit based on an Allocation/Apportionment Change, but subject to strict compliance with the Special Allocation and Apportionment Rule;

(e) any dispute as to such proposed increase or decrease (as applicable) shall be resolved by arbitration pursuant to the By-Laws;

(f) pending the final (non-appealable) resolution of the dispute, the last duly adopted Budget of Condominium Operation shall remain in effect and the proposed increase or decrease (as applicable) in Common Charges shall be suspended; however, if the final resolution upholds the increase or decrease (as applicable) in Common Charges, then such increase or decrease (as applicable) shall be retroactive to the date it would have commenced had there been no dispute;

(g) the Owner of the Affected Unit may elect to pay all or part of a disputed proposed increase in Common Charges without prejudice to the right of such Owner(s) to contest (by arbitration) the proposed Allocation/Apportionment Change;

(h) before a proposed increase is implemented, the Owner of the Affected Unit shall receive not less than ten (10) calendar days prior written notice from the Board or an officer of the Board of the amount and implementation date of such increase;

(i) an increase or decrease in Common Charges of the Affected Unit based on an Allocation/Apportionment Change: (i-1) shall not be made more often than once each Budget Year; (i-2) shall not be applied retroactively; and (i-3) shall not be made for an expired Budget Year;

(j) all approvals, decisions and actions (including approval of a proposed increase or decrease in Common Charges based on an Allocation/Apportionment Change and instituting or defending an arbitration of a dispute or an appeal) may be made and taken by Sponsor in lieu of the Sponsor Board Member; and

(k) if the Condominium Board adopts the position of the Proponent, then the Board, as a Common Expense charged to all Unit Owners Pro Rata to their respective Common Interests, shall reimburse the Proponent for the costs paid for said Expert Opinion.

Section 9.7 **Budget Reserves**. The Budget of Condominium Operation may include a reserve for unanticipated Common Expenses or an allowance for an increase in one or more items of Common Expenses or from potential new or additional Common Expenses, or other contingencies (collectively, "**Contingency Reserve**"), but the Contingency Reserve in any Budget Year, when added to all amounts unspent in a Contingency Reserve with respect thereto for one or more prior Budget Years (excluding funds, if any, held in a separate segregated bank or investment account for application exclusively to make capital or major Repairs or Alterations), shall not exceed five percent (5%) of the projected annual Common Expenses for

such Budget Year without obtaining the prior written Discretionary Approval or Consent of Sponsor (during only the Sponsor Veto Control Period). Sponsor (as Owner of an Unsold Unit), however, will give its consent if the proposed Contingency Reserve, when added to all other budgeted Common Expenses, will not increase the Common Charges, inclusive of any Special Assessments of the Condominium Board, for such Budget Year by more than five percent (5%) above the Common Charges for the immediately preceding Budget Year of the Condominium Association.

Section 9.8 **Budget Surplus and Reconciliation**.

Section 9.8.1 Budget Surplus. If, in any completed Budget Year, the Common Charges shall exceed the actual Common Expenses, the Condominium Board shall determine how to apply the surplus. The Condominium Board shall have the choice of applying the surplus to defray the projected Common Expenses of the next immediately succeeding Budget Year and/or distributing all or a portion of the surplus to all then existing Unit Owners and apportioning such distribution among them Pro Rata to the Common Charges assessed to the Unit Owners for said completed Budget Year, or any combination of the foregoing. Such determination shall be made by a majority of those Board Members attending a duly constituted Board meeting at which a quorum is present. In the event the Condominium Board fails to make such determination within four (4) months after the end of such Budget Year, the surplus shall be applied to defray the projected Common Expenses of the next immediately succeeding Budget Year.

Section 9.8.2 INTENTIONALLY OMITTED.

Section 9.9 **Prohibition**. The Condominium Board shall not charge an Owner or such Owner's Permitted Tenants/Occupants/Invitees any separate fee, rental, charge, imposition or payment of any kind (apart from regular Common Charges and Special Assessments, if any, levied on all Unit Owners for the mere Use and Enjoyment in common of the lobby, Base Floors and similar portions of the Common Elements; however, the foregoing shall not prohibit the Board from leasing or licensing portions of the Common Elements or from imposing and collecting charges for use of vending machines and the like.

Section 9.10 **Special Assessment**. The Condominium Board may levy a Special Assessment to pay the Common Expenses (if approved by a majority of those Board Members attending a duly constituted Board meeting at which a quorum is present) in accordance with Section 8.4 of the By-Laws, which is hereby incorporated herein with the same force and effect as though set forth at length herein.

Section 9.11 **Sponsor Veto Control**. During the period ending on the *earlier* of: (a) the date that the Common Interests appurtenant to the Unsold Office, Commercial and Roof Terrace Units constitute less than 25% of the aggregate Common Interests appurtenant to all Office, Commercial and Roof Terrace Units; or (b) the fifth (5th) anniversary of the First Unit Closing under the Plan ("**Sponsor Veto Control Period**"), Sponsor shall have veto control over the following decisions and actions of the Condominium Board and Unit Owners (as to any vote or action by them), and the Board and Unit Owners must obtain Sponsor's prior written Discretionary Consent to do any of the following:

(a) to raise Common Charges or levy a Special Assessment in order to do any of the following:

(a-1) to make an Alteration to the Common Elements or the Association's Properties (the latter include any Unit owned, leased or otherwise held or Operated by the Condominium Board or its nominee or designee);

(a-2) to create a fund for reserves for Repairs, Alterations, unanticipated expenses and/or contingencies (i.e., Contingency Reserve fund) in excess of five percent (5%) of the projected annual Common Expenses for any Budget Year of Condominium Operation;

(a-3) to increase, decrease, eliminate or otherwise change the number, type, classification or working hours of the Building's service staff from those set forth in the First Year's Budget (SCHEDULE B in Section E of Part I of the Plan);

(a-4) to increase, decrease, eliminate or otherwise change Building services by (for example) entering into contracts for new or additional services or maintenance work not included in said First Year's Budget, or failing to provide any service or maintenance contracts set forth in such First Year's Budget, or otherwise; or

(a-5) to increase, decrease, eliminate or otherwise change the amounts or types of insurance coverage from those provided in said First Year's Budget (i.e., SCHEDULE B in Section E of Part I of the Plan); or

(b) to borrow money on behalf of the Condominium.

Sponsor, however, will give its consent if the Costs and Expenses (as determined by Sponsor, in its sole and absolute judgment) of the proposed action requiring Sponsor's consent, when added to all other budgeted Common Expenses will not increase the Common Charges, inclusive of any Special Assessments, for any Budget Year of the Condominium Association, by more than five percent (5%) above the Common Charges for the immediately preceding Budget Year of the Condominium Association.

Sponsor may not, however, exercise veto control over expenses included in said First Year's Budget or over expenses required: (a) to comply with applicable Laws; (b) to remedy a governmental notice of a violation; or (c) to remedy a Work order of an insurer of the Building.

Only Sponsor may exercise Sponsor's veto control while Sponsor owns any Unsold Unit. If Sponsor no longer owns any Unsold Unit, each successor Unsold Unit Owner will have the same right of veto control as Sponsor. In the event there are two (2) or more such successor Unsold Unit Owners, the required consent of only those Owners of Unsold Office, Commercial and Roof Terrace Units constituting a majority of the Common Interests of all Unsold Office, Commercial and Roof Terrace Units will suffice. Nothing contained herein will extend the Sponsor Veto Control Period.

Section 9.12 **Real Estate Taxes**. Until such time as each Unit is separately assessed and billed for real estate taxes, the Condominium Board shall collect the real estate taxes payable

for the Property in the form of a Special Assessment levied on all Unit Owners payable in one (1) lump sum or periodic installments (at the option and discretion of the Condominium Board) for forwarding same to the appropriate taxing authority on behalf of the Unit Owners in accordance with Article 9, Section 9.1 of the By-Laws, which is hereby incorporated herein with the same force and effect as if set forth at length herein. In the event the Condominium Board fails to agree thereon within thirty (30) calendar days from the date of First Unit Closing under the Plan and at such time the Units are not separately assessed and billed for real estate taxes, such real estate taxes will be collected as a Special Assessment payable monthly in amounts sufficient to pay the next due installment of real estate taxes one (1) month prior to the date same is due and payable (before the imposition of interest for late payment). In lieu of the foregoing, Sponsor, as Owner of Unsold Units, may (at its option) timely deliver to the Board (on or prior to the morning of the date due before the imposition of interest or penalties for late payment) a check payable to the New York City Department of Finance (or other applicable taxing authority) in an amount equal to its Tax Share of Real Estate Taxes applicable to its Unsold Units, which check the Board shall remit to the taxing authority along with other payments by the Board of such Real Estate Taxes, as provided in Article 9, subsection 9.1.3 of the By-Laws.

The Condominium Board and each Unit Owner shall have the right, for sixty (60) calendar days only after the Units are separately assessed and billed for real estate taxes ("TIME BEING OF THE ESSENCE"), to adjust any overpayment or underpayment of real estate taxes included in the Common Charges so paid by such Unit Owner as part of the Common Charges, all as provided in said Section 9.1 of the By-Laws.

ARTICLE 10

USES OF COMMON ELEMENTS, SIDEWALKS, VAULTS AND UNITS

Section 10.1 **General Requirement**. Each of the Common Elements, the sidewalks immediately adjacent to, and fronting, the Property ("**Immediately Adjacent Sidewalks**"), the Vaults thereunder and the Units shall be Used and Enjoyed only in accordance and compliance with the then applicable Laws (as such Laws may change from time to time as a result of a statutory change, zoning variance, a new or amended Certificate of Occupancy for the Building or otherwise) and the purposes for which each is reasonably suited, capable designed and intended, and as permitted or stated in this Declaration, the By-Laws or the Rules and Regulations (as such Condominium Documents may be duly amended from time to time).

Section 10.2 **General Prohibitions**. The Common Elements, the Immediately Adjacent Sidewalks to the Property, the Vaults thereunder and the Units shall be used:

(a) in accordance and compliance with Section 10.1 above and the requirements, restrictions and prohibitions expressly stated in this Declaration or the By-Laws (including the Installation Requirements and applicable Work Requirements, as set forth respectively in Sections 10.4 and 15.2 below), as each may be duly amended from time to time; and

(b) for the purposes permitted in the Condominium Documents, but the Common Elements, said Immediately Adjacent Sidewalks to the Property, the Vaults thereunder and all or (where indicated) certain Units shall not be used for any or the following uses

(collectively, "**Prohibited Uses**"): (b-1) any use that impairs or threatens the structural integrity of the Building or the life, health, safety, security or protection of Owners, tenants or occupants of Units; (b-2) any use that violates applicable Laws; (b-3) any use that results in the cancellation or a notice of cancellation of insurance maintained by the Condominium Board; or (b-4) any use of the Common Elements, said Immediately Adjacent Sidewalks to the Property, the Vaults thereunder or a Sold Office Unit that is an unreasonable annoyance or nuisance to other Unit Owners or an unreasonable interference with the peaceful possession or proper use or operation of other Units or the Common Elements for their intended or permitted purposes as stated in the Plan and Condominium Documents (this Prohibited Use does not apply to Unsold Office Units, the Commercial Unit or the Roof Terrace Unit).

In addition, all or certain Units shall not be used for specified "Offensive Office Uses", as defined and provided in Section 10.13 below.

The Condominium Board may not (and shall not):

(a) impose or levy any fee, charge, deposit, security, payment, imposition, restriction, limitation or other requirement (other than regular Common Charges and Special Assessments, if any, levied on all Unit Owners in connection with the permitted Use and Enjoyment of the Common Elements by Sponsor, an Unsold Unit Owner, the Commercial Unit Owner or the Roof Terrace Unit Owner, or their respective Permitted Tenants/Occupants/Invitees or Agents, Employees and Contractors; or

(b) prevent or unreasonably impede or interfere with the sale, rental, Promotion, Operation, management or other permitted Use and Enjoyment of Unsold Units, the Commercial Unit or the Roof Terrace Unit.

Section 10.3 **Common Use of Common Elements**. The Common Elements shall be for the use in common of the Unit Owners and their respective Permitted Tenants/Occupants/Invitees. All uses of the Common Elements, however, shall be in accordance with the purposes for which they are reasonably suited, capable, designed and intended, without hindering the exercise of or encroaching upon the rights of other Unit Owners. The uses and changes in uses of the Common Elements shall be determined by the Condominium Board in accordance and compliance with applicable Laws and the provisions of this Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time. Such uses and changes in uses of the Common Elements and all determinations of the Condominium Board with respect thereto shall nevertheless be subject and subordinate to:

(a) the other Sections of this Article 10 and Articles 11, 12 and 13 below; and

(b) Sponsor's Rights set forth in the Plan and the Condominium Documents, which are superior, paramount and take preference over the rights of the Condominium Board and other Unit Owners to Use and Enjoy the Common Elements.

Any dispute between the Board and a Unit Owner as to the uses or changes in uses of the Common Elements shall be resolved by arbitration pursuant to the By-Laws.

Section 10.4 New Installations Affecting Common Elements, Sidewalks and Vaults.

Section 10.4.1 Right to Install. Subject to the compliance with the Installation Requirements set forth below:

(a) Sponsor (while Sponsor owns any Unsold Unit) shall have the right, Freely and Without Consent, Payment or Restriction (other than compliance with the Installation Requirements set forth in Section 10.4.2 below), to construct and install new, different and/or substitute Equipment and related Facilities and Installations in, on and along the non-public portions of the Common Elements (including, for example, installing Unit Equipment serving exclusively an Unsold Unit in the Building service rooms in the cellar and installing Communications Equipment and Other Installations pursuant to Section 11.14 below in, on and along any of the Building service rooms or areas in the cellar, the public stairs, the unutilized portions of one or more Roofs and their respective appurtenant Roof Structures (including the public stair and elevator equipment bulkheads), and the Building Walls), as well as the Immediately Adjacent Sidewalks to the Property and the Vaults thereunder, which Equipment and related Facilities and Installations: (a-1) shall be for the use, service and/or benefit of the Owners and Permitted Tenants/Occupants/Invitees of Unsold Units, or the Building or any portion thereof; or (a-2) shall provide telephone, television, Internet and all other kinds of communication and information services to Building tenants and occupants or to the general public (whether via cable, satellite or other communication devices);

(b) the Commercial Unit Owner shall have the right, Freely and Without Consent, Payment or Restriction (other than compliance with said Installation Requirements set forth below) to install, affix, hang, erect, Maintain, Repair, Alter and otherwise Operate, from time to time, all manner of Signs on the portions of the Building Walls that are parallel to the boundary walls of the Commercial Unit on Greenwich Street and extend from the sidewalk immediately adjacent to the entire frontage of the Commercial Unit on Greenwich Street to a horizontal plane running on, along and immediately below the exterior window sills or (if none) windows of floor 1 (i.e., the construction floor above ground level) on Greenwich Street, and on or immediately adjacent to the street entrances to the Commercial Unit on Greenwich Street and Vandam Street ("**Commercial Signage Easement Area**") and on the interior sides of the windows of the Commercial Unit; and

(c) the Condominium Board shall have the right to construct and install in or on the Common Elements, the Immediately Adjacent Sidewalks to the Property and the Vaults thereunder new, different and/or substitute Equipment and related Facilities and Installations for the use, service and/or benefit of all or certain Units or the Owners or Permitted Tenants/Occupants/Invitees of such Units.

Section 10.4.2 Installation Requirements. All of the foregoing Installations shall be performed in accordance and compliance with all of the following "**Installation Requirements**": (a) the requirement top comply with the applicable Work Requirements set forth in Section 15.2 below; and (b) the requirement to not prevent access to a Unit, nor overload or materially impair the proper and efficient performance, function, capacity or utility of the

Equipment, Facilities and Installations then comprising or serving the Common Elements or a Unit.

Section 10.5 **New Connections to Common Elements**. Each Unsold Unit Owner (including Sponsor) and its Agents, Employees and Contractors, shall have the right, from time to time, Freely and Without Consent, Payment or Restriction (other than the requirement to comply with the Installation Requirements set forth in Section 10.4.2 above): (a) to connect Equipment and related Facilities and Installations now or hereafter part of such Owner's Unsold Unit to the Equipment, Facilities and Installations comprising at any time the Common Elements; (b) to thereafter Maintain, Repair, Alter and otherwise Operate such newly connected Equipment, Facilities and Installations; and (c) to reasonably access the Common Elements in order to perform the Work in connection with the foregoing.

Section 10.6 **INTENTIONALLY OMITTED**.

Section 10.7 **INTENTIONALLY OMITTED**.

Section 10.8 **Limited Common Elements**. Each Limited Common Element (if established pursuant to Section 13.1 below) will be for the exclusive or substantially exclusive Use and Enjoyment of the Owner of the Unit to which same is appurtenant and such Owner's Permitted Tenants/Occupants/Invitees in accordance with the purpose for which it is reasonably suited, capable, designed and intended. Such exclusive or substantially exclusive Use and Enjoyment of a Limited Common Element shall nevertheless be subject and subordinate to: (a) compliance with this Declaration (including in particular (but not limited to) Sections 10.2 and 10.9 hereof and Articles 11, 12 and 13 below) and the By-Laws; (b) the right of the Condominium Board to amend from time to time the Rules and Regulations governing the use thereof by such Owner and such Owner's Permitted Tenants/Occupants/Invitees; and (c) certain restrictions, as well as certain rights and easements reserved to Sponsor and granted to the Condominium Board, the Unsold Unit Owners and other Persons, all as and to the extent set forth in this Declaration, the By-Laws, the Plan and the Condominium Act, including Sponsor's Rights set forth in the Plan and the Condominium Documents, all of the foregoing being superior, paramount and take preference over the rights of the Condominium Board and Unit Owners to Use and Enjoy the Limited Common Elements.

Section 10.9 **Sponsor's Rights to Use Common Elements and Immediately Adjacent Sidewalks**. Sponsor hereby reserves for itself (while Sponsor owns any Unsold Unit) and grants to each and every Unsold Unit Owner (while such Owner owns said Unit) and to the tenants and occupants of Unsold Units who are expressly so authorized in writing by the applicable Owners of such Unsold Units, and the Agents, Employees and Contractors of each of the foregoing, the right and easement to use the Common Elements (including in particular, but not limited to: the Building Walls; all Roofs comprising the Common Elements and their respective related Roof Structures; the 100 Vandam Street Public Areas; and other portions of the Common Elements), and the Immediately Adjacent Sidewalks to the Property, in connection with: (a) Sponsor's undertaking to obtain a new or amended Certificate of Occupancy to change the use of the caretaker's apartment on a portion of Office Unit 500 for use as an office and to authorize the use of the Commercial Unit for permitted retail and office uses under the current zoning Law applicable to the Property; (b) any Work undertaken by Sponsor pursuant to the Plan, a Plan Amendment or a Purchase and Sale Agreement; and (c) the permitted Use and

Enjoyment (including Promotion and Operation) of its Unsold Units in accordance with this Declaration, the By-Laws and the Plan. The foregoing right and easement reserved to Sponsor shall be superior, paramount and take preference over the foregoing right and easement granted to each Unsold Unit Owner and all rights of use thereof by the Condominium Board and other Unit Owners. Sponsor, each Unsold Unit Owner and said authorized tenants, occupants, Agents, Employees and Contractors may exercise and perform their respective rights and easements in this Section 10.9 Freely and Without Consent, Payment or Restriction (other than compliance with Section 10.2 above). Nothing herein shall prevent a Unit Owner or such Owner's Permitted Tenants/Occupants/Invitees from using the Building's Immediately Adjacent Sidewalks for ordinary pedestrian passage or the 100 Vandam Street Public Areas for ordinary ingress and egress to and from Units.

Section 10.10 **Building's Walls and Immediately Adjacent Sidewalks**. Sponsor hereby reserves for itself (while Sponsor owns any Unsold Unit) and grants to each and every Unsold Unit Owner (while such Owner owns said Unit) and to the tenants and occupants of Unsold Units who are so expressly authorized in writing by the applicable Owners of such Unsold Units, the right and easement to use the Building Walls (other than the Commercial Signage Easement Area, if Sponsor no longer owns the Commercial Unit), the Common Elements and the Immediately Adjacent Sidewalks to the Property for all lawful purposes in connection with the permitted Use and Enjoyment (including Promotion and Operation) of its Units. Sponsor hereby grants to: (a) the Commercial Unit Owner and the tenants and occupants of the Commercial Unit who are so expressly authorized in writing by the Owner of such Commercial Unit, the right and easement to the exclusion of all Unit Owners to use those portions of the Building Walls comprising the Commercial Signage Easement Area, as provided in Section 10.4.1(b) above) for all lawful purposes in connection with the permitted Use and Enjoyment of its Commercial Unit; and (b) the Condominium Board and those Owners, tenants and occupants of Sold Units who are so expressly authorized in writing by the Condominium Board, the right and easement, to the exclusion of all other Sold Unit Owners (but subordinate to the foregoing rights and easements in favor of Sponsor, Unsold Unit Owners, the Commercial Unit Owner and the authorized tenants and occupants of Unsold Units and the Commercial Unit), to use said Building Walls (other than the Commercial Signage Easement Area), the Common Elements, and the Immediately Adjacent Sidewalks to the Property, for all lawful purposes in connection with the permitted Use and Enjoyment of one or more Units or the Common Elements. The foregoing right and easement reserved to Sponsor to use the Building Walls, the Common Elements and said Immediately Adjacent Sidewalks shall be superior, paramount and take preference over the foregoing exclusive right and easement granted to each Unsold Unit Owner, the Commercial Unit Owner, the Condominium Board and said authorized Owners, tenants and occupants of Sold Units. Sponsor, each Unsold Unit Owner, the Commercial Unit Owner and the Condominium Board may exercise and perform their respective rights and easements in this Section 10.10 Freely and Without Consent, Payment or Restriction (other than compliance with Section 10.2 above), but the rights and easements in favor of the Condominium Board shall be subject and subordinate to the rights of Sponsor, each Unsold Unit Owner and the Commercial Unit Owner set forth herein. Nothing herein shall prevent a Unit Owner or such Owner's Permitted Tenants/Occupants/Invitees from using the Immediately Adjacent Sidewalks to the Property for ordinary pedestrian passage.

Section 10.11 **Permitted Uses of Building Walls and Immediately Adjacent Sidewalks**. The foregoing right and easement in Section 10.10 above to use the Building Walls

and the Immediately Adjacent Sidewalks to the Property include the right, easement and duty, at the sole Cost and Expense of the applicable Party, to erect, install, Maintain, Repair, Alter and otherwise Operate any kind of one (1) or more Signs thereon and therein in accordance with Section 10.18 below as well as any objects, structures, extensions and enclosures thereon and therein. Sponsor, an Unsold Unit Owner, the Commercial Unit Owner or the Condominium Board (as applicable), and said authorized tenant or occupant of an Unsold Unit or the Commercial Unit (as applicable), may exercise and perform such right and easement Freely and Without Consent, Payment or Restriction, other than the requirement to comply with Section 10.2 above. All Costs and Expenses incurred by the Condominium Board in connection with the exercise and performance of the right and easement in Section 10.10 above with respect to the Building Walls and said Immediately Adjacent Sidewalks shall be part of the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests.

Section 10.12 Permitted Uses of Vaults. The Condominium Board:

(a) shall have the right, Freely and Without Consent, Payment or Restriction (except as herein expressly provided) to use the Vaults for any lawful purpose, including housing of existing as well as new, additional, substitute and other Equipment, Facilities and Installations related to the permitted Use and Enjoyment of the Units and the Common Elements;

(b) shall have the duty to pay any governmental vault tax, fee or charge imposed or levied with respect to the Vaults; and

(c) the right and duty, at its sole Cost and Expense, to maintain, Repair and Alter the Vaults and the Equipment, Facilities and Installations now or hereafter housed therein comprising the Common Elements (as applicable).

The amounts payable by the Condominium Board with respect to the Vaults and the Common Elements housed therein in accordance with the foregoing shall be part of the Common Expenses, which shall be allocated and assessed to all Unit Owners and apportioned among them Pro Rata to their respective Common Interests.

Section 10.13 Permitted Uses and Occupancy of Sold Office Units.

Section 10.13.1 Use. Each Sold Office Unit may be used only for standard office uses similar to other Manhattan office buildings in the vicinity of the Building and those uses permitted under existing leases for so long as they remain in effect, and for no other purpose.

Section 10.13.2 Restrictions on Use and Occupancy. No Office Unit may be used or occupied in a manner that is in violation of this Declaration (including the applicable Prohibited Uses listed in Section 10.2(b) above), the By-Laws or the Rules and Regulations appended to the By-Laws or applicable Laws (including zoning laws and resolutions) and the Certificate of Occupancy of the Building, as it is to be amended or replaced with a new Certificate of Occupancy to change the use of the caretaker's apartment located on a portion of Unit 500 for use as an office and to authorize the use of the Commercial Unit for the permitted retail and office uses, as contained in the Plan and this Declaration).

Section 10.13.3 Offensive Office Units. In addition, all or (where indicated) certain Units shall not be used or occupied for any of the following uses ("**Offensive Office Uses**"):

Section 10.13.3.1 Offensive Office Uses Applicable to All Units. No Unit shall be used or occupied for any of the following specified Offensive Office Uses:

(a) a so-called "discount house" or "flea market" or for "cut rate", "discount", "surplus", "odd lot" or "second hand" type of business;

(b) to sell or display for sale, or display of, or to permit or suffer the sale or display for sale, or display of, any material determined by the Board to be pornographic or obscene;

(c) a gambling or gaming establishment, such as an Off-Track Betting, sport gambling, casino gambling or similar establishment;

(d) a pawn shop or auction house or public auction of any kind;

(e) a billiard or pool hall or parlor;

(f) a video game or other amusement arcade or game room, or other business deriving income from coin-operated games, slot machines or pinball machines;

(g) a check cashing business;

(h) a commercial or non-profit establishment of any type or nature whatsoever: (h-1) the primary purpose of which is to sell, afford or permit on premises sexual stimulation or sexual liaisons; (h-2) that permits or presents obscene (in the judgment of the Board), nude or semi-nude performances or modeling; (h-3) that sells, affords or permits body massages, whether or not of a sexual nature; (h-4) that sells "rubber goods" or other sexual or erotic products of a type not commonly found in high quality, national chain pharmacies; or (h-5) that sells, rents or permits the viewing of "X" rated videos, photographs, books or other material;

(i) a facility for the sale of paraphernalia for use with illicit drugs or controlled substances;

(j) any foreign or domestic (local, state or federal) government or the United Nations or an embassy or consulate office, or any agency, department or bureau of any of the foregoing, or an office of any entity that is entitled to sovereign immunity;

(k) an office, clinic or other facility that provides or counsels on abortions, pregnancy termination or family planning services, or alcohol, narcotics, methadone or other substance abuse clinic or treatment facility, or any governmental or non-governmental office that distributes or dispenses pharmaceutical drugs;

(l) a military recruitment office;

(m) any use that would violate any legal requirement for the Building or that is illegal;

(n) a homeless shelter;

(o) an automobile or truck showroom or the sale of automobile or truck parts or accessories;

(p) a dating or escort service;

(q) a dry cleaning facility;

(r) a gypsy, fortune teller, palm reader or card reader;

(s) a laboratory;

(t) a ballroom, dance hall, discotheque, night club, social or other club, or banquet hall;

(u) a funeral parlor or chapel, or a facility for the sale or display of tombstones or monuments;

(v) a facility for live performances;

(w) a racquet facility, bowling alley, ping pong parlor, shooting or archery gallery, or roller or ice skating rink);

(x) a manufacturer of any kind of product;

(y) a church or other house of worship;

(z) a community or social services center;

(aa) an employment agency;

(bb) a telephone "bank" to solicit funds from the public;

(cc) a labor union;

(dd) a messenger service;

(ee) an office, store, reading room, headquarters, center or other facility devoted or opposed to the promotion, advancement, representation, purpose or benefit of: (ee-1) any political party, political movement or political candidate; (ee-2) any religion, religious group or religious denomination; (ee-3) any foreign government; or (ee-4) any union;

(ff) a pet shop;

(gg) a print shop, reproduction or blueprinting establishment;

(hh) a shoe repair facility;

(ii) spiritualist services;

(jj) a storage facility (other than ancillary to a permitted office use);

(kk) a teen center; or

(ll) any use that in the judgment of the Condominium Board shall in any way: (ll-1) impair, or tend to impair, interfere with or overload any of the Building services or the proper, efficient and economic performance, function, capacity or utility of the HVAC/Mechanical/Utility Building Systems or any portion thereof at any time serving the Common Elements or another Unit, or any Equipment and Installation then comprising the Common Elements or another Unit; (ll-2) impair, or tend to impair or interfere with, the use of any portion of the areas of the Common Elements or another Unit; or (ll-3) increase, or tend to increase, the Costs and Expenses of the Condominium Board to Maintain, Repair and otherwise Operate the Common Elements or the Building (any such increase shall be specially allocated, apportioned and assessed to such Sold Office Unit in accordance with the Special Allocation and Apportionment Rule, but this shall not excuse a violation of this Offensive Office Use).

Section 10.13.3.2 Offensive Office Uses Applicable to Only the Office Units and the Roof Terrace Unit. In addition, the Office Units and the Roof Terrace Unit shall not be used or occupied for any of the following Offensive Office Uses (these Offensive Office Uses do not apply to the Commercial Unit):

(a) the preparation, manufacture or mixing of anything that emits or might emit any odors or noises which are or may be objectionable or offensive to the Owners, tenants, occupants or visitors of other Units;

(b) a tanning, health, exercise or spa, a gymnasium or other athletic, sports or recreational facility;

(c) an auditorium or any other place of public assembly, such as a bingo parlor;

(d) a beauty salon, barber shop, haircutting salon or nail salon; or

(e) any tax-exempt or charitable, educational or other not-for-profit uses.

Section 10.14 Furnishings and Painting of Units. Generally, Unit Owners may furnish, paint and Decorate their Units Freely and Without Consent, Payment or Restriction, other than the following restrictions, which are applicable to only Sold Office and Commercial Units:

(a) the windows, the skylights (if any), the public side of a street entrance door to a Sold Office or Commercial Unit or any portions of a Sold Unit exposed to public view shall not be painted (or otherwise Decorated) without first obtaining the prior written Discretionary Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period) Sponsor;

(b) the interior sides of windows and skylights (if any) of a Sold Office or Commercial Unit are to be washed and cleaned in accordance with applicable Laws (the Condominium Board will be responsible to wash and clean the exterior sides of the Unit windows and skylights as a Common Expense charged to all Unit Owners Pro Rata to their respective Common Interests);

(c) all window blinds, shades, curtains and treatments of a Sold Office or Commercial Unit are to be light colored or have light colored backings facing outdoors in accordance with the Condominium Association's Rules and Regulations, as such Rules and Regulations may change from time to time by the Condominium Board (any such changes shall be subject to the Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period); and

(d) a Sold Office or Commercial Unit's windows, skylights (if any), and the entrance doors to said Sold Unit (including hardware and saddles) may not be replaced or Altered without obtaining the prior written Discretionary Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy changing the use of the caretaker's apartment for use as an office and authorizing the use of the Commercial Unit for the permitted retail and office uses set forth herein and in the Plan) Sponsor.

The foregoing restrictions and requirements are not applicable to Unsold Units, which may be furnished, painted, Decorated and Altered Freely and Without Consent, Payment or Restriction, except all Units must comply with the applicable Work Requirements contained in Section 15.2 of this Declaration and applicable Laws.

Section 10.15 Permitted Uses of Unsold Units, Commercial Unit and Roof Terrace Unit. The requirements and restrictions set forth above or elsewhere in this Declaration, the By-Laws and the Rules and Regulations with respect to Sold Units are not applicable to Unsold Office Units, the Commercial Unit and the Roof Terrace Unit, each of which may be used or changed to be used for any lawful purposes, other than applicable Prohibited Uses and applicable Offensive Office Uses. The permitted uses of Unsold Units include as models and offices for the sale, Promotion, rental, Operation and management of Unsold Units. The Commercial Unit may be used for permitted retail and office purposes in accordance with the existing zoning Law applicable to the Property. The Commercial Unit is not restricted to any particular use and may be used and changed to be used by the Commercial Unit Owner from time to time, Freely and Without Consent, Payment or Restriction (other than the restriction against applicable Prohibited Uses and applicable Offensive Office Uses), for use as a restaurant, bar, tavern, food store, clothing store, art gallery, bank, office, gym, spa or any other lawful purpose, whether or not similar to the foregoing. Such permitted uses of the Unsold Office Units, the Commercial Unit and the Roof Terrace Unit may be noisy, emit odors, involve heavy traffic and cause other effects that need not be compatible with the primary use of the Building for office purposes. The Condominium Board and the other Unit Owners will not have the right to approve the use or any changes in the use, or the tenants, occupants or Operation of, or the business conducted in, the Unsold Office Units, the Commercial Unit or the Roof Terrace Unit, or any portions thereof.

Sponsor, each Unsold Unit Owner, the Commercial Unit Owner and the Roof Terrace Unit Owner shall have the exclusive right to make all determinations concerning the use, appearance, occupancy, rental and Operation of, and all Unit Changes to, such Owner's Unit and all portions thereof, Freely and Without Consent, Payment or Restriction, other than the requirement to comply with Sections 10.2 and 10.13.3 above and this 10.15 and to pay Common Charges and Special Assessments in accordance with the Condominium Documents.

Section 10.16 **Compliance with Laws**. Each Unit Owner, at such Owner's sole Cost and Expense, shall comply with all Laws applicable to such Owner's Unit and (if established) its appurtenant Limited Common Element, including Laws governing use, occupancy, Maintenance, Repairs, Alterations and violations noted or issued with respect to such Owner's Unit and (if established) its appurtenant Limited Common Element, and conditions constituting violations, whether or not noted or issued, other than violations or conditions expressly stated in this Declaration or the By-Laws to be Repaired, cured or corrected by the Condominium Board.

Section 10.17 **Changes in Use of Unsold Units, Commercial Unit and Roof Terrace Unit**. Sponsor, each Unsold Unit Owner, the Commercial Unit Owner and the Roof Terrace Unit Owner shall each have the right to change the use of its Unit from time to time. The foregoing right to change each use of an Unsold Unit, the Commercial Unit or the Roof Terrace Unit: (a) includes the right to obtain an Alteration permit or notice or an amended or new Certificate of Occupancy for the Building, or a special permit or other appropriate Government Document required for such change in use and a zoning variance to authorize such change in use; and (b) may be exercised and performed Freely and Without Consent, Payment or Restriction, other than the requirements: (b-1) to comply with Sections 10.2 and 10.13.3 above; and (b-2) with respect to any Alteration of the Sold Commercial Unit or Sold Roof Terrace Unit in connection therewith, to obtain the Reasonable Approval or Consent of the Condominium Board and the Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period and until issuance of a new or amended Certificate of Occupancy of the Building changing the use of the caretaker's apartment for office use and to authorize the use of the Commercial Unit for permitted retail and office uses.

Section 10.18 **Signs**. The Commercial Unit Owner and (if approved by such Owner) a tenant of all of part of such Owner's Commercial Unit shall have the right, Freely and Without Consent, Payment or Restriction (other than those set forth in Sections 10.2 and 10.11 above), to erect, install, affix and hang any kind of one or more Signs on the outdoor and indoor sides of its Unit entrance doors), the indoor sides of the Commercial Unit's windows, and on the Commercial Signage Easement Area, and thereafter to Maintain, Repair, Alter and otherwise Operate same. Such Signs may be of any size, content, composition, material, color, design, illumination, character and appearance considered appropriate by the Commercial Unit Owner, or a tenant of such Owner's Unit who is expressly so authorized in writing by such Commercial Unit Owner, in connection with the sale, rental, Promotion, Operation, management, use, business, identity or other Disposition of said Commercial Unit.

Sponsor and each Unsold Unit Owner (while Sponsor and such Owner, respectively, own any Unsold Unit), and the permitted tenants who are so expressly authorized in writing by Sponsor or such Unsold Unit Owner (as applicable), shall each have the right, Freely and Without Consent, Payment or Restriction (but subject to compliance with Sections 10.2 and 10.11 above), to erect, install, affix and hang any kind of one or more Signs in or on the Common Elements (including in particular, but not limited to: the Building Walls; the Commercial Signage Easement Area (while Sponsor or an Unsold Unit Owner owns the Commercial Unit); all Roofs, and their respective Roof Structures); the 100 Vandam Street Public Areas; and all other portions of the Common Elements and the Immediately Adjacent Sidewalks to the Property, and thereafter to Maintain, Repair, Alter and otherwise Operate same. Such Signs may be of any size, content, composition, material, color, design, illumination, character and appearance considered appropriate by Sponsor, such Unsold Unit Owner or said authorized tenant in connection with

the sale, rental, Promotion, Operation, management, use, business, identity or other Disposition of such Owner's Unit.

Section 10.19 **Limited Power of Attorney**. Any application or other document necessary or convenient to the exercise by Sponsor, an Unsold Unit Owner, the Commercial Unit Owner or the Roof Terrace Unit Owner (as applicable) to obtain an Alteration permit or notice or an amended or new Certificate of Occupancy for the Building or other appropriate Government Document required to change a use of its Unit pursuant to Section 10.17 above, or the erection, installation, Maintenance, Repair, Alteration or other Operation of Signs pursuant to Section 10.18 above, may be completed, signed and delivered by such Party without the signatures or consents of other Unit Owners or the Condominium Board. Nonetheless, the Condominium Board shall, with reasonable promptness, execute and deliver to said applicable Party any such application or other document as provided in the following Section 10.20 and the Unit Owners and Board hereby grant to Sponsor, each Unsold Unit Owner, the Commercial Unit Owner and the Roof Terrace Unit Owner, severally, an irrevocable, durable power of attorney, "coupled with an interest" and granted for valuable consideration, with full power of substitution, to execute and deliver any such application or other document as attorney-in-fact in the name and on behalf of the Condominium Board and Unit Owners. Such execution and delivery thereof by Sponsor, an Unsold Unit Owner, the Commercial Unit Owner or the Roof Terrace Unit Owner (as applicable) shall not require the consent of the Condominium Board and/or the other Unit Owners. Sponsor, an Unsold Unit Owner, the Commercial Unit Owner or the Roof Terrace Unit Owner who makes such permitted use of the Common Elements or the Immediately Adjacent Sidewalks to the Property pursuant to Section 10.18 above, or submits any application or document pursuant to the foregoing, shall indemnify the Condominium Board, its Board Members, officers, agents, employees and attorneys, and all other Unit Owners from and against any Claims and Liabilities and Expenses arising out of, or in connection with, such use and/or such application or document, as the case may be. Sponsor, such Unsold Unit Owner, such Commercial Unit Owner or such Roof Terrace Unit Owner (as applicable), at its sole Cost and Expense, shall Repair any damage caused by such use of the Common Elements or Immediately Adjacent Sidewalks and (when such use ends) shall restore the affected areas and any Installations to as near as reasonable and economically practical to their former condition before such use began.

Section 10.20 **Cooperation of Board**. The Condominium Board shall fully cooperate with Sponsor, each Unsold Unit Owner, the Commercial Unit Owner and the Roof Terrace Unit Owner in connection with their respective rights to change the use of their respective Units pursuant to Section 10.17 above and to erect, install, Maintain, Repair, Alter and otherwise Operate Signs pursuant to Section 10.18 above. In furtherance of such cooperation, the Condominium Board shall properly complete, sign, notarize (if required) and return to Sponsor, said Unsold Unit Owner, said Commercial Unit Owner or said Roof Terrace Unit Owner (as applicable), and such Party shall receive within ten (10) calendar days after written request therefor is hand delivered or mailed to the Condominium Board or Managing Agent, any Government Document required in connection with such change in use (including any Government Document to obtain an Alteration permit or notice or amended or new Certificate of Occupancy for the Building or a zoning variance) or Sign. Sponsor, such Unsold Unit Owner, such Commercial Unit Owner or such Roof Terrace Unit Owner (as applicable):

(a) shall pay or reimburse the Condominium Board for any governmental fees and charges in connection with each such Government Document; and

(b) shall indemnify (with attorneys selected by Sponsor, such Unsold Unit Owner or such Commercial Unit Owner, as applicable) the Condominium Board and its officers, Board Members, employees, agents (including Managing Agent) and attorneys, and all Unit Owners, from and against all Claims and Liabilities and Expenses resulting from the execution of the Government Document, other than any fees or charges of any attorney, architect, engineer or other professional or consultant engaged by the Board to review such Government Documents or to render advice with respect thereto (which shall be borne by the Condominium Board as part of the Common Expenses).

Section 10.21 **Construction Rights of Sponsor**. Sponsor has the right, Freely and Without Consent, Payment or Restriction (other than compliance with Section 10.2 above), at Sponsor's sole Cost and Expense, to construct the Commercial Unit, to Alter Office Unit 500 to change the use of the caretaker's apartment located thereon for use as an office, and to Repair and Alter Units and Common Elements pursuant to Sponsor's undertakings under the Plan or a Purchase and Sale Agreement. In connection therewith, Sponsor shall have the exclusive right to make all determinations with respect thereto, including all construction specifications, materials and other details. In furtherance thereof, Sponsor and its Agents, Employees and Contractors shall have (and shall be given) the unfettered and unconditional right of reasonable access to the Common Elements (including the elevator and other public portions of the Common Elements) in connection with the performance of Sponsor's Plan Obligations, including all Work related thereto in order to obtain said permanent new or amended Certificate of Occupancy authorizing the use and occupancy of the Commercial Unit for permitted retail and office uses under this Declaration, and to change the use of the caretaker's apartment on a portion of Office Unit 500 for use as an office. Such access shall be exercised and performed so as to not unreasonably prevent or interfere with, but may temporarily interrupt, the permitted use and Operation of Units and Common Elements. For example, Sponsor shall have the right to temporarily interrupt and discontinue elevator, electrical, water, plumbing and other Building Systems during the course of such Work, but shall give, or cause the Managing Agent to give, the affected Unit Owners reasonable advance oral or written notice before so doing (except no notice need be given in the case of an emergency). In the event of damage to a Unit or the Common Elements caused by Sponsor or its Agents, Employees and Contractors, Sponsor's only obligation will be to repair and restore the affected area to as near as reasonable and economically practical to its condition immediately before being damaged. In no event will Sponsor or its Agents, Employees or Contractors be liable for actual, compensatory, consequential, special or other damages or losses based thereon.

ARTICLE 11

EASEMENTS, RIGHTS AND RESTRICTIONS AFFECTING THE COMMON ELEMENTS AND UNITS

Section 11.1 **Common Elements**. The following Persons are hereby granted easements and rights, in common, for ingress and egress to, from, through, across and on the public and common areas of the Common Elements and for the general Use and Enjoyment of the Common Elements in accordance and compliance with Articles 10, 11 and 12 hereof

("**Common Elements Easements**"), and the Common Elements shall be subject to such Common Elements Easements:

(a) each and every Unit Owner and Permitted Tenants/Occupants/Invitees of Units;

(b) all Board Members and officers of the Condominium Board and all Persons authorized by them, including (to the extent authorized) their Agents, Employees and Contractors, licensees and invitees; and

(c) all Persons authorized by Sponsor (while Sponsor owns an Unsold Unit), an Unsold Unit Owner, the Commercial Unit Owner or the Roof Terrace Unit Owner, including (to the extent authorized) their respective Agents, Employees and Contractors, licensees and invitees.

Section 11.2 **INTENTIONALLY OMITTED**.

Section 11.3 **INTENTIONALLY OMITTED**.

Section 11.4 **Mutual Rights**. Each of the Persons granted Common Elements Easements shall mutually Use and Enjoy the applicable Common Elements in a manner that does not unreasonably exclude, prevent, interfere with, hinder or encroach upon the easements and rights of fellow Persons to whom such easements have been granted.

Section 11.5 **Limited Common Elements**. Each of the following Persons is hereby granted an easement and right for the exclusive or substantially exclusive permitted Use and Enjoyment of the Limited Common Element appurtenant to a specified Unit (if established) in accordance and compliance with Articles 10, 11 and 12 hereof (**"Limited Common Elements Easement"**), and the Limited Common Elements shall be subject to such Limited Common Elements Easement: the applicable Owner of such Unit and Permitted Tenants/Occupants/Invitees of the Unit.

Section 11.6 **Subordination**. The easements and rights reserved to Sponsor and granted to each Unsold Unit Owner for the permitted Use and Enjoyment, access or otherwise with respect to the Common Elements, as stated in this Declaration in Article 10, elsewhere in this Article 11 and Articles 12 and 13, are paramount, superior and take preference over all of the easements and rights granted in Section 11.1 above (the latter Section being subject and subordinate to such easements and rights in favor of Sponsor and each Unsold Unit Owner as set forth therein). In addition, the Common Elements are subject to, and all of the easements and rights granted in Sections 11.1 and 11.5 above are subject and subordinate to:

(a) the requirements and prohibitions as to the Use and Enjoyment of the Common Elements set forth in Section 10.2 above;

(b) the rights and obligations of the Condominium Board to properly Maintain, Repair, Alter and otherwise Operate the Common Elements and the Building in accordance and compliance with this Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time;

(c) the easements and rights reserved to Sponsor and granted to the Condominium Board, Unsold Unit Owners and other Persons elsewhere in this Article 11 and in Article 12 below;

(d) the encroachments set forth in Article 12 below; and

(e) an easement and right hereby reserved to Sponsor (while Sponsor owns any Unsold Unit) and granted to each Unit Owner for the exclusive use of that portion of the Common Elements that is incorporated in or made part of the Owner's Unit pursuant to Article 13 below.

Section 11.7 **Easements Affecting Common Elements for Ingress, Egress, Access and Use**. Sponsor hereby reserves for itself (while Sponsor owns any Unsold Unit) and grants to each and every Unsold Unit Owner, the Commercial Unit Owner and the Roof Terrace Unit Owner (while each such Owner owns said Unit), and their respective tenants who are so expressly authorized in writing by Sponsor or an Unsold Unit Owner or the Commercial Unit Owner or the Roof Terrace Unit Owner (as applicable), as well as their respective authorized Agents/Employees/Contractors, invitees and licensees, easements and rights of ingress and egress to, from, through, across and on, access to, and use of the Common Elements for all lawful purposes in connection with the exercise or performance of Sponsor's Rights, Plan Obligations and Tenant Obligations (as provided in Section 12.7 below), as well as the use, occupancy, Maintenance, Repair, Alteration and any other Operation or other Disposition of their respective Unsold Units or the Commercial Unit or the Roof Terrace Unit (as applicable), including Equipment, Facilities and Installations serving said Unsold Units or the Commercial Unit or the Roof Terrace Unit (as applicable) and comprising part thereof, and (if established) the Limited Common Elements appurtenant thereto.

In the case of the Commercial Unit, such rights and easements refer to the right and easement of the Commercial Unit Owner, its authorized tenants and licensees, and the respective Agents, Employees and Contractors of each of the foregoing to install, affix, hang, erect, Maintain, Repair, Alter and otherwise Operate, from time to time, all manner of Signs on the Commercial Signage Easement Area (as provided in Section 10.4.1(b) above).

All such rights and easements:

(a) may be exercised and performed Freely and Without Consent, Payment or Restriction, other than the requirements: (a-1) to comply with Section 10.2 above; (a-2) not to permanently prevent, nor unreasonably interrupt or interfere with, the permitted Use and Enjoyment of a Sold Unit; and (a-3) to Repair any damage caused by the exercise and performance of such easements and rights so as to restore the damaged area and any Installation to as near as reasonable and economically practical to the condition existing immediately prior to such exercise and performance; and

(b) are superior, paramount and take preference over the easements and rights of the Condominium Board and other Unit Owners to use the Common Elements.

Section 11.8 **Emergency**. The Condominium Board and each Unit Owner, such Owner's Permitted Tenants/Occupants/Invitees, and the authorized Agents, Employees and

Contractors of each of the foregoing, shall have an easement and right of emergency ingress and egress to, from, through, across and on the public and common areas of the Common Elements and such areas of the Common Elements shall be subject thereto.

Section 11.9 Building Services.

Section 11.9.1 Duty of Board to Provide Building Services. The Condominium Board shall have the responsibility and duty to provide all Building services, facilities and amenities (collectively, "**Building Services**"), including, if and to the extent applicable, HVAC/Mechanical/Utility Building Systems, comprising the Common Elements, all Units; as well as all Building Services contemplated in this Declaration, the By-Laws or the Plan to be provided to all or certain Units, as applicable. The manner of operation and provision of said Building Services shall be determined by the Condominium Board, in its sole judgment, subject and subordinate (however) to compliance with the Plan, if and to the extent mandated therein, and subject and subordinate further to the Sponsor's Rights and the requirement to provide all said Building Services to be provided to the Commercial Unit on a twenty-four (24) hour, seven (7) day a week basis ("**24/7**"). By way of example (without limitation), the Commercial Unit (or if subdivided into two or more Units, each Commercial Unit established on said subdivision) shall be provided all Building Services in accordance with the foregoing on a 24/7 schedule.

Section 11.9.2 Existing Services. Notwithstanding any other provision of this Declaration or the By-Laws to the contrary, the Condominium Board on behalf of all Unit Owners (with respect to the Common Elements); each Unit Owner (with respect to its individual Unit Equipment, and related Facilities and Installations serving and part of such Owner's Unit) shall have easements and rights for: (a) the Use and Enjoyment of any and all Equipment, Facilities and Installations (including pipes, wires, ducts, cables, conduits, utilities and applicable Building Systems) that, at the date of First Unit Closing under the Plan or the issuance of said permanent new or amended Certificate of Occupancy of the Building with respect to the Commercial Unit and Office Unit 500 (whichever is the later to occur), serve or benefit all or a portion of the Common Elements or such Owner's Unit (as applicable), wherever located in, on or under the Property or Building; and (b) for ingress and egress to, from, through, across and on the Common Elements and (to the extent necessary) the Units in order to Maintain, Repair, Alter and otherwise Operate such Equipment, Facilities and Installations, and the Common Elements and the Units shall be subject thereto. Such easements and rights include the easement and right of ingress and egress to, from, through, across and on: (x) the Commercial Unit by the Condominium Board and its authorized Agents, Employees and Contractors, but only to the extent necessary in order to Maintain, Repair, Alter and otherwise Operate any and all existing Equipment, Facilities and Installations comprising the Common Elements; and (y) the Common Elements (including, only to the extent necessary, elevator, public stair and other public portions of the Common Elements) by a Unit Owner and such Owner's authorized Agents, Employees and Contractors in order to Maintain, Repair, Alter and otherwise Operate any and all existing individual Unit Equipment and related Facilities and Installations serving such Owner's Unit.

In addition, until such time as the Owner of the Roof Terrace Unit revokes the license for the existence of the individual air-conditioning Equipment and related Installations serving and part of each of Office Units 400 and 500, the Owner of each such Office Unit and said Owner's authorized Agents, Employees and Contractors shall have a right of reasonable access for ingress and egress to, from, over, across and on the Roof Terrace Unit in order to Maintain, Repair, Alter

and otherwise Operate said individual air-conditioning Equipment and its related Facilities and Installations. Further, until such time as the Owner of the Roof Terrace Unit revokes the license for the existence of the skylights that are part of the Roof Terrace Unit, but provide light to Office Unit 500, the Owner of Office Unit 500 and such Owner's authorized Agents, Employees and Contractors shall have a right of reasonable access for ingress and egress to, from, over, across and on the Roof Terrace Unit in order to Maintain, Repair, Alter and otherwise Operate said skylights. The foregoing rights of access by the respective Owners of Office Units 400 and 500 to, from, over, across and on the Roof Terrace Unit shall be subject to strict compliance with the "Access Requirements", as such quoted term is defined and as provided in Section 11.15.3 below.

Section 11.9.3 Relocation. All Equipment, Facilities and Installations comprising the Common Elements that are located in the Commercial Unit, and vice versa, if any, shall continue to exist in their present locations until the Condominium Board (in the case of the Common Elements) or the Owner of the Commercial Unit (in the case of such Owner's Unit Equipment, Facilities and Installations), at such Party's sole Cost and Expense, provides and installs (in accordance with Article 15 below) in other locations approved by the affected Party (i.e., the Condominium Board in the case of relocation of Equipment, Facilities and Installations comprising the Common Elements or the Commercial Unit Owner in the case of relocation of such Owner's Unit Equipment), Equipment, Facilities and Installations approved by the affected Party that are substantially comparable (in efficiency, performance, function, capacity and utility) to those being relocated. All such Costs and Expenses incurred by the Condominium Board shall be part of the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests.

Section 11.10 Relocation from Vaults. In the event The City of New York revokes permission to use a Vault under the sidewalks adjacent to the Building, the Condominium Board is hereby granted an easement and right as a Common Expense, to relocate the Equipment, Facilities and Installations then housed in such Vault to other portions of the Common Elements as shall be determined by the Condominium Board or, if economically impractical, to an area of the Commercial Unit as shall reasonably be determined by the Commercial Unit Owner. The Condominium Board shall exercise the foregoing easement and right in a manner that does not prevent, nor unreasonably and materially interrupt or interfere with, the permitted Use and Enjoyment of the Commercial Unit or another Unit or an Owner or Permitted Tenants/ Occupants/Invitees of the Commercial Unit or another Unit, and such easement and right shall be subject to this requirement and restriction.

Section 11.11 Utility Easements and Rights. In order to provide "utility services" (defined below) to the Units and Common Elements, Sponsor hereby reserves for itself to grant easements, licenses, leases, concessions and rights for utility services (collectively, "**Utility Easements and Rights**"). Sponsor hereby further reserves for itself (while Sponsor owns any Unsold Unit) and hereby grants to the Condominium Board on behalf and as agent of all Unit Owners, the right to grant such additional, new and substitute Utility Easements and Rights for utility services, and to relocate then existing utility services, with respect to any portion of the Common Elements as Sponsor or the Condominium Board, as applicable, shall determine to be necessary or desirable for the permitted Use and Enjoyment of all or part of the Common Elements or a Unit (collectively, "**Additional Utility Easements/Rights**"), and the Common Elements and each Unit shall be subject thereto. The term "**utility services**" includes: electric;

gas; cable or wireless television; telephone, cellular phone, Internet, computer, media or other communication service; water; sewer; storm drainage; and other utilities.

Sponsor hereby reserves for itself (while Sponsor owns any Unsold Unit), and grants to each and every Unsold Unit Owner (while each such Owner owns said Unit), and to the tenants of such Units and other Persons who are so expressly authorized in writing by Sponsor or an Unsold Unit Owner (as applicable), easements and rights with respect to Communications Equipment and Other Installations as provided in Section 11.14 below.

All of the easements and rights provided in this Section 11.11 are subject to compliance with Sections 11.12 and 11.13 below.

Section 11.12 **Access by Utility**. Each existing and future provider (including the grantee of an Additional Utility Easement/Right) of a utility service to the Building or any portion thereof and such provider's authorized Agents, Employees and Contractors, shall have (and shall be given) an easement and right of reasonable access to, from, through, across and on the Property, including the Building and any portion thereof and the Units, to the extent reasonably necessary to erect, install, Maintain, Repair, Alter and otherwise Operate all Equipment, Facilities and Installations related to such utility service (including reading meters), subject to compliance with the following Section 11.13.

Section 11.13 **Requirements for Access By Utility**. Each utility service easement and right of access granted by Sponsor or the Condominium Board pursuant to Section 11.11 above may be exercised and performed by the provider of a utility service and its authorized Agents, Employees and Contractors, Freely and Without Consent, Payment or Restriction other than the following, which shall also apply to each easement and right of access in favor of Sponsor or the Condominium Board under Section 11.9 above (the Sponsor or Condominium Board granting or exercising such easement and right of access is herein called "**Grantor**"):

(a) the requirement to comply with Article 15 below, including the applicable Work Requirements set forth in Section 15.2;

(b) the requirement and restriction to not permanently prevent, nor unreasonably and materially interrupt or interfere with, the permitted Use and Enjoyment of any Unit or its Owner or Permitted Tenants/Occupants/Invitees; and

(c) the obligation to Repair, at the sole Cost and Expense of such provider (or the Grantor, if the provider fails to so do) any damage caused by the exercise and performance of such easement and right of access so as to restore the damaged area and any Equipment, Facilities and Installation to as near as reasonable and economically practicable to the condition existing immediately prior to such exercise and performance.

Section 11.14 **Communications and Other Installation Easements and Rights**.

Section 11.14.1 Easements and Rights. Sponsor hereby reserves for itself (while Sponsor owns any Unsold Unit), and hereby grants to each and every Unsold Unit Owner (while each such Owner owns said Unit), and to the respective tenants of such Unsold Units and other Persons who are so expressly authorized in writing by Sponsor or an Unsold Unit Owner (as applicable), the exclusive and paramount easements and rights, Freely and Without Consent,

Payment or Restriction (other than those provided in subsection 11.14.2 below), to do the following and to grant leases, licenses and rights to utility providers to do the following:

(a) to erect and install Communications Equipment and Other Installations in any one or more locations that is not then being occupied by other Building Installations: (a-1) on and along the Building Walls and on and along the Building's Roofs (including Roof Structures) and the bulkhead enclosing the rooftop public stair, and the bulkhead enclosing the Building's elevator equipment; (a-2) on any outdoor Equipment and in any Equipment rooms comprising the Common Elements in the cellar; and (a-3) in any non-public or non-habitable portions of the Common Elements;

(b) to thereafter co-locate, lease, license, Maintain, Repair, Alter and otherwise Operate such Communications Equipment and Other Installations thereon and therein; and

(c) to erect and install partitions separating such Communications Equipment and Other Installations from their surroundings,

and the Property (including the Common Elements and Units) shall be subject thereto and subject to an easement and right of reasonable access to, from, through, across and on the Common Elements by Sponsor, an Unsold Unit Owner and such authorized tenants and other Persons, and their respective authorized Agents, Employees and Contractors and licensees, for all purposes in connection with the exercise and performance of the foregoing easements and rights. All Communications Equipment and Other Installations shall remain the property of the Party installing same (i.e., Sponsor, an Unsold Unit Owner, or a provider of a utility service, as applicable).

Section 11.14.2 Rights and Obligations. Sponsor or an Unsold Unit Owner (as applicable):

(a) shall give reasonable advance written notice to the Condominium Board of the type and proposed location of any Communications Equipment and Other Installations before same are erected or installed;

(b) shall receive and retain (without participation by the Board or other Unit Owners) all rents, fees and other consideration payable under such lease, license or right of use;

(c) shall be solely obligated to pay and perform all obligations under such lease, license or right of use (other than obligations of the Board to Maintain and Repair the Common Elements as provided elsewhere in this Declaration or the By-Laws);

(d) shall comply, or shall cause the utility provider to comply, with Section 10.2 above, including the applicable requirements of Article 15 below (except that this Section 11.14 shall govern and supersede any inconsistency between the provisions hereof and said Article 15);

(e) shall not invade, penetrate or disturb a substantial portion of any rentable, exposed public indoor areas of the Common Elements, other than for a reasonably temporary period;

(f) shall not permanently prevent, nor unreasonably interrupt or interfere with: the permitted Use and Enjoyment of the Units, or the proper and efficient performance, function, capacity or utility of the Equipment, Facilities and Installations serving Units, or the permitted use or occupancy of Units;

(g) shall Repair, or shall cause the utility provider to Repair, at the sole Cost and Expense of the Party exercising such easements and rights, any damage to the Common Elements or a Unit caused by the exercise and performance of such easements and rights so as to restore the damaged area and any Equipment, Facilities and Installations to as near as reasonable and economically practical to the condition existing immediately prior to such exercise and performance;

(h) shall indemnify the Condominium Board, and the Board's officers, Board Members, agents (including Managing Agent), employees and attorneys, and Unit Owners, from and against all Claims and Liabilities and Expenses arising in connection with the exercise and performance of such easements and rights;

(i) shall have access to, from, through and across and on, and may enter, any public or non-public portions of the Common Elements at such times as shall be reasonably convenient and on giving reasonable prior written notice to the Condominium Board, which shall have the right to have a representative present at all times during such entry; and

(j) shall comply with any reasonable security and protection procedures and requirements as may reasonably be required by the Condominium Board, whenever entering any commercially rentable, exposed public portion of the Common Elements, provided such procedures and requirements shall not preclude such entry.

Section 11.15 Roof Terrace Unit.

Section 11.15.1 Installation. The Roof currently is unimproved and does not contain the material that is to constitute the Roof Terrace Unit, namely: decking, pavers or other protective flooring, supporting pedestals and safety railings (which are required for using the area as a terrace). In order to use the main Roof as a Roof Terrace Unit, the Owner of the Roof Terrace Unit shall be responsible, at such Owner's sole Cost and Expense, to install the Roof Terrace Unit.

The installation of the materials comprising the Roof Terrace Unit by a Purchaser of the Roof Terrace Unit under the Plan or such Purchaser's successors-in-interest (i.e., a Sold Roof Terrace Unit Owner) such be subject to obtaining the prior written Reasonable Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of a new or amended Certificate of Occupancy changing the caretaker's apartment for use as an office and authorizing the Commercial Unit for permitted retail and office uses) Sponsor. The Board may condition its approval or consent on the Owner of the Sold Roof Terrace Unit entering into the Building's standard form alteration agreement, with such modifications as may be required by, and otherwise in substance satisfactory to, the Condominium Board (in its sole and absolute judgment), setting forth the terms and conditions of the installation (including the Board's work rules, insurance requirements, lien waiver, security deposit and an indemnity in favor of the Board, all Unit Owners and Related Parties

from and against all Claims and Liabilities and Expenses arising out of such work). The foregoing requirements are applicable only to a Purchaser or other subsequent Owner of the Sold Roof Terrace Unit, but shall not apply to Sponsor while it owns the Roof Terrace Unit. Sponsor reserves the right, Freely and Without Consent, Payment or Restriction, to install the Roof Terrace Unit, i.e., without the approval or consent of the Condominium Board or other Unit Owners, without entering into an alteration agreement with the Board and without compliance with any requirements or restrictions, other than the requirement to comply with the applicable Work Requirements contained in Section 15.2 below.

Section 11.15.2 Office Unit 500 Skylights. The skylights of Office Unit 500 are part of the Roof Terrace Unit and provide light to Office Unit 500 under a revocable license from the Owner of the Roof Terrace Unit, who shall have the right, at any time, Freely and Without Consent, Payment or Restriction (except as herein expressly provided), to revoke said license and remove, seal and deck over said skylights with roofing material. In such event, the Roof Terrace Unit Owner shall be obligated, at its sole Cost and Expense, to patch, laminate and finish only the affected area of the Unit 500 ceiling with gypsum board painted to match the adjacent ceiling area as close as reasonably practical and economical. The Owner of the Roof Terrace Unit will give the Owner of Office Unit 500 reasonable advance notice before commencing such removal Work and is to endeavor in good faith to minimize to the extent reasonable and economically practical any inconvenience caused by such Work and interruption in the use and Operation of Office Unit 500 by the Owner or tenants and occupants of Office Unit 500.

Before undertaking such Work, the Sold Roof Terrace Unit Owner shall be required: (a) to obtain the prior written Discretionary Approval or Consent of Sponsor and comply with Section 5.2.8 of the By-Laws until issuance of said permanent new or amended Certificate of Occupancy of the Building authorizing the Commercial Unit for permitted retail or office use and the caretaker's apartment for use as an office; and (b) to enter into the Building's standard form alteration agreement, with such modifications as may be required by, and otherwise is substance satisfactory to, the Condominium Board (in its sole and absolute judgment). This requirement shall not apply to Sponsor while it owns the Roof Terrace Unit. Sponsor, as Owner of the Roof Terrace Unit, shall have the right, Freely and Without Consent, Payment or Restriction (other than the requirement to comply with said applicable Work Requirements contained in Section 15.2 below) to remove, seal, and deck over the skylights, and to patch, laminate and finish the affected ceiling of Office Unit 500.

Until the Owner of the Roof Terrace Unit revokes said license, the Owner of Office Unit 500: (a) shall have a revocable license for the existence of said skylights in their present locations on the Roof Terrace Unit; and (b) shall have both the obligation, at its sole Cost and Expense, to Maintain and Repair said skylights and the right for reasonable access by such Owner and its Agents, Employees and Contractors to, from, over, across and on the Roof Terrace Unit to Maintain, Repair, Alter and otherwise Operate said skylights.

Section 11.15.3 Office Units 400 and 500 Equipment. The air-conditioning Equipment and related Installations serving, and part of, each of Office Units 400 and 500 are located on portions of the area of the main Roof reserved for installation of the Roof Terrace Unit. The existence of said air-conditioning Equipment and related Installations in their current locations are permitted under a revocable license from the Roof Terrace Unit Owner. The Owner of the Roof Terrace Unit shall have the right, at its sole Cost and Expense, at any time and from time to

time, Freely and Without Consent, Payment or Restriction (except as herein expressly provided), to remove and relocate said air-conditioning Equipment and related Installations and supporting dunnage to another area of the Roof Terrace Unit or the common area of the Roof chosen by the Roof Terrace Unit Owner. In connection therewith, the Roof Terrace Unit Owner shall have the right to erect and install new supporting dunnage for said Equipment and re-route within the affected Unit and behind its boundary walls, floors and ceilings the electric, refrigerant and plumbing lines that connect the rooftop air-conditioning Equipment (i.e., compressors) to the Unit's air handlers. In the event the Roof Terrace Unit Owner exercises such right, it will be obligated to patch, repair and finish the affected areas of the Unit so as to match the areas adjacent thereto to as near as reasonable and economically practical. The Owner of the Roof Terrace Unit will give the affected Owner of Office Unit 400 or 500 (as applicable) reasonable advance notice before commencing such removal Work and is to endeavor in good faith to minimize to the extent reasonable and economically practical any inconvenience caused by such Work and interruption in air-conditioning service.

Before undertaking such Work, the Sold Roof Terrace Unit Owner shall be required to enter into the Building's standard form alteration agreement, with such modifications as may be required by, and otherwise is substance satisfactory to the Condominium Board (in its sole judgment). This requirement shall not apply to Sponsor while it owns the Roof Terrace Unit. Sponsor, as Owner of the Roof Terrace Unit, shall have the right, Freely and Without Consent, Payment or Restriction (other than the requirement to comply with said applicable Work Requirements contained in Section 15.2 below) to remove and relocate said air-conditioning Equipment and related Installations and supporting dunnage to another area of the Roof Terrace Unit or the common area of the Roof chosen by Sponsor.

Until the air-conditioning Equipment and related Installations are so relocated, the respective Owners of Office Units 400 and 500 shall each have a revocable license for the existence of its air-conditioning Equipment and related Installations in their present locations on the Roof Terrace Unit and a right of reasonable access by each such Owner and its Agents, Employees and Contractors to, from, over, across and on the Roof Terrace Unit to Maintain, Repair, Alter and otherwise Operate said air-conditioning Equipment and related Installations.

Section 11.15.4 Access Requirements. The foregoing rights of access by the respective Owners of Office Units 400 and 500 to, from, over, across and on the Roof Terrace Unit shall be subject to strict compliance with the following requirements, restrictions and obligations (collectively, "**Access Requirements**"):

(a) the requirement to comply with the Installation Requirements and Work Requirements contained in this Declaration;

(b) the restriction and limitation to not unreasonably interrupt or interfere with the permitted Operation, business Use or Enjoyment of the of the Roof Terrace Unit by the Owner, tenants or occupants of the Roof Terrace Unit;

(c) the obligation, at the sole Cost and Expense of the Owner of Office Unit 400 or 500 (as applicable), to Repair any damage to the Roof Terrace Unit caused by the exercise and performance of such right of access so as to restore the damaged area and any

Installations thereon to as near as reasonable and economically practical to the condition existing immediately prior to such exercise and performance;

(d) the further obligation of the Owner of Office Unit 400 or 500 (as applicable), at its sole Cost and Expense, to indemnify the Roof Terrace Unit Owner, and such Owner's agents and employees, from and against all Claims and Liabilities and Expenses arising in connection with the exercise and performance of such right of access;

(e) the requirement to access the Roof Terrace Unit at such times as shall be reasonably convenient and on giving reasonable prior written notice to the Owner of the Roof Terrace Unit, who shall have the right to have a representative present at all times during such access; and

(f) such access shall comply with any security and protection procedures and requirements as may be reasonably required by the Roof Terrace Unit Owner, or an affected tenant or occupant of the Roof Terrace Unit, provided such procedures and requirements shall not preclude such access.

In event of any breach or violation of the foregoing Access Requirements, the Roof Terrace Unit Owner shall all rights and remedies at law and in equity, including the right to enjoin a continuing or future violation of said Access Requirements.

ARTICLE 12

STANDARD AND RECIPROCAL EASEMENTS, RIGHTS AND RESTRICTIONS AFFECTING UNITS AND COMMON ELEMENTS

Section 12.1 Easements Affecting All Units and Common Elements.

Section 12.1.1 Standard Easements. The Condominium Board and its Agents, Employees and Contractors are hereby granted an easement and right of access to, from, through, across and on all Units and all portions of the Common Elements for the following purposes, and all Units and all portions of the Common Elements shall be subject thereto:

(a) to conduct inspections and read meters;

(b) to Maintain, Repair, Alter and otherwise Operate all areas, Equipment, Installations and other Facilities now or hereafter comprising the Common Elements and to provide services to the Units, in accordance and compliance with the Condominium Documents; and

(c) to perform Maintenance, Repairs, Alterations and other Work necessary: (c-1) to fulfill the obligations of the Board under the Condominium Documents or applicable Laws; (c-2) to prevent damage to another Owner's Unit or the Common Elements or any portion thereof; (c-3) to remedy violations noted or issued against the Property by any Governmental Authority that affect the Common Elements or another Unit or (if established) its appurtenant Limited Common Element and to remedy any conditions that would constitute such violations even though not yet noted or issued; (c-4) to remedy any default by a Unit Owner under the Condominium Documents that shall have

continued beyond the cure period, if any, provided for therein; or (c-5) to remedy any condition in a Unit or the Common Elements that is a threat or danger to another Unit or a portion of the Common Elements or to avoid the suspension of any necessary service.

Section 12.1.2 Standard Requirements. Such easement and right of access in the preceding subsection 12.1.1 may be exercised and performed by the Condominium Board and its Agents, Employees and Contractors Freely and Without Consent, Payment or Restriction, other than:

(a) the requirement to comply with Section 10.2 above, including the applicable requirements set forth in Article 15 below (except that this Section 12.1 shall govern and supersede any inconsistency between the provisions hereof and said Article 15);

(b) in the case of access pursuant to clauses (a), (b) and (c) in the preceding Section 12.1.1, other than clauses (c-4) and (c-5) thereof: (b-1) if not involving an emergency (i.e., a condition which threatens the life, health, safety, security or protection of any Persons or damage to property or the suspension of any necessary service), the requirement to give the applicable Unit Owner at least three (3) business days (if served by mail) or one (1) business day (if served by hand delivery) advance written notice of the date and time scheduled by the Condominium Board to enter the Unit or (if established) its appurtenant Limited Common Element; or (b-2) if involving an emergency, access to a Unit may be immediate without advance notice;

(c) in the case of access pursuant to clauses (c-4) or (c-5) in the preceding Section 12.1.1: (c-1) if not involving an emergency, the requirement of the Board to give the applicable Unit Owner reasonable advance written notice of the proposed Maintenance, Repairs, Alterations or other Work and an opportunity to perform and complete same within ten (10) calendar days of receipt of such notice or (if same cannot with due diligence and continuity be performed and completed within such ten (10) calendar day period) such longer period as shall be required to perform and complete same with due diligence and continuity (but not longer than ninety (90) calendar days), provided such Unit Owner shall commence to perform the Maintenance, Repairs, Alterations or other Work within five (5) calendar days following receipt of said notice and shall continue to prosecute same with due diligence and continuity until completion; or (c-2) if involving an emergency, access may be immediate, without advance notice, without being liable or guilty in any manner of trespass or otherwise, and without giving the applicable Unit Owner an opportunity to perform the Maintenance, Repairs, Alterations or other Work;

(d) the obligation of the Condominium Board, as a Common Expense charged to all Unit Owners Pro Rata to their respective Common Interests, to Repair any damage caused by the exercise and performance of such easement and right of access so as to restore the damaged area and any Equipment, Facilities and Installations to as near as reasonable and economically practical to the condition existing immediately prior to such exercise and performance; and

(e) the obligation of the Condominium Board, as a Common Expense charged to all Unit Owners Pro Rata to their respective Common Interests, to indemnify the affected Unit Owner from and against all Claims and Liabilities and Expenses arising from the exercise

and performance of this easement and right of access by the Board or its authorized Agents, Employees and Contractors.

Section 12.1.3 Communications Equipment and Other Installations. The Common Elements are also subject to the rights and easements in favor of Sponsor, Unsold Unit Owners and other Persons to erect and install, or to grant leases, licenses and rights to utility providers to erect and install, Communications Equipment and Other Installations, and thereafter to Maintain, Repair, Alter and otherwise Operate same and replacements thereof and additions thereto, as set forth in Section 11.14 above.

Section 12.2 Reciprocal Easement Affecting the Commercial Unit. With respect to Equipment, Facilities and Installations housed in the meter and equipment rooms comprising the Common Elements in the cellar, and any other Equipment or other Facilities and Installations comprising the Common Elements that are located in, adjacent to or bordering the Commercial Unit now or on the date of First Unit Closing under the Plan or the date of issuance of said permanent new or amended Certificate of Occupancy of the Building with respect to the Commercial Unit and Office Unit 500 (whichever is the later to occur), the Condominium Board, and those Agents, Employees and Contractors who are so expressly authorized in writing by the Condominium Board, are hereby granted an easement and right of reasonable access to, from, through, across and on such Commercial Unit or, to the extent possible and economically practical, only the non-public portions of such Commercial Unit, to Maintain, Repair, Alter and otherwise Operate any and all such Equipment, Facilities and Installations (including replacements of then existing Equipment, Facilities and Installations, if any, with new Equipment, Facilities and Installations) substantially within the confines of their then current spaces and locations. In addition, if The City of New York revokes the right or license to use a Vault, the Condominium Board shall have an easement and right to relocate the Equipment, Facilities and Installations then housed therein to other portions of the Common Elements or, if and to the extent economically impractical, to an area of the Commercial Unit as shall reasonably be determined by the Commercial Unit Owner. Such easements and rights may be exercised and performed Freely and Without Consent, Payment or Restriction, other than the following:

(a) the requirement to comply with Section 10.2 above, including the applicable requirements of Article 15 below (except this Section 12.2 shall govern and supersede any inconsistency between the provisions hereof and said Article 15);

(b) the restrictions and limitations: (b-1) not to unreasonably invade, penetrate or disturb any commercially rentable, exposed indoor public areas of such Commercial Unit other than for a reasonably temporary period; and (b-2) not to permanently prevent, nor unreasonably interrupt or interfere with, the permitted Use and Enjoyment of such Commercial Unit (or any portion thereof, except in the case of relocation of Equipment, Facilities and Installations from a Vault), or the proper and efficient performance, function, capacity or utility of the Unit Equipment serving the Commercial Unit or the Operation or business of the Owner of such Commercial Unit or the tenants or occupants of such Commercial Unit or any portion thereof;

(c) the obligation to Repair any damage to such Commercial Unit caused by the exercise and performance of such easements and rights so as to restore the damaged area and any Equipment, Facilities and Installations to as near as reasonable and economically

practical to the condition existing immediately prior to such exercise and performance (the Costs and Expenses of such Repair shall be part of the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests;

(d) the further obligation of the Condominium Board, as a Common Expense charged to all Unit Owners Pro Rata to their respective Common Interests, to indemnify the Commercial Unit Owner, and such Owner's agents and employees, from and against all Claims and Liabilities and Expenses arising in connection with the exercise and performance of such easements and rights; and

(e) in the event access and entry to any commercially rentable or public area of such Commercial Unit is required: (e-1) such access and entry shall be at such times reasonably convenient and on giving reasonable prior written notice to the Owner of the Commercial Unit, who shall have the right to have a representative present at all times during such entry; and (e-2) such access and entry shall comply with any security and protection procedures and requirements as may be reasonably required by the Commercial Unit Owner, or an affected tenant or occupant of the Commercial Unit, provided such procedures and requirements shall not preclude such entry.

Section 12.3 **Reciprocal Easement Affecting the Common Elements**. If and to the extent only that Unit Equipment and/or other Facilities Installations comprising part of a Unit: (a) are located in, adjacent to or bordering the Common Elements or another Unit now or on the date of First Unit Closing under the Plan or the date of issuance of said permanent new or amended Certificate of Occupancy of the Building with respect to the Commercial Unit and Office Unit 500 (whichever is the later to occur), or (b) are permitted to be installed in, on and along the Common Elements in accordance with Section 10.4 above, the Sponsor hereby grants to Unit Owner of such Unit Equipment and the tenants and other Persons who are expressly so authorized in writing by such Unit Owner, and the respective authorized Agents, Employees and Contractors of each of the foregoing, an easement and right of reasonable access to, from, through, across and on the Common Elements and, to the extent reasonably necessary, another Unit to Maintain, Repair, Alter and otherwise Operate any and all such Unit Equipment, Facilities and Installations (including replacements of then existing Unit Equipment, Facilities and Installations, if any, with new Unit Equipment, Facilities and Installations) substantially within the confines of their then current or permitted new spaces and locations. Such easement and right may be exercised and performed Freely and Without Consent, Payment or Restriction, other than the following:

(a) the requirement to comply with Section 10.2 above, including the applicable requirements of Article 15 below (except this Section 12.3 shall govern and supersede any inconsistency between the provisions hereof and said Article 15);

(b) the restrictions and limitations: (b-1) not to invade, penetrate or disturb any commercially rentable, exposed indoor public areas of the Common Elements or another Unit, other than for a reasonably temporary period; and (b-2) not to permanently prevent, nor unreasonably interrupt or interfere with, the permitted Use and Enjoyment of the Common Elements or another Unit (or any portion thereof), or the proper and efficient performance, function, capacity or utility of the Common Elements or another Unit;

(c) the obligation of such Unit Owner, at such Owner's sole Cost and Expense, to Repair any damage to the Common Elements or another Unit caused by the exercise and performance of such easement and right so as to restore the damaged area and any Equipment, Facilities and Installations to as near as reasonable and economically practical to the condition existing immediately prior to such exercise and performance;

(d) the further obligation of such Unit Owner, at such Owner's sole Cost and Expense, to indemnify the Board and the affected Unit Owners, and their respective agents and employees, from and against all Claims and Liabilities and Expenses arising in connection with the exercise and performance of such easement and right; and

(e) in the event access and entry to any commercially rentable or public area of the Common Elements or another Unit is required: (e-1) such access and entry shall be at such times reasonably convenient and on giving reasonable prior written notice to the Board and a directly affected Unit Owner, each of whom shall have the right to have a representative present at all times during such entry; and (e-2) such access and entry shall comply with any security and protection procedures and requirements as may be reasonably required by the Board and such affected Unit Owner or an affected tenant or occupant of such Unit, provided such procedures and requirements shall not preclude such entry.

Section 12.4 **Easements of Support, Necessity, Utilities and Services**. Each Unit Owner (with respect to the Owner's Unit) and all Unit Owners (with respect to the Common Elements), and the Permitted Tenants/Occupants/Invitees of each Unit, are hereby granted rights and easements of subjacent support, emergency and necessity as well as for utilities and other services being commonly provided or available to Units, and each Unit and the Common Elements shall be subject to such rights and easements. The foregoing rights and easements include a right and easement in favor of all Owners, tenants and occupants of Units and all other Persons visiting Units or working in the Building for emergency ingress and egress to, from, through, across and on the Common Elements as and to the extent required by fire safety requirements of the building code or other applicable Laws.

Section 12.5 **Easements Allowing Encroachments**. Each Unit and the Common Elements have and shall have, and are and shall be subject to, easements and rights for the existence, continuation and Maintenance of encroachments by any Unit on other Units and/or a portion of the Common Elements, or an encroachment by a portion of the Common Elements on any Unit and/or other portions of the Common Elements, for so long as the Building or the affected Unit or Common Element shall stand, if and to the extent now existing or hereafter arising as a result of: (a) the Building or any portion thereof settling or shifting naturally; or (b) a Maintenance, Repair, Alteration or other Work by the Condominium Board or a Unit Owner performed in accordance with this Declaration and the By-Laws following a fire or other cause, or a taking by condemnation or eminent domain; or (c) a Maintenance, Repair, Alteration or other Work permitted in, and performed in accordance with, this Declaration or the By-Laws.

Section 12.6 **Statutory Easements**. In addition to the specific easements reserved and granted in Articles 11 and 12 and elsewhere in this Declaration and the By-Laws, the Property and every portion thereof (including the Common Elements and the Units) and the respective Owners and Permitted Tenants/Occupants/Invitees of Units and the Condominium

Board, shall have and shall be subject to all easements and rights of use and access required by, or set forth in, the Condominium Act and other applicable Law.

Section 12.7 **Sponsor Easements for Sponsor's Rights and Obligations**. Sponsor hereby reserves for itself (while Sponsor owns any Unsold Unit) and grants to each and every Unsold Unit Owner (while such Owner owns said Unit), and their respective authorized Agents, Employees and Contractors, easements and rights of access (for ingress and egress) to, from, through, across and on, and for use of, the Common Elements (including in particular, but not limited to: the 100 Vandam Street Public Areas; the elevator, exit passageways, corridors and halls; the public stairs; the Building Walls; the Roofs and Roof Structures; the bulkheads enclosing the rooftop public stair and elevator equipment; and all other public and non-public portions of the Common Elements) and the Immediately Adjacent Sidewalks to the Property for all lawful purposes, including the following:

(a) to sell, rent, Promote, Operate, manage and make any other Disposition of Sponsor Units and Unsold Units, including: (a-1) to erect, install, Maintain, Repair and Alter furnishings, wall and floor coverings and other Decorations in and on the 100 Vandam Street Public Areas and other portions of the Common Elements; (a-2) to station sales and rental staff in the 100 Vandam Street Public Areas; (a-3) to erect, install, Maintain, Repair, Alter and otherwise Operate one (1) or more Signs of any size, content, composition, material, color, design, illumination, character and appearance; and (a-4) to provide access to any of the following persons authorized by Sponsor or an Unsold Unit Owner: sales and rental personnel; cooperating brokers; prospective Purchasers and prospective renters of Unsold Units; Agents, Employees and Contractors; architects; engineers; and decorators; and

(b) to store and transport materials, supplies and Equipment and to temporarily interrupt elevator, water, plumbing, electric and other Building services in connection with the performance of: (b-1) Sponsor's Rights under the Plan, this Declaration and the By-Laws, including the right to Use and Enjoy the Common Elements and Unsold Units pursuant to Articles 10, 11 and 12 hereof; and (b-1.2) the right to make Unit Changes to Unsold Units pursuant to Article 13 below; (b-2) obligations or Work undertaken by Sponsor in or pursuant to the Plan, a Plan Amendment or a Purchase and Sale Agreement for an Unsold Unit (collectively, "**Plan Obligations**"); and (b-3) obligations of Sponsor to tenants or other occupants of Unsold Units ("**Tenant Obligations**").

Sponsor's Rights and Plan Obligations include Sponsor's undertaking to obtain a permanent new or amended Certificate of Occupancy authorizing the use of the Commercial Unit for permitted retail and office uses and to change the use of the caretaker's apartment on a portion of Office Unit 500 for use as an office, and to perform other construction obligations under the Plan or a Purchase and Sale Agreement, whether before or after the First Unit Closing, including the following easements and rights in favor of Sponsor and Sponsor's Agents, Employees and Contractors with respect to the Common Elements: (a) an easement and right of access to, and use of, the Common Elements (including preferential and priority use of the elevator); (b) an easement and right to transport on, across and through the Common Elements, and to temporarily store on portions of the Common Elements considered appropriate by Sponsor or Sponsor's Agents, Employees and Contractors, construction equipment, materials, supplies and debris; and (c) a right to temporarily interrupt Building services (including elevator, water,

heating, electric, gas, ventilation, plumbing and other Building Systems). Sponsor will endeavor to minimize inconveniencing residents of the Building. Sponsor's construction workers shall have the right to perform Work on Mondays through Fridays from 8:00 a.m. to 5:00 p.m. (except that especially noisy Work will not begin before 8:30 a.m.) and on Saturdays from 9:00 a.m. to 5:00 p.m., except that Work may be performed at any time and on any day in the case of an emergency or to correct a condition that threatens the life, health, safety, security or protection of Building occupants or to protect property or to provide a required Building service.

The easements and rights of Sponsor and each Unsold Unit Owner in this Section 12.7 may be exercised and performed Freely and Without Consent, Payment or Restriction (other than those set forth in Section 11.7 above) and are superior, paramount and take preference over the easements and rights of the Condominium Board and other Unit Owners to use the Common Elements.

Section 12.8 **Move-In and -Out Easements**. Sponsor hereby grants to each Purchaser of an Office Unit and such Purchaser's tenant (if any) on the initial move into the Office Unit and reserves for itself for the benefit of each tenant and occupant of an Unsold Office Unit from time to time, and further grants to the movers (and their employees and workers) of each of the foregoing, an easement and right to use the Common Elements (including specifically, but not limited to, the elevator and other public and common areas designated by Sponsor) for purposes of moving furniture, furnishings, office equipment and other property into such Purchaser's Office Unit and also into and out of each such tenant's or occupant's Unsold Office Unit. The Condominium Board shall not impose or collect any fee, charge, deposit, security or other imposition in connection with the move or such use of the Common Elements, other than a refundable security deposit of $5,000.00 for potential damage to the Common Elements on a move into the Building by a purchaser or tenant of a Sold Office Unit, or such other amount as may be determined by the Condominium Board, subject to obtaining the prior written Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period. No security deposit or other fee or charge, however, may be imposed on a Purchaser of an Office Unit under the Plan or a tenant of an Unsold Unit without obtaining the prior written Discretionary Approval or Consent of Sponsor in each instance. In addition, purchasers, tenants and occupants moving into and out of Units shall be given preference over other Office Unit Owners, and allowed reasonably prompt access to, and use of, the elevator and other public and common areas of the Common Elements. The Condominium Board may, upon and subject to obtaining the prior written Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period, adopt reasonable rules and regulations concerning moving into and out of the Building to assure reasonable access to, and use of, the elevator and other portions of the Common Elements by other Owners, tenants and occupants of Sold Office Units. No such rules or regulations may be adopted or imposed with respect to Unsold Office Units without obtaining the prior written Discretionary Approval or Consent of Sponsor or other applicable Owner of an Unsold Office Unit, in each instance.

ARTICLE 13

CHANGES IN UNITS AND COMMON ELEMENTS

Section 13.1 **Changes**. Sponsor hereby reserves for itself (while it owns an Unsold Unit) and grants to each Unsold Unit Owner, and an Authorized First Sold Unit Owner, the right

from time-to-time, Freely and Without Consent, Payment or Restriction, other than those set forth in Section 13.2 and Article 15 below, to make the following changes to each Unit owned by said Owner (collectively, "**Unit Change**"):

(a) the right to subdivide its Unit into two (2) or more Units ("**Unit Subdivision**") and to establish new boundary walls separating the Units established on such Unit Subdivision;

(b) the right to combine (horizontally and/or vertically) all or portions of two (2) or more of its Units ("**Unit Combination**") and to incorporate and remove walls, floors, ceilings or other portions of the Common Elements (where entire Units are combined into one (1) Unit) or to establish new boundary walls, floors and/or ceilings or other portions of the Common Elements (where portions of Units are combined);

(c) the right to raze, move and relocate the boundary walls, floors and/or ceilings of its Unit to incorporate in its Unit a portion of the Common Elements, including an adjacent vestibule or hallway or other space between such Owner's Unit and a neighboring Unit and/or walls, floors, ceilings, and/or other portions of the Common Elements ("**Unit Expansion**");

(d) the right to alter its Unit ("**Unit Alteration**"), to change the number of rooms and bathrooms, the layout, the configuration, and the Unit's Equipment, Facilities and Installations; and

(e) the right to change the description of portions of its Unit and the affected Common Elements involved in a Unit Change so that such applicable portions of the Common Elements become part of the Unit or a Limited Common Element appurtenant to the Unit and/or portions of the Unit become Common Elements or a Limited Common Element appurtenant to the Unit, as applicable ("**Description Change**").

Upon the original boundary walls, floors, ceilings and/or other space forming a part of the Common Elements being razed or otherwise incorporated in a Unit involved in a Unit Change, they automatically shall no longer be part of the Common Elements and shall become part of the applicable Unit. Similarly, upon new boundary walls, floors and/or ceilings of a Unit being constructed, they automatically shall be substituted in place of the former boundaries to become part of the Common Elements.

An Unauthorized First Sold Unit Owner shall have the right to subdivide such Owner's Unit into two (2) or more Units (i.e., a Unit Subdivision) and to combine two (2) or more Units owned by such Owner into one (1) Unit (i.e., a Unit Combination) on and subject to compliance with the applicable terms and conditions set forth in Section 13.2 below.

In addition, if Office Unit 500 and the Roof Terrace Unit are owned by the same Owner (including Sponsor or a Sold Unit Owner), such Owner shall have the right (either as a Unit Combination or, without combining such Units into one (1) Unit, as a Unit Alteration), to connect said two (2) Units to each other by removing the Base Ceiling of Office Unit 500 and the Roof thereover and erect and install a private stair in the resulting opening and a private bulkhead enclosing same, together with bulkhead lighting and new electric service to the Roof

Terrace Unit, on and subject to compliance the applicable terms and conditions set forth in Section 13.2 below.

Section 13.2 **Rights, Restrictions and Requirements**. The following shall apply to Unit Changes or certain Unit Changes (as indicated) made pursuant to Section 13.1 above:

(a) each Unit Change may be made by Sponsor and an Unsold Unit Owner Freely and Without Consent, Payment and Restriction, that is: (a-1) without obtaining the approval or consent of the Condominium Board, the Unit Owners or Unit mortgage lenders (other than a lender holding a mortgage on the affected Unit, if and to the extent required by the terms of such mortgage); (a-2) without complying with any regulations, rules or other requirements of the Condominium Board for Alterations or changes to Units; (a-3) without paying any kind of fee or other charge of the Condominium Board or its Managing Agent or attorneys or other professional or consultant; and (a-4) without the plans or specifications of the proposed Unit Change being submitted to, or reviewed by, the Condominium Board or an architect, engineer or other professional or consultant chosen by the Condominium Board;

(b) the Owner subdividing a Unit, at such Owner's sole Cost and Expense, shall duly record an Amendment to the Declaration and the Floor Plans to subdivide the Unit and to apportion between or among the Units resulting from such Unit Subdivision, the Common Interest of the Unit so subdivided in accordance with the method set forth in Article 8 above or any other method allowed by the Condominium Act (subject to the Reasonable Approval of the Condominium Board in the case only of an Authorized First Sold Unit Owner or an Unauthorized Sold Unit Owner, but not subject to the approval or consent of the Board or other Unit Owners in the case of an Unsold Unit; provided, however, that the aggregate Common Interests of all Units resulting from such Unit Subdivision shall equal exactly the Common Interest of the Unit being so subdivided;

(c) the Owner combining all or portions of two (2) or more Units, at such Owner's sole Cost and Expense, shall duly record and file an Amendment to the Declaration and the Floor Plans to combine such Units or portions thereof and:

(c-1) (in the case of a Unit Combination involving entire Units) to declare and establish the Common Interest of the resulting combined Unit to equal exactly the total of the Common Interests of the original Units being so combined; or

(c-2) (in the case of a Unit Combination not involving entire Units) to apportion between or among the Units involved in the Unit Combination, the Common Interests of such Units in accordance with the method set forth in Article 8 above or any other method allowed by the Condominium Act (subject to the Reasonable Approval of the Condominium Board in the case only of an Authorized First Sold Unit Owner or an Unauthorized Sold Unit Owner, but not subject to the approval or consent of the Board or other Unit Owners in the case of an Unsold Unit); provided, however, that the total Common Interests of all resulting Units following a Unit Combination shall equal exactly the total of the Common Interests of such original Units;

(d) in the case of a Unit Expansion: (d-1) the Declaration and the Floor Plans shall be amended by, and at the sole Cost and Expense of, the applicable Owner of the affected Unit to effectuate such Unit Expansion; (d-2) the Common Interest of such Unit shall not change as a result of such Unit Expansion, however, any increase in Operating Expenses of the Common Elements resulting therefrom or fairly and reasonably attributable thereto shall be specially allocated and assessed to such Unit Owner as Additional Common Charges; and (d-3) no Unit Expansion shall require or involve the use of the Unused Development Rights of the Property without obtaining the prior written Discretionary Approval or Consent of Sponsor, as the exclusive owner thereof;

(e) any public or common areas of the Common Elements incorporated in a Unit (other than boundary walls, floors and ceilings) shall remain part of the Common Elements, but its use shall be completely limited or restricted to only that Unit; alternatively, such incorporated portions of the Common Elements shall become part of such Unit at the option of: (e-1) Sponsor or the applicable Unsold Unit Owner (as the case may be), without obtaining the approval or consent of the Condominium Board or other Unit Owners; or (e-2) an Authorized First Sold Unit Owner or an Unauthorized Sold Unit Owner, subject to obtaining the Reasonable Approval of the Office Board Members;

(f) (if and to the extent required by the Condominium Act) the Unit Owner (hereinafter, "**such Owner**") making a Description Change, at the sole Cost and Expense of such Owner, shall declare, establish, grant and convey in a duly recorded Amendment to this Declaration and a duly filed Amendment to the Floor Plans that: (f-1) the applicable portion of such Owner's Unit shall instead comprise the Common Elements or (at the exclusive right and option of such Owner) to comprise a Limited Common Element appurtenant to such Owner's Unit; and/or (f-2) the applicable portion of the Common Elements shall instead comprise such Owner's Unit or (at the exclusive right and option of such Owner) a Limited Common Element appurtenant thereto (as applicable); provided, however, that such Description Change from a Unit to Common Elements (or a Limited Common Element), or vice versa, shall not change the Common Interest of any Unit, including such Owner's Unit;

(g) the Common Interest of a Unit not involved in a Unit Change shall remain the same, unless the prior written Discretionary Consent to a new Common Interest is obtained from the Owner of such Unit as required by Section 339-i of the Condominium Act; and the Common Interests of all Units following a Unit Change shall total 100%;

(h) all Costs and Expenses thereafter arising with respect to the Maintenance, Repair, Alteration and other Operation of a Limited Common Element established in connection with a Description Change shall be borne exclusively by the Owner of the Unit to which same is appurtenant (other than structural Repairs which are expressly stated in this Declaration or the By-Laws to be performed by the Condominium Board as a Common Expense);

(i) such Owner making a Unit Change shall indemnify the Condominium Board and its members, officers, agents (including Managing Agent), employees and attorneys, the Sponsor and all other Unit Owners from and against any and all Claims and Liabilities

and Expenses arising out of, or in connection with, the Unit Change or the Work in performing such Unit Change;

(j) the required Amendment to the Declaration to effectuate a Unit Change as herein provided: (j-1) shall be prepared, signed and acknowledged in recordable form by, and at the sole Cost and Expense of, only the Unit Owner making such Unit Change and, if requested, shall be certified by the Secretary or an Assistant Secretary of the Condominium Association in accordance with Article 22 below, and such Amendment to the Floor Plans shall be prepared, certified, signed and sealed by a registered architect or a licensed professional engineer selected exclusively by, and at the sole Cost and Expense of, said Unit Owner making such Unit Change; and (j-2) (in the case only of an Unsold Unit) may be recorded and filed without the approval, consent or signatures of the Condominium Board or any officer of the Condominium Board and without the express consent of any Unit Owners (who shall be deemed automatically and irrevocably to have given their consent as provided in Section 22.2 below), or (in the case of only a Sold Unit) shall be subject to the Reasonable Approval of the Condominium Board and (if approved) shall be duly executed in recordable form by the appropriate officers and/or members of the Condominium Board;

(k) the approval, consent and signatures of the Board or any other Unit Owner shall not be required on any Government Document necessary or convenient to perform a Unit Change to an Unsold Unit in accordance with this Article 13, including any application or other Government Document required by the Department of Buildings, the Real Property Assessment Bureau of The City of New York or any other Governmental Authority in connection with a Building Alteration application and/or an amendment to the Certificate of Occupancy for the Building or the establishment of separate tax lots for any newly created Units and a reapportionment of the assessed valuation by reason thereof; all such Government Documents shall be prepared, signed and (where required) acknowledged by, and at the sole Cost and Expense of, only the Unsold Unit Owner making such Unit Change, such Unsold Unit Owner being hereby granted an irrevocable, durable power of attorney, "coupled with an interest" and for valuable consideration, with full power of substitution, to execute such Government Documents as attorney-in-fact in the name and on behalf of the Board and other Unit Owners (in accordance with Article 20 below, the Board shall fully cooperate with the Owner making the Unit Change and in furtherance thereof, upon request of such Unit Unsold Owner, shall nevertheless execute and deliver to such Unsold Unit Owner any and all Government Documents on the terms and conditions provided in said Article 20);

(l) no license or use fee or rental or other charge (other than the regular Common Charges and Special Assessments, if any, levied on all Unit Owners) may be levied or imposed by the Condominium Board in connection with any wall, space, Base Floor, Base Ceiling, Roof or other portion of the Common Elements incorporated in a Unit in connection with such Unit Change;

(m) the dimensions, usable floor area and interior space (that is, the space within the enclosing walls, floors and ceilings) of any other Unit shall not be changed or penetrated by reason of a Unit Change without obtaining the prior written Discretionary Consent of the Owner of such affected Unit;

(n) a Unit Change shall not jeopardize the soundness or structural integrity of any portion of the Building or threaten the life, health, safety, security or protection of any Owner or Permitted Tenants/Occupants/Invitees of another Unit;

(o) a Unit Change shall not prevent or unlawfully impair legal access by another Unit to the public stairs, the elevator or the 100 Vandam Street Public Areas;

(p) a Unit Change shall not permanently diminish or adversely and unreasonably affect: (p-1) the proper and efficient performance, function, capacity or utility of the Building's Equipment, Facilities and Installations serving another Unit; or (p-2) the use of the Common Elements serving another Unit for their intended purposes;

(q) a Unit Change shall be performed and completed in accordance and compliance with the applicable Work Requirements set forth in Section 15.2 below, including clause (k) thereof and compliance with all applicable Laws (such as, if and to the extent required by Law: (q-1) obtaining all required approvals, permits and licenses of Governmental Authorities having jurisdiction; and (q-2) in the case of a Unit Subdivision or Unit Combination, obtaining an Alteration permit or notice or an amended or new Certificate of Occupancy for the Building or other appropriate Government Document to reflect the Unit(s) resulting from a Unit Subdivision or Unit Combination, as applicable); and

(r) an Authorized First Sold Unit Owner and an Unauthorized Sold Unit Owner (hereinafter collectively, "**such Owner**"), but not Sponsor or an Unsold Unit Owner (who are exempt from the following Unit Change Requirements), at the sole Cost and Expense of such Owner, shall comply with the following "Unit Change Requirements" before commencing construction Work:

(r-1) such Owner shall cause to be prepared and submitted to the Condominium Board and (until issuance of the permanent new or amended Certificate of Occupancy of the Building authorizing the use of the Commercial Unit for the purposes set forth in the Plan and herein and changing the use of the caretaker's apartment on a portion of Office Unit 500 for use as an office) Sponsor detailed plans and specifications of the proposed Unit Change, prepared by a registered architect, licensed professional engineer or other appropriate professional chosen by such Owner;

(r-2) (in the case of a Unit Change affecting any of the Building's HVAC/Mechanical/Utility Systems) such Owner must first obtain the following approvals or consents: (r-2.1) <u>until said permanent new or amended Certificate of Occupancy issues</u>: the prior written Discretionary Approval or Consent of Sponsor must first be obtained as provided in Section 15.2(k) below and the prior written Reasonable Approval or Consent of the Condominium Board must first also be obtained; and (r-2.2) <u>after said permanent new or amended Certificate of Occupancy issues</u>: the prior written Reasonable Approvals or Consents of both Sponsor (during only the Sponsor Veto Control Period) and the Condominium Board must first be obtained;

(r-3) (in the case of a Unit Change affecting the Building's Structural Components) such Owner must obtain the prior written Discretionary Approvals or Consents of both Sponsor (during only the Sponsor Veto Control Period and until said permanent new or amended Certificate of Occupancy issues) and the Condominium Board;

(r-4) (in the case of a Unit Change affecting (if and to the extent applicable) the Unit's entrance, windows, skylight (other than the skylight appurtenant to, and part of, the Roof Terrace Unit which shall be governed by Section 11.15 above), or other portions of the Unit or (if established) its appurtenant Limited Common Element exposed to public view) such Owner must obtain the prior written Discretionary Approvals or Consents of both Sponsor (during only the Sponsor Veto Control Period and until the issuance of said permanent new or amended Certificate of Occupancy) and the Condominium Board;

(r-5) such Owner shall sign and deliver to the Condominium Board an alteration agreement, on the standard form adopted by the Condominium Board, with such modifications thereto and otherwise in substance satisfactory to the Condominium Board (in its sole and absolute judgment), setting forth the terms and conditions for performing the Unit Change (including the Condominium Board's Work rules, insurance requirements, security deposit and an indemnity in favor of the Condominium Board, its agents and employees, and all Unit Owners, from and against all Claims and Liabilities and Expenses arising out of the Unit Change), and shall pay or reimburse the Board for the reasonable Costs and Expenses incurred by it in connection with the preparation, review and execution thereof, including the fees and charges of any architect, engineer, consultant or other expert engaged by the Board to review the proposed plans and specifications of the Alteration and the fees and charges of the Managing Agent and any attorney retained by the Board in connection with such alteration agreement (the proposed fee of the Managing Agent for such service set forth in the Plan shall be deemed to be reasonable); all such Costs and Expenses shall be added to and constitute Additional Common Charges payable by such Owner; and

(s) no Unit Change shall use any of the Unused Development Rights of the Property without obtaining the prior written Discretionary Approval or Consent of Sponsor as the exclusive owner thereof.

ARTICLE 14

MAINTENANCE, REPAIRS, ALTERATIONS AND OTHER WORK TO UNITS, COMMON ELEMENTS, ASSOCIATION'S PROPERTIES AND SIDEWALKS

Section 14.1 **Duty to Maintain and Repair the Units and Limited Common Elements**. Each Unit Owner, at such Owner's sole Cost and Expense, shall Maintain and Repair (other than structural or extraordinary Repairs expressly stated elsewhere herein or in the By-Laws to be performed by the Condominium Board) such Owner's Unit and its Unit Equipment, Facilities and Installations, and (if established) the Unit's appurtenant Limited Common Element, in accordance and compliance with the Building's Maintenance Standard;

except, however, the skylights appurtenant to, and part of, the Roof Terrace Unit shall be Maintained and Repaired by, and at the sole Cost and Expense of, the Owner of Office Unit 500 in accordance and compliance with the Building's Maintenance Standard until such time as the Owner of the Roof Terrace Unit revokes the license allowing such skylights to provide light to Office Unit 500. The foregoing Maintenance and Repair obligations apply to all items included in a Unit set forth in Section 6.9 above, including the following (where applicable to the Unit): (a) the interior, Unit-side of all walls, ceilings, windows and skylights, including washing and cleaning the interior (in-door) side of Unit windows and skylights; (b) all tile, wood, carpet or other flooring on top of the Base Floors enclosing the Unit; (c) all kitchen appliances in or exclusively serving the Unit; (d) all individual Unit plumbing and electrical fixtures (whether exposed to view or concealed behind walls or partitions), including kitchen and bathroom fixtures and the Unit's individual Unit Equipment (including heating, cooling and hot water Equipment and related Facilities and Installations), but not any portions thereof that serve another Unit or the Common Elements; and (e) all Unit entrance and interior doors (including the street entrance doors of the Commercial Unit). The exterior side of Unit windows and skylights shall be washed and cleaned by the Condominium Board as a Common Expense charged to all Units Pro Rata to their respective Common Interests.

Subject and subordinate to the Signage rights of the Commercial Unit Owner under Section 10.8 above, the windows and skylights of a Sold Unit Owner and the exterior side of the Sold Commercial Unit's street entrance doors (and related hardware and saddles), and any other portion of a Sold Unit exposed to public view, shall not be painted, Decorated, Repaired or Altered without obtaining the prior written Discretionary Consents or Approvals of both the Condominium Board and (during only the Sponsor Veto Control Period and until said permanent new or amended Certificate of Occupancy of the Building issues) Sponsor. All of the foregoing Maintenance and Repairs shall be performed or caused to be performed by each Unit Owner in conformity with the Building's Maintenance Standard and in a manner that: (a) shall not materially impair or prevent, nor unreasonably interrupt or interfere with, the permitted Use and Enjoyment of other Units or other portions of the Common Elements; and (b) shall maintain the value of all Units. Each Unit Owner shall also comply with the Owner's Maintenance and Repair obligations with respect to such Owner's Unit and its appurtenant areas, Unit Equipment, Facilities and Installations set forth in Section 5.1 of the By-Laws.

Section 14.2 Duty to Maintain and Repair the Common Elements and Association's Properties. The Condominium Board shall Maintain and Repair the Common Elements and the Association's Properties in accordance and compliance with the Building's Maintenance Standard, including: (a) the Equipment and other Facilities and Installations forming a part of each thereof and such of said Common Elements that are within, bordering and adjacent to a Unit; and (b) water leaks and air penetration between the Building Walls and Unit window or skylight frames (but excluding Repairs to Unit windows and skylights, and their respective frames). All of the foregoing Maintenance and Repairs shall be performed by the Board in conformity with the Building's Maintenance Standard and in a manner that: (a) shall not materially impair or prevent, nor unreasonably interrupt or interfere with, the permitted Use and Enjoyment of a Unit and (if established) its appurtenant Limited Common Element; and (b) shall maintain the value of all Units and the Building services and Facilities to be provided to the Units pursuant to this Declaration and the By-Laws. The Costs and Expenses of such Maintenance and Repairs shall be a Common Expense and charged to all Unit Owners Pro Rata to their respective Common Interests. The Condominium Board shall also comply with

the Maintenance and Repair obligations applicable to the Common Elements set forth in Section 5.1 of the By-Laws.

Section 14.3 Maintenance, Repairs, Alterations and Work to Units and Limited Common Elements. The right and duty of each Owner, at such Owner's sole Cost and Expense, to Maintain, Repair, Alter and perform other Work in such Owner's Unit (including the Unit Equipment, Facilities and other Installations forming a part thereof) and (if established) its appurtenant Limited Common Element are governed by Sections 5.1 and 5.2 of the By-Laws and the applicable Work Requirements set forth in Section 15.2 below.

Section 14.4 Maintenance, Repairs, Alterations and Work as to Common Elements and Association's Properties. The Condominium Board shall have the substantially exclusive right and duty to perform all Maintenance, Repairs, Alterations and other Work with respect to the Common Elements and the Association's Properties, including the Equipment, Facilities and Installations forming a part of each thereof and each of such Common Elements that are within, bordering and adjacent to a Unit, in compliance with the Building's Maintenance Standard and the applicable Work Requirements set forth in Section 15.2 below, and subject and subordinate to:

(a) Sponsor's Rights under this Declaration, the By-Laws and the Plan; and

(b) all rights and easements expressly reserved to Sponsor and granted to Unsold Unit Owners in this Declaration, the By-Laws and the Plan.

The Costs and Expenses of such Maintenance, Repairs, Alterations and Work shall be included in the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests.

Section 14.5 Requisite Approvals for Board Repairs and Alterations.

Section 14.5.1 Repairs. The Condominium Board shall have the right and duty to make all necessary or appropriate Repairs to the Common Elements and the Association's Properties upon the determination of a majority of those Board Members attending a duly constituted Board meeting at which a quorum is present, and without the approval or consent of any Unit Owners.

Section 14.5.2 Alterations. The Condominium Board shall have the right to Alter the Common Elements and the Association's Properties ("**Board Alterations**") upon the determination of a majority of those Board Members attending a duly constituted Board meeting at which a quorum is present.

The prior written Discretionary Approval or Consent of Sponsor must be obtained for all Board Alterations to be undertaken prior to the issuance of said permanent new or amended Certificate of Occupancy of the Building with respect to the Commercial Unit and Office Unit 500 as and to the extent required in Section 15.2(k) below and for all Board Alterations to be undertaken during the Sponsor Veto Control Period that are subject to Sponsor veto control as and to the extent provided in the Plan, Section 9.11 above and Section 2.5.8 of the By-Laws.

Section 14.6 **Base Floors and Ceilings, Roofs and Building Walls**. The right of Sponsor and each Unsold Unit Owner (including their respective authorized tenants, and the authorized Agents, Employees and Contractors of each of the foregoing) to perform Maintenance, Repairs, Alterations and other Work with respect to each such Party's Unsold Unit pursuant to this Declaration or the By-Laws, includes the right, Freely and Without Consent, Payment or Restriction (other than the requirement to comply with the applicable Work Requirements set forth in Section 15.2 below), to pierce, remove and make openings in portions of the Base Floors, Base Ceilings, the Building's Roofs and the Building Walls enclosing each such Party's Unsold Unit and (if established) its appurtenant Limited Common Element in the exercise of such right or in the exercise of easements or other rights expressly reserved to Sponsor and granted to each Unsold Unit Owner in the Plan or this Declaration or the By-Laws. Similarly, the right of the Owner of both Office Unit 500 and the Roof Terrace Unit (and its authorized Agents, Employees and Contractors) to connect said two (2) Units to each other as provided in Section 13.1 above, includes the right, Freely and Without Consent, Payment or Restriction (other than the requirement to comply with the applicable Work Requirements set forth in Section 15.2 below), to pierce, remove and make openings in portions of the Base Ceiling of Office Unit 500 and the Building's Roof thereover in the exercise of such right.

Section 14.7 **Acts, Omissions, Negligence, etc.** Any Repairs (whether structural or non-structural, ordinary or extraordinary) to a Unit or the Common Elements (including water leaks) necessitated by the acts, omissions, negligence, misuse, abuse or neglect of:

(a) a Unit Owner ("**Offending Unit Owner**"), or a tenant, licensee or occupant of such Offending Unit Owner's Unit, or the Agents, Employees and Contractors of such Offending Unit Owner, licensee or tenant, shall be performed by the Party responsible to Maintain same and the Costs and Expenses thereof shall be borne entirely by said Offending Unit Owner; or

(b) the Condominium Board, or its Agents, Employees and Contractors, shall be performed by the Party responsible to Maintain same and the Costs and Expenses thereof shall be included in the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests.

Section 14.8 **Cooperation**. Each Unit Owner shall fully cooperate with every other Unit Owner or the Condominium Board (as applicable) in connection with the Maintenance, Repairs and Alterations permitted or required to be performed by such other Unit Owner or the Board, and the Condominium Board shall fully cooperate with each Unit Owner in connection with the Maintenance, Repairs and Alterations permitted or required to be performed by such Unit Owner, all as more particularly set forth in Article 20 below.

Section 14.9 **Sidewalks**. All Sidewalk Cleaning Obligations and Sidewalk Repair Obligations with respect to the Immediately Adjacent Sidewalks to the Property, shall be performed by the Condominium Board as a Common Expense, which shall be allocated to all Unit Owners and apportioned and assessed among them Pro Rata to their respective Common Interests. The Sidewalk Cleaning Obligations and Sidewalk Repair Obligations shall be performed in accordance and compliance with the Building's Maintenance Standard and in a manner that shall not unnecessarily prevent or unreasonably interrupt or interfere with the permitted uses of the Immediately Adjacent Sidewalks to the Property by the Commercial Unit

Owner and each such Owner's Permitted Tenants/Occupants/Invitees or by the Office Unit Owners and their respective Permitted Tenants/Occupants/Invitees. However, all Signs, objects, structures, extensions or enclosures erected or installed on, in or under the Immediately Adjacent Sidewalks to the Property pursuant to Sections 10.9 and 10.11 above shall be Maintained and Repaired by, and at the sole Cost and Expense of, the Party erecting or installing same. In addition, all Repairs to the Immediately Adjacent Sidewalks necessitated by such erections or installations, or the Maintenance, Repair or Alteration thereof, shall be performed by, and at the sole Cost and Expense of, such Party erecting or installing same.

Section 14.10 Vaults.

Section 14.10.1 Vaults. The Vaults and the Equipment, Facilities and Installations forming a part of the Common Elements now existing or hereafter installed or housed therein shall be Maintained and Repaired by the Condominium Board and the Costs and Expenses thereof shall be part of the Common Expenses, which shall be charged to all Unit Owners Pro Rata to their respective Common Interests. Any Unit Equipment, Facilities and Installations housed in a Vault shall be Maintained and Repaired by, and at the sole Cost and Expense of, the Owner thereof.

Section 14.10.2 INTENTIONALLY OMITTED.

Section 14.10.3 Revocation of License. If The City of New York revokes the license or right to use a Vault, the Condominium Board shall close or seal such Vault and relocate the Equipment, Facilities and Installations located therein. The Costs and Expenses incurred to perform such Work shall be included in the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests, except the Costs and Expenses to relocate any Unit Equipment, Facilities and Installations housed therein shall be charged to only the Owner of such Unit.

Section 14.11 Lot Line Windows.

Section 14.11.1 Removal and Closure. Each of the following Office Units has one (1) or more lot line windows located on the south façade of 100 Vandam Street: Office Unit 200 (one lot line window), Office Unit 400 (three lot line windows) and Office Unit 500 (six lot line windows). In the event a lot line window must be closed and walled-up due to the construction or alteration of a building on an adjacent lot, the removal of said affected lot line window, the closure and sealing of the opening upon such removal, and the covering of the interior side thereof with only the Building standard wall finishing shall be performed by the Condominium Board as a Common Expense and charged to all Unit Owners Pro Rata to their respective Common Interests. The Condominium Board shall not be required to match the finishing on the walls immediately adjacent to the affected lot line window or any finishing that might have been installed by the Owner of the affected Unit, which may be undertaken by said Unit Owner, at its sole Cost and Expense, if desired. In addition, the respective Owners of Office Units 400 and 500, at each such Owner's sole Cost and Expense, shall have the right to install ventilation fans and related Installations on the common area of the main Roof and through the common areas of floors 4 and 5 Reasonably Approved by the Board in order to provide mechanical ventilation to its Unit in the event its lot line windows are closed.

Section 14.11.2 Non-Fire Rated Lot Line Windows. The existing lot line windows are not fire rated and do not have wire glass as is currently required by applicable Law. The Owner of the affected Unit, at its sole Cost and Expense, will be responsible to replace its lot line window(s) with a code-compliant fire-rated window(s), if a violation with respect thereto is issued or noted.

ARTICLE 15

WORK REQUIREMENTS

Section 15.1 Application. All permitted or required Maintenance, Repairs, Alterations and other Work by, or on behalf or at the direction of, Sponsor, a Unit Owner, the Condominium Board, a tenant or occupant of a Unit, or a utility provider (each, a "**Responsible Party**") shall be done and performed in accordance and compliance with all applicable Laws and the applicable Work Requirements set forth in Section 15.2 below, as well as all other requirements (if any) applicable thereto set forth elsewhere in this Declaration or the By-Laws.

Section 15.2 Work Requirements. The "**Work Requirements**" to be met and complied with pursuant to Section 15.1 above and where required elsewhere in the Declaration and the By-Laws are as follows:

(a) the Work undertaken by an Owner, tenant or occupant of a Unit, or the Condominium Board or a utility provider shall be prosecuted with reasonable diligence and continuity to completion and performed in a manner that does not permanently prevent or unreasonably interrupt or interfere with, or otherwise unreasonably and adversely affect, the permitted Use and Enjoyment of a Unit (other than the Unit of the Owner, tenant or occupant undertaking the Work) or the Common Elements (including the Equipment, Facilities and Installations forming a part of such Unit or Common Elements), and shall be performed in a manner which minimizes such interruption or interference to the extent reasonable and practical;

(b) if the Work permitted in a Unit requires access to another Owner's Unit or (if established) its appurtenant Limited Common Element, or to any of the Common Elements, or if the Work permitted in any of the Common Elements requires access to a Unit or its appurtenant Limited Common Element, such access by contractors, subcontractors, workers, architects, employees and others engaged in the Work and the right to transport therein materials and supplies in connection therewith, shall be permitted subject and subordinate to the rights of the then existing tenants and/or occupants of Unsold Units and subject further to same being exercised reasonably and in a manner that does not permanently prevent and minimizes to the extent reasonable and economically practical any interruption or interference with the Use and Enjoyment of the affected Unit or Common Elements;

(c) the Work shall be performed and completed in accordance and compliance with the requirements of Section 10.1 above and the prohibitions of Section 10.2 above;

(d) at least five (5) business days before an Owner, tenant or occupant of a Sold Unit or the Condominium Board or a utility provider begins Work on, or affecting, the Building's

Structural Components, such Responsible Party performing the Work shall obtain and (if the Responsible Party is not the Condominium Board) deliver to the Board, and shall make available to all Unit Owners, a certification to the Board and Unit Owners from a duly licensed engineer specializing in structural engineering that the structural integrity of the Building's Structural Components and the life, safety and health of occupants of the Building shall not be impaired or threatened or adversely affected by such Work;

(e) the Work involving or affecting Common Elements or the Association's Properties (including the Equipment, Facilities and Installations forming part of each thereof and the Building's Structural Components):

(e-1) shall be performed in a good and workmanlike manner and in accordance with good construction practices by duly licensed and qualified contractors and subcontractors and (in the case of Work undertaken by an Owner, tenant or occupant of a Sold Unit or a utility provider involving or affecting the Building's Structural Components) a duly licensed and qualified engineer specializing in structural engineering who is Reasonably Approved by the Condominium Board; and

(e-2) shall utilize materials compatible with, and of at least substantially equal or better quality, design, function and utility than, those then existing in the Building;

(f) with respect to any Work by the Condominium Board or a utility provider permitted to be performed in a Unit or (if established) its appurtenant Limited Common Element or the public areas of the Common Elements, subject to clause (k) hereinbelow:

(f-1) any pipes, ducts, wiring, conduits or other Equipment, Facilities or Installations in connection with such Work shall be concealed in, behind or under the walls, floors or ceilings or, if not economically practical or feasible, appropriately boxed in without materially reducing the usable areas thereof; and

(f-2) (in the case of Work by the Condominium Board requiring access to a Unit) upon the request of the Owner of the affected Unit, or (in the case of Work affecting the Common Elements) upon the request of Sponsor (during only the Sponsor Veto Control Period and until the issuance of the permanent new or amended "C of O" as defined in clause (k) hereinbelow), the Condominium Board shall prepare or obtain (as a Common Expense allocated, apportioned and assessed to all Unit Owners Pro Rata to their respective Common Interests and submit to such affected Unit Owner or Sponsor (as applicable), and such Party shall receive, at least five (5) business days before entering such Owner's affected Unit, or Sponsor shall receive at least twenty (20) business days before the Work begins in the Common Elements:

(f-2.1) copies of all detailed plans and specifications of the Work;

(f-2.2) (as to Sponsor only) copies of all required permits, licenses, certificates, approvals and consents of Governmental Authorities having jurisdiction of the Work; and

(f-2.3) a policy or original certificate of insurance for such insurance coverage and amounts, and issued by such insurer, as (in the case of Work in a Unit) shall be Reasonably Approved by the Condominium Board (but naming the affected Unit Owner as an additional insured party) or (in the case of Work in the Common Elements) shall be Reasonably Approved by both Sponsor (during only the Sponsor Veto Control Period and until the issuance of said permanent new or amended C of O) and the Condominium Board (any dispute as to such insurance shall be resolved by arbitration pursuant to the By-Laws), and (if obtainable at reasonable rates) providing that at least thirty (30) calendar days' advance written notice shall be given to the affected Unit Owner or Sponsor (as applicable) by the insurer before such insurance coverage is terminated, cancelled or expires;

(g) the Responsible Party undertaking or performing the Work, or the Responsible Party who permits or suffers a tenant or occupant of a Unit owned by it to undertake or perform any Work, at such Responsible Party's sole Cost and Expense:

(g-1) (in the case only of Work by the Condominium Board) shall maintain the insurance in the preceding clause (f) in full force and effect for the duration of the Work in the affected Owner's Unit;

(g-2) (if the Condominium Board is not the Responsible Party) shall indemnify the Condominium Board and its members, officers, employees, agents (including the Managing Agent) and attorneys, and each and every other Unit Owner, from and against any and all Claims and Liabilities and Expenses arising from the Work or the failure to comply with any Work Requirement or other provision of this Declaration, the By-Laws or the Rules and Regulations;

(g-3) shall file as and when required all necessary notices, applications, certifications, plans and specifications with Governmental Authorities having jurisdiction and (if the Responsible Party is a Sold Unit Owner, but not if the Responsible Party is Sponsor or an Unsold Unit Owner) shall pay or reimburse the Board for all Costs and Expenses of the Board to prepare, review, execute and/or submit any Government Document required in connection with the Work to be so submitted pursuant to Article 20 below;

(g-4) shall obtain and promptly following completion of the Work involving a Unit Change shall deliver to the Condominium Board, and the Board shall make available to all Unit Owners and their representatives from time to time: (g-4.1) (in the case of Work by a Sold Unit Owner, but not Work by Sponsor or an Unsold Unit Owner) an accurate and complete set of "as built" plans and specifications of the Work; (g-4.2) (if required by Law) an alteration permit or a new or amended C of O of the Building (which shall not change the authorized use of another Unit without the prior written Discretionary Approval or Consent of the Owner thereof) and all necessary inspections, approvals, sign-offs, licenses, permits, notices and certifications of Governmental Authorities having jurisdiction; and (g-4.3) (if required by the Condominium Board in the case of

Work by a Sold Unit Owner, but not Work by Sponsor or an Unsold Unit Owner) the Board of Fire Underwriters certificate with respect thereto;

(g-5) shall assume all responsibility (including payment and performance) for: (g-5.1) the Work and the performance, Maintenance and Repair of the Equipment, Facilities and Installations involved in the Work; (g-5.2) the failure of the proper and efficient performance, function, capacity and utility of any Equipment, Facilities and Installations affected by the Work; (g-5.3) the weather-tightness of any Work affecting the Building Walls, windows, doors or Roofs; (g-5.4) the waterproofing of any portion of the Building structure directly or indirectly affected by the Work; and (g-5.5) plumbing leaks and damage to another Unit or the Common Elements caused by the Work;

(g-6) shall promptly and within thirty (30) calendar days satisfy or discharge by bond or otherwise any and all mechanic's liens for work or materials filed against another Unit or the Common Elements;

(g-7) shall not prevent or unlawfully impair legal access of another Unit to a public stair, an elevator, the office lobby, or the Common Elements leading to a street; and

(g-8) shall not permanently diminish or adversely and unreasonably affect the proper and efficient performance, function, capacity and utility of another Owner's Unit or the Common Elements serving another Unit (including the Equipment, Facilities and Installations forming a part of each);

(h) with respect to the following Work to be undertaken by a Sold Unit Owner (but not Work by Sponsor or an Unsold Unit Owner or (if such Work is authorized by Sponsor or an Unsold Unit Owner, as applicable) an Authorized First Sold Unit Owner) or a tenant or occupant of a Sold Unit (but not Work by a tenant or occupant of an Unsold Unit), such Responsible Party, at the sole Cost and Expense of such Responsible Party, shall comply with the following requirements before commencing the Work:

(h-1) <u>in the case of any Work requiring the Discretionary or Reasonable Approval or Consent of the Condominium Board and/or Sponsor</u>: such Responsible Party shall give the Board and/or Sponsor (as applicable) written notice of the details of the proposed Work and (if requested by the Board and/or Sponsor, as applicable) shall also cause to be prepared and submitted to the Condominium Board and/or Sponsor (as applicable) detailed plans and specifications of the proposed Work, prepared by an architect, engineer or other appropriate professional chosen by such Responsible Party;

(h-2) <u>in the case of Work requiring submission of plans and specifications thereof</u>: in accordance with Section 15.3 below, such Responsible Party shall pay or reimburse the Board and/or Sponsor (as applicable) for the reasonable Costs and Expenses of any architect, engineer or other consultants or experts retained by the Board and/or Sponsor (as applicable) to review and advise the Board and/or

Sponsor (as applicable) with respect to such plans and specifications of said proposed Work;

(h-3) in the case of Work affecting any of the Building's HVAC/Mechanical/Utility Systems: the prior written Reasonable Approval or Consent of the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended C of O of the Building as provided in clause (k) hereinbelow) the prior written Discretionary Approval or Consent of Sponsor therefor must be obtained;

(h-4) in the case of Work affecting the Building's Structural Components: the prior written Discretionary Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended C of O of the Building) Sponsor therefor must be obtained;

(h-5) in the case of Work affecting a Sold Unit's windows, skylights or other portions of a Sold Unit or (if established) its appurtenant Limited Common Element exposed to public view: the prior written Discretionary Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended C of O of the Building) Sponsor therefor must be obtained (the foregoing, however, does not apply to Decorating the portions of the interior of a Sold Office Unit that are not exposed to public view, or the permitted Signage of the Commercial Unit, all of which may be performed without obtaining any approvals or consents, except to the extent clause (k-2) below is applicable); and

(h-6) in the case of any of the foregoing Work by said Responsible Party for which the requisite Discretionary or Reasonable Approval or Consent (as applicable) is given: upon the request of the Condominium Board, such Responsible Party and (if the Responsible Party is a tenant or occupant of a Sold Unit) the Owner of such Sold Unit shall: (h-6.1) sign and deliver to the Condominium Board an alteration agreement, on the standard form adopted by, and in substance satisfactory to, the Condominium Board (in its sole and absolute judgment), setting forth the terms and conditions for performing the Work (including the Condominium Board's Work rules (with respect to hours, days, duration and otherwise), insurance requirements, security deposit and an indemnity in favor of the Condominium Board, its agents and employees, and all Unit Owners, from and against all Claims and Liabilities and Expenses arising out of the Work); and (h-6.2) pay all reasonable fees and charges of the Managing Agent and any attorney, architect, engineer and other consultants and experts engaged by the Board in connection with such Alteration agreement (the proposed fee of the Managing Agent for a Unit Alteration set forth in the Plan shall be deemed reasonable);

(i) no Work by a Sold Unit Owner or the Condominium Board shall be undertaken that would with reasonable likelihood: (i-1) permanently or substantially prevent, interfere with, interrupt or adversely affect the operation of an Unsold Unit or the business of any tenants or occupants thereof or other Use and Enjoyment of an Unsold Unit or any

portion thereof, without obtaining the prior written Discretionary Approval or Consent of the Owner of such Unsold Unit therefor; or (i-2) otherwise temporarily prevent, interfere with, interrupt or adversely affect the Use and Enjoyment of an Unsold Unit without obtaining the prior written Reasonable Approval or Consent of the Owner of such Unsold Unit therefor; and if said Discretionary or Reasonable Approval or Consent (as applicable) is given, the Responsible Party performing such Work shall indemnify said Unsold Unit Owner from and against any and all Claims and Liabilities and Expenses arising from the Work, including any Claims asserted by tenants or occupants of such Unsold Unit (if the Condominium Board is the Responsible Party, such indemnity shall be deemed given on behalf and for the account of only the applicable Unit Owners who are paying for the costs of the Work);

(j) all Work undertaken or performed by an Owner, tenant or occupant of a Sold Unit, in addition to the other Work Requirements set forth herein, shall be performed: (j-1) in a manner that shall not interfere with, or cause any labor disturbances or stoppages in, the Work of the Condominium Association's employees or the contractors or subcontractors employed by the Condominium Board or Sponsor in connection with any services being provided to, or Work being performed in, the Units or the Building; and (j-2) by such architects, engineers, contractors, subcontractors, suppliers and other laborers who are on the Managing Agent's then approved list, as such list may change from time to time, in the sole discretion of the Condominium Board or the Managing Agent;

(k) in addition to the other Work Requirements set forth in this Section 15.2, until Sponsor has fulfilled its obligation under the Plan to obtain a permanent new or amended Certificate of Occupancy of the Building ("**C of O**") authorizing the use of the Commercial Unit for permitted retail and office purposes as set forth in the Plan and this Declaration and to change the use of the caretaker's apartment on a portion of Office Unit 500 for use as an office, no Work shall be undertaken or performed by an Owner, tenant or occupant of a Sold Unit or by the Condominium Board or its agents (including the Managing Agent) or employees or contractors (other than ordinary Maintenance and Repairs that do not require the filing of an alteration application with, or the issuance of a building or construction or work permit or other similar authorization from, the New York City Department of Buildings or other Governmental Authority), unless all of the following are complied with (any conflict or ambiguity between the provisions of this clause (k) and any other Work Requirements shall be resolved in favor of this clause (k), which is paramount and shall govern):

(k-1) the applicable Sold Unit Owner or Condominium Board (as the case may be) shall first give Sponsor a reasonably detailed written notice of the Work and such further information (including architectural and/or engineering plans and specifications) as Sponsor may require; and

(k-2) the applicable Sold Unit Owner or the Condominium Board (as the case may be) shall obtain the prior written Discretionary Approval or Consent of Sponsor therefor before undertaking the Work, and if such approval or consent is given Sponsor may (in Sponsor's sole and absolute discretion) condition same upon compliance with any one or more, or all, of the following requirements (it being

intended that Sponsor may at any time revoke its approval or consent for failure to comply with any thereof):

(k-2.1) if the continuance of such Work or any condition arising therefrom would (in Sponsor's sole and absolute judgment) delay the issuance of said permanent new or amended C of O or a partial C of O or a temporary C of O or an extension of a previously issued temporary C of O, then immediately after the giving of written notice by Sponsor, said Unit Owner or the Condominium Board (as applicable) shall cease all such Work, remove any such condition and restore the Unit or the Common Elements (as applicable) to the condition existing before commencing such Work, all as and to the extent required by Sponsor;

(k-2.2) Sponsor hereby reserves the right to enter the Unit or the Common Elements (as applicable), without being liable or guilty in any manner of trespass or otherwise, and, at the sole Cost and Expense of such Unit Owner or the Condominium Board (as applicable), remove such condition and restore the Unit or the Common Elements (as applicable) to its or their former condition if not so done promptly and within any time period specified by Sponsor;

(k-2.3) clauses (k-1), (k-2.1) and (k-2.2) above shall apply to any proposed changes in such permitted Work;

(k-2.4) if requested by Sponsor, said Unit Owner or the Condominium Board (as applicable) shall post a bond or other security acceptable to Sponsor, in such amount and issued by such insurer or other issuer acceptable to Sponsor, in order to secure the diligent and lien-free completion of such Work and compliance with all applicable Laws;

(k-2.5) such Work shall not commence until all required permits, certificates, licenses and other authorizations therefor are issued and complete copies thereof are delivered to, and received by, Sponsor;

(k-2.6) such Work shall be prosecuted with reasonable diligence and continuity to completion in compliance with all plans, specifications, notices and/or certifications, and in accordance with good construction practices and local building standards, and in conformity with all permits, certificates, licenses and other authorizations of Governmental Authorities having jurisdiction;

(k-2.7) Sponsor and its representatives shall be given reasonable access to said Owner's Unit or the Common Elements (as applicable), from time to time, to inspect such Work as it progresses;

(k-2.8) promptly after the completion of such Work, all necessary governmental inspections, approvals and sign-offs of the same shall be obtained, all necessary notices and/or certifications shall be filed with the appropriate

Governmental Authorities, and Sponsor shall be given a copy of all such inspections, approvals, sign-offs, notices and certifications;

(k-2.9) said Unit Owner or the Condominium Board (as applicable) shall indemnify Sponsor from and against all Claims and Liabilities and Expenses arising, directly or indirectly, from such Work or the failure to comply with any of the requirements set forth in this clause (k-2), including Claims and Liabilities and Expenses incurred or suffered by Sponsor due to: any violation of Law, any delay in obtaining a temporary or permanent new or amended C of O or an extension of a previously issued temporary C of O or a partial C of O, or the failure to make all appropriate filings with Governmental Authorities in connection with the same; and

(k-2.10) all contractors shall be duly licensed to the extent required by applicable Law and, if required under any contract with any union whose members are performing services at the Building directly or indirectly at the behest, for the benefit, or for the account of Sponsor or the Condominium Board, such Work shall be performed solely by union members;

(l) if any Owner, tenant or occupant of a Sold Unit or the Condominium Board commences Work in violation of the terms and conditions of this Section 15.2, or fails to comply with any of the requirements set forth in this Section 15.2, then the following shall apply:

(l-1) in the case of a violation or non-compliance by an Owner, tenant or occupant of a Sold Unit, until such offending Party complies with same, the Condominium Board or (during only the Sponsor Veto Control Period and until said permanent new or amended C of O of the Building issues) the Sponsor, or only Sponsor if the violation or non-compliance pertains to the preceding clause (k), shall be entitled to cause the Work by such offending Party to be halted, including to cause the Managing Agent and the Building's superintendent to deny access to the Building to such offending Party's Agents, Employees and Contractors for any purpose (other than to remove their tools and Equipment, provided such Persons are accompanied at all times by the Building's superintendent or other Person designated by the Board or Sponsor, as applicable), and during the period the Work is halted and until such offending Party is permitted hereunder to resume its Work, the Board or Sponsor (as applicable) shall have the right (but not the obligation), for the account of such offending Party, to enter the offending Party's Unit without being liable or guilty in any manner of trespass or otherwise, and to perform any and all Work in and to such offending Party's Unit as shall be necessary, in the sole and absolute judgment of the Board or Sponsor (as applicable), in order to avoid the suspension of, or to restore, a Building service, whether or not such Work shall be in compliance with the plans and specifications for the Work theretofore performed by, or on behalf of, such offending Party (the Costs and Expenses of any such Work performed by the Board or Sponsor, as applicable, shall be borne by such offending Party and shall be paid to the Board as Additional Common Charges or to Sponsor, as applicable, within five (5)

calendar days from giving a reasonably detailed written demand by the Board or Sponsor, as applicable, therefor, which shall be accompanied by any supporting bills from contractors and suppliers or the wages of the employees engaged in such Work); or

(l-2) in the case of a violation or non-compliance by the Condominium Board, until the Board complies with same, Sponsor shall be entitled to cause such Work by the Board to be halted, including to cause the Managing Agent and the Building's superintendent to deny access to the Building to the Board's Agents, Employees and Contractors engaged in such Work for any purpose (other than to remove their tools and Equipment, provided such Persons are accompanied at all times by the Building's superintendent or other Person designated by Sponsor), and during the period the Work is halted and until the Board is permitted hereunder to resume its Work, Sponsor shall have the right (but not the obligation), for the account of the Board, to perform any and all Work in and to the Common Elements as shall be necessary, in Sponsor's sole and absolute judgment, in order to avoid the suspension of, or to restore, a Building service, whether or not such Work shall be in compliance with the plans and specifications for the Work theretofore performed by, or on behalf of, the Board (the Costs and Expenses of any such Work performed by Sponsor shall be borne by the Board and shall be paid to Sponsor within five (5) calendar days from giving a reasonably detailed written demand by Sponsor therefor, which shall be accompanied by any supporting bills from contractors and suppliers or the wages of Sponsor's employees engaged in such Work); and

(m) all Work to be undertaken affecting the Building Walls shall be determined by the Condominium Board; provided, however, that if such Work will involve the erection of a sidewalk bridge, scaffolding or other structure in front of the Commercial Unit, or the hanging of a scaffold from the Building's Roof above the Commercial Unit (all of the foregoing are collectively "**Sidewalk Structure**"), the following shall apply and be observed while Sponsor or its nominee or designee owns the Commercial Unit:

(m-1) the Owner of the Unsold Commercial Unit shall exclusively control and make all determinations concerning the timing, duration, specifications and manner of performance of all such Work, including the erection, removal, design, fabrication and composition of the Sidewalk Structure to be erected and all other incidental Work related to such Building Walls, including the following:

(m-1.1) choosing the contractors and approving all subcontractors engaged in the Work, but subject to obtaining the prior written Reasonable Approval or Consent of the Condominium Board;

(m-1.2) approving the specifications (including the height and design) of the Sidewalk Structure and all other terms of all contracts for such Work, which are to be made in the name of, and signed by, the Condominium Board or (at the exclusive option and discretion of the Unsold Commercial Unit Owner) shall be executed by the Unsold Commercial Unit Owner on behalf and for the account of, and as attorney-in-fact in

the name of, the Condominium Board, subject to obtaining the prior written Reasonable Approval or Consent of the Condominium Board;

(m-1.3) the commencement date and duration of the Work, provided the Work and the erection and removal of the Sidewalk Structure are performed in a commercially reasonably timely manner and in accordance with all applicable Laws, except that in the case of an emergency requiring immediate remedial action to avoid bodily injury or substantial property damage, the Work is to commence with commercially reasonably prompt diligence as required by the circumstances;

(m-1.4) the progress of the Work, which is to be under the exclusive supervision of the Unsold Commercial Unit Owner; and

(m-1.5) the Signage on the Sidewalk Structure for each store or tenant of the Unsold Commercial Unit affected by the Sidewalk Structure (each Sign is to be of such size, material, fabrication, color, composition and appearance as shall be determined exclusively by the Unsold Commercial Unit Owner or, at such Owner's sole option, the affected tenant(s) of its Unsold Commercial Unit), which is to be designed, fabricated, installed and removed at the sole Cost and Expense of the Condominium Board as part of the Common Expenses charged to all Unit Owners Pro Rata to their respective Common Interests; and

(m-2) the Unsold Commercial Unit Owner shall receive no compensation in connection with the foregoing, but all out-of-pocket Costs and Expenses paid or incurred by said Unsold Commercial Unit Owner to unrelated third parties with respect thereto shall be reimbursed to said Unsold Commercial Unit Owner by the Condominium Board promptly following written demand accompanied by copies of bills or other appropriate proof of payment or other appropriate proof of such Costs and Expenses, as applicable.

The provisions of this clause (m) shall benefit and apply to, and shall be enforceable by, only Sponsor and an Unsold Commercial Unit Owner, but shall not benefit or apply to, and shall not be enforceable by, a bona fide Purchaser of the Commercial Unit under the Plan (i.e., a Sold Commercial Unit Owner).

Any dispute or controversy arising under the Work Requirements contained in clause (k) or (l) above, at the exclusive option and discretion of Sponsor, shall not be subject or submitted to arbitration under Article 19 of the By-Laws.

Section 15.3 Procedure to Obtain Approval. Whenever an Owner or tenant of a Sold Unit is required to obtain the Discretionary or Reasonable Approval or Consent of the Board in this Declaration or the By-Laws, such Sold Unit Owner or tenant (together, ("**Applicant**"), at Applicant's sole Cost and Expense, shall submit to the Board such documents and information (including plans and specifications of any proposed Maintenance, Repair, Alteration or other Work) as the Board may reasonably request. The Board, at the sole Cost and Expense of the Applicant, may engage one (1) or more architects, engineers and other

consultants and experts to review, consult and advise on such documents and information, to monitor the Work and generally on the matters for which the Discretionary or Reasonable Approval or Consent (as applicable) is required. The Applicant shall also pay or reimburse the Board (as directed) for the reasonable fees and charges of the Managing Agent and any attorney retained by the Board in connection therewith and any alteration agreement to be entered into with respect thereto (the proposed fee of the Managing Agent for such service set forth in the Plan shall be deemed to be reasonable). All amounts payable by the Applicant pursuant to this Section 15.3 shall constitute Additional Common Charges of the Applicant's Sold Unit and shall be payable by the Owner of such Sold Unit within ten (10) calendar days after written demand therefor is made, which shall be accompanied by a reasonably detailed statement of such Costs and Expenses.

Section 15.4 Thirty (30) Days to Approve or to Deny. The Board shall respond to such request for Discretionary or Reasonable Approval or Consent within thirty (30) calendar days after it receives the request and all such related documents and information. Failure to timely respond shall constitute the requisite Approval or Consent (as applicable) of the Board. In the event the Reasonable Approval or Consent of the Board is required and the Board conditions, withholds or denies giving its Reasonable Approval or Consent, the Board shall set forth its basis or explanation of such condition, withholding or denial, including (if applicable) a failure of the Applicant Sold Unit Owner to submit adequate documents or information to make a determination on whether to give, deny, withhold or condition its Reasonable Approval or Consent. In all cases not expressly providing for the Reasonable Approval or Consent of the Board, the approval or consent to be obtained shall be the Discretionary Approval or Consent and, accordingly, may be delayed, conditioned, withheld or denied without cause or explanation and without liability or other recourse against the Board, or its members, officers, agents, employees or attorneys, by reason thereof.

Section 15.5 No Assumption of Liability or Approval of Suitability.

Section 15.5.1 No Assumption of Liability. The Condominium Board, Sponsor and Unit Owners (other than the Unit Owner who or whose tenant or Unit's occupant is performing the Work), and their respective employees, agents, attorneys and the respective Related Parties of said Unit Owners shall not be responsible or liable for the Work performed by an Owner, tenant or occupant of a Unit, or for any Claims or Liabilities and Expenses arising therefrom. The Responsible Party performing the Work and the Condominium Board as agent on behalf of all Unit Owners shall be solely responsible and liable for all Claims and Liabilities and Expenses arising from the Work, including those relating to: (a) the preparation, execution or submission of a Government Document; (b) payments to contractors, subcontractors, workers, architects, engineers, consultants or others engaged in the Work or to suppliers of material or Equipment; and (c) personal injury and property damage.

Section 15.5.2 No Assumption of Suitability. The approval or consent of the Condominium Board or Sponsor, and the approval or consent given with respect to any plans and specifications or the other documents or information submitted in connection with a request for approval or consent, shall not constitute an assumption by the Condominium Board or Sponsor of any responsibility or liability for the Maintenance, Repair, Alteration or other Work to which the same relates, nor an approval, acknowledgment or admission of the accuracy, suitability or soundness of such plans and specifications or other documents or information or their conformity

with applicable Law, nor a limitation on the rights of the Board or Sponsor, or the obligations of the Responsible Party performing such Maintenance, Repair, Alteration or other Work, and such Responsible Party shall remain solely responsible and liable for such Maintenance, Repair, Alteration or other Work.

Section 15.6 **Remedies**. If any of the Work Requirements are not timely met or observed or are otherwise violated, the "**Affected Party**", i.e., the Board (with respect to Work in or affecting the Common Elements), the Sponsor (with respect to Work requiring the Discretionary or Reasonable Approval or Consent of Sponsor) and a Unit Owner (with respect to Work in or affecting such Owner's Unit) shall have the following rights so long as such violation continues and until all Work Requirements are met and observed: (a) the right to suspend, prohibit and enjoin the Work and stop workers, suppliers or deliveries from entering such Common Elements or such Owner's Unit (as applicable); and (b) if reasonably required to avoid or discharge a violation of Law or the Condominium Documents or an impermissible prevention or interruption in the permitted use or Operation of, or the business conducted in, or the services to, such Common Elements or such Owner's Unit, or to avoid or reduce delaying the issuance of the aforesaid permanent new or amended C of O of the Building or the aforesaid extension of a previously issued temporary Certificate of Occupancy as provided in Section 15.2 (k) and (l) above) the right to cause the offending Work to be removed and such Common Elements or such Owner's Unit (as applicable) to be restored to its former condition before undertaking the Work, all at the sole Cost and Expense of the Responsible Party. The exercise of the remedies under this Section 15.6 and any underlying dispute or controversy giving rise to the exercise thereof, at the exclusive option and discretion of the Affected Party, shall not be subject or submitted to arbitration under Article 19 of the By-Laws.

Section 15.7 **Correction of Defects**. The Responsible Party performing the Work shall assume full and sole responsibility (including payment and performance) to promptly and properly correct all defects (latent and patent, structural and non-structural, ordinary and extraordinary) in the Work. If such defects adversely affect the Use and Enjoyment of the Common Elements or a Unit of another Unit Owner and are not corrected promptly and (in any event) within thirty (30) calendar days after being given written notice thereof, the Board or (if the Board is the Responsible Party) Sponsor during only the Sponsor Veto Control Period and until issuance of said permanent new or amended C of O of the Building (in the case of the Common Elements) and the affected Unit Owner (in the case of such Owner's Unit) shall have the right, for the account and at the sole Cost and Expense of the Responsible Party, to correct the defect to the extent necessary to permit the continued Use and Enjoyment of the adversely affected Common Elements or Unit (as applicable).

ARTICLE 16

ACQUISITION OF UNITS BY CONDOMINIUM BOARD

Section 16.1 **Authority for Acquisition**. The Condominium Board is hereby granted the power as agent of the Unit Owners:

(a) to accept a surrender of, and thereby acquire title to, a Unit and its appurtenant Common Interest from any Unit Owner who elects to surrender the Owner's Unit and its

appurtenant Common Interest pursuant to the terms of the By-Laws or Section 339-x of the Condominium Act;

(b) to purchase and acquire or lease a Unit and its appurtenant Common Interest and other real and personal property pursuant to Article 2 of the By-Laws, which includes a purchase or lease as a result of the exercise of a Match Offer Right (commonly known as a Right of First Refusal) of the Condominium Board, as provided in Article 16 of the By-Laws, or otherwise; and

(c) to purchase and acquire title to a Unit and its appurtenant Common Interest at a sale following a foreclosure of its lien for unpaid Common Charges pursuant to the By-Laws and Section 339-aa of the Condominium Act or to so purchase and acquire a Unit and its appurtenant Common Interest by a deed given in lieu of such foreclosure.

Section 16.2 **Acquisition By Nominee or Designee of Board**. Such acquisition, purchase or lease of a Unit or other real and personal property pursuant to Section 16.1 above may, at the option and discretion of the Condominium Board, be in the name of the Condominium Board or in the name of a nominee or designee of the Condominium Board (whether affiliated or non-affiliated with the Board), corporate or otherwise, in each case as agent of the Unit Owners.

Section 16.3 **Authority for Dispositions**. The Condominium Board, as agent of the Unit Owners, is hereby granted the further power to make all Dispositions whatsoever with respect to each Unit acquired, purchased or leased pursuant to Section 16.1 above (but not to cast the votes appurtenant to a Unit owned by the Condominium Board or its nominee or designee), including the following:

(a) to hold, lease or sublease and Operate such Unit and its Equipment, Facilities and Installations;

(b) (in the case of a Unit acquired or purchased) to mortgage and grant security interests in such Unit and its appurtenant Common Interest, subject to obtaining the Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period;

(c) (in the case of a Unit acquired or purchased) to offer and contract for sale at public or (at the option and discretion of the Condominium Board) private sale, on terms and conditions determined by the Condominium Board (in its sole judgment and discretion), and convey such Unit and its appurtenant Common Interest; and

(d) to make such other Dispositions of such Unit and its appurtenant Common Interest as may be determined by the Condominium Board, in its sole judgment and discretion (but not to cast the votes appurtenant to a Unit owned by the Condominium Board or its affiliated nominee or designee).

The foregoing power to make Dispositions of a Unit shall apply to all other real and personal property acquired, purchased or leased by the Condominium Board pursuant to Section 16.1 above.

Section 16.4 **Included in Association Properties**. Each Unit acquired, purchased, leased, operated or otherwise held by the Condominium Board (or its nominee or designee) shall be part of the Association's Properties and all Unit Owners shall be deemed to have waived all rights of partition, use and occupancy thereof.

Section 16.5 **Costs and Expenses**. The purchase price and related acquisition expenses or the rent and related leasing expenses payable by the Condominium Board (or its affiliated nominee or designee) to purchase or lease a Unit and all Costs and Expenses to own or lease (as applicable) such Unit, including the Maintenance, Repair, Alteration, Operation and Disposition of such Unit, shall be borne by all Unit Owners Pro Rata to their respective Common Interests as part of the Common Expenses.

ARTICLE 17

POWER OF ATTORNEY FROM EACH UNIT OWNER

Section 17.1 **Grant of Limited Power of Attorney**. With the intention to constitute a limited, durable power of attorney:

(a) Sponsor (as the initial Owner of all Units) does hereby irrevocably authorize, appoint and designate, and

(b) all successive Owners of each and every Unit, by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit (whether through operation of Law, or by transfer, merger, consolidation, liquidation, dissolution or otherwise), shall thereupon automatically have, and be deemed to have, irrevocably authorized, appointed and designated,

each of the following (individually, "**attorney-in-fact**"), severally, as agent and attorney-in-fact, "coupled with an interest" and for valuable consideration, and with full power of substitution, of Sponsor or each such Unit Owner (either, "**Principal**"), as applicable, to act on behalf and as agent of Principal and in the name, place and stead of the Principal in any way which the Principal could do if personally present, to the full extent that the Principal is permitted by Law to act through an agent, with respect only to all of those matters, transactions and Dispositions expressly stated in this Declaration or the By-Laws that each such attorney-in-fact has the power to do or perform on behalf and as agent of Principal, including in particular (but not limited to) the following rights, powers and authority (collectively, "**power**" or "**powers**"):

(a) Sponsor, each Unit Owner and the individuals who shall from time to time constitute the Condominium Board (collectively in their capacity as Board Members), severally, as agent and attorney-in-fact of Principal, having the power to amend the Condominium Documents in accordance with Article 22 below;

(b) Sponsor and the individuals who shall from time to time constitute the Condominium Board (collectively in their capacity as Board Members), severally, as agent and attorney-in-fact of Principal, having the power to grant Utility Easements and Rights and Additional Utility Easements/Rights in accordance with Section 11.11 above or to record a correction Declaration in accordance with Section 21.6 below;

(c) Sponsor, each and every Unsold Unit Owner, the authorized tenants of an Unsold Unit, and other Persons who are so expressly authorized by Declarant or an Unsold Unit Owner, severally, as agent and attorney in fact of Principal, having the power to erect and install Communications Equipment and Other Installations on and in portions of the Common Elements, and to thereafter inspect use, lease, license, Operate, Repair and Alter same thereon and therein;

(d) the individuals who shall from time to time constitute the Condominium Board, (collectively in their capacity as Board Members), as agent and attorney-in-fact of Principal, having the power to do the following in the name of the Condominium Board or in the name of the Condominium Board's nominee or designee, corporate or otherwise (where applicable and provided in this Declaration or the By-Laws):

(d-1) to exercise, perform, give, grant, delegate and withhold the powers, rights, licenses, easements, leases, subleases, concessions, mortgages, deeds, security interests, collateral, Government Documents, Litigation Documents, instruments, approvals, consents, discretion's and judgments expressly authorized in the Condominium Documents (as each may be duly amended from time to time) to be exercised, performed, given, granted, delegated and withheld by the Condominium Board on behalf and as agent of Unit Owners, including in particular (but not limited to) the following powers:

(d-1.1) the power to acquire and purchase or lease in the name of the Board or its nominee or designee (whether affiliated or non-affiliated with the Board), corporate or otherwise, as agent on behalf of the Unit Owners, any Sold Unit, together with its appurtenant Common Interest, from any Sold Unit Owner desiring to sell, convey, transfer, assign or lease the same in accordance with the Board's Match Offer Right or Right of First Refusal (as provided in the By-Laws), upon such terms and conditions as shall be approved by the Board, in its sole discretion, but subject to obtaining the approval of a majority in Common Interest of those Unit Owners attending a duly constituted meeting of such Unit Owners called for such purpose, at which a quorum is present;

(d-1.2) the power to acquire in the name of the Board or its nominee or designee (whether affiliated or non-affiliated with the Board), corporate or otherwise, as agent on behalf of Unit Owners, any Unit, together with its appurtenant Common Interest, whose Owner elects to surrender the same pursuant to subsection 8.11 of the By-Laws;

(d-1.3) the power to acquire and purchase in the name of the Board or its nominee or designee (whether affiliated or non-affiliated with the Board), corporate or otherwise, as agent on behalf of Unit Owners, any Unit, together with its appurtenant Common Interest, at a sale following a foreclosure of the lien for unpaid Common Charges pursuant to the By-Laws and Section 339-aa of the Condominium Act, or to so acquire and purchase a Unit and its appurtenant Common Interest by deed given in

lieu of such foreclosure, and in either case upon such terms and conditions as shall be approved by the Board, in its sole discretion;

(d-1.4) the power to acquire and purchase or lease in the name of the Board or its affiliated nominee or designee, corporate or otherwise, as agent on behalf of Unit Owners, any real or personal property, pursuant to Article 2, subsection 2.4.2(b) of the By-Laws; and

(d-1.5) (after any such acquisition or purchase or leasing pursuant to the preceding clause (d-1.1), (d-1.2), (d-1.3), or (d-1.4), as applicable) the power to convey, sell, lease, mortgage and otherwise deal with (but not vote the interest appurtenant thereto) any such Unit or other real or personal property so acquired or purchased by the Board or its nominee or designee, or to sublease any Unit or other real or personal property so leased by the Board or its nominee or designee, without the necessity of further authorization by the said Unit Owners (other than Sponsor during only the Sponsor Veto Control Period in the case of a mortgage), on such terms as the attorneys-in-fact may determine; and

(d-2) to execute, acknowledge, deliver and, if necessary, record or file any application, document, declaration or other instrument, or any Amendment thereto, affecting

(d-2.1) the Condominium Association, the Property, the Common Elements or the Association's Properties, or a portion of any of the foregoing, that the Condominium Board deems necessary or appropriate or is required to so do under this Declaration or the By-Laws in connection with the following: (a) to comply with any Law (including a zoning resolution or variance, or a requirement of a Governmental Authority, such as the Department of Buildings, the City Planning Commission or the Board of Standards and Appeals); or (b) to permit or facilitate the Use and Enjoyment of all or part of the Common Elements, the Association's Properties or the Units by the respective Owners and Permitted Tenants/Occupants/Invitees of Units in accordance with the Condominium Documents; or

(d-2.2) a Unit (including an Unsold Unit) or (if established) its appurtenant Limited Common Element that the Owner of such Unit requests, if required by this Declaration or the By-Laws or if deemed appropriate by said attorneys-in-fact in their sole and absolute discretion; and

(e) the Sponsor and its successors (excluding a Purchaser under the Plan to whom Sponsor conveys a Unit) and assigns, as agent and Attorney-in-Fact of Principal, having the exclusive right, power and authority, Freely and Without Consent, Payment or Restriction (other than the restriction against adding Units to the Building or the Property) to make any use or Disposition of the Unused Development Rights of the Property as it determines.

All actions by the Condominium Board as agent and Attorney-in-Fact of Principal pursuant to the foregoing power of attorney shall be determined by a resolution of a majority of those then existing Board Members attending a duly constituted Board meeting at which a quorum is present, or approved in writing signed by a majority of the then existing Board Members.

Section 17.2 **Power of Substitution**. The power of substitution in the foregoing limited, durable power of attorney in Section 17.1 includes the full and unqualified authority of each attorney-in-fact to delegate any or all of the foregoing powers given or conferred upon such attorney-in-fact in Section 17.1 to any Person or Persons whom such attorney-in-fact shall select.

Section 17.3 **Durability**. The limited power of attorney in Section 17.1 above shall be durable and shall not be affected by the subsequent disability or incompetence of the Principal.

Section 17.4 **Unit Owner's Confirmatory Power of Attorney**. In confirmation of the foregoing limited power of attorney in Section 17.1 above, each Unit Owner (including the Owner of an Office Unit or the Commercial Unit or the Roof Terrace Unit), upon acquiring or succeeding to title to a Unit, and simultaneously with the recording of the deed or otherwise succeeding to title to a Unit, at such Owner's sole Cost and Expense, shall duly execute, acknowledge and record in the Register's Office, a Unit Owner's Power of Attorney substantially in the form set forth as EXHIBIT E hereto.

Section 17.5 **Limited Power of Attorney Unimpaired**. The failure of a Unit Owner to so execute and deliver such confirmatory Unit Owner's Power of Attorney shall not affect: (a) the validity or enforceability of the limited power of attorney granted in Section 17.1 above; (b) the right, power and authority of each attorney-in-fact listed in section 17.1, as agent and attorney-in-fact for such Unit Owner for the matters indicated in Section 17.1 above; or (c) the validity, force, effect or enforceability of the acts of the attorney-in-fact taken pursuant thereto as agent and attorney-in-fact of such Unit Owner.

ARTICLE 18

PRIORITY OF LIEN FOR COMMON CHARGES

Section 18.1 **Liens of Prior Recorded First Mortgage**. The lien of a prior recorded first mortgage on a Unit shall be superior to the lien for Common Charges on that Unit; however, the lien of any other mortgage on a Unit (i.e., a mortgage which is not a prior recorded first mortgage) shall be subordinate to the lien for Common Charges under the By-Laws and the Condominium Act.

Section 18.2 **Liability for Unpaid Common Charges**. Subject to compliance with Section 18.1 above, a Person who succeeds to title to a Unit on a sale or conveyance following a foreclosure of a first mortgage on such Unit or by deed given in lieu thereof, shall not be liable or responsible for the unpaid Common Charges or unpaid Additional Common Charges (including Special Assessments) of the predecessor Owner of such Unit accruing prior to the date such Person succeeds to title to the Unit and upon title passing to such Person (whether by sale or conveyance as aforesaid), the Unit shall not be subject to the lien in favor of the Condominium Board under the By-Laws and the Condominium Act for such accrued and unpaid Common

Charges and unpaid Additional Common Charges (including Special Assessments) owed by the predecessor Owner.

ARTICLE 19

TERMINATION OF CONDOMINIUM

Section 19.1 **Condominium Termination Events**. The Condominium shall continue until the occurrence of any of the following events ("**Condominium Termination Events**"):

(a) a taking by condemnation or eminent domain ("**Taking**" or "**Taken**") of the entire Property; or

(b) a withdrawal of the Property from the Condominium Act authorized by more than 95% in number and Common Interest of all Unit Owners, in writing or by vote cast by written ballot at a meeting of Unit Owners at which a quorum is present, duly constituted and called for such purpose; provided however, that a vote of a Unit Owner in favor of withdrawal shall not be effective or counted without the prior written consent of the holder of each Registered Mortgage on such Owner's Unit, if such Registered Mortgage so expressly provides; and provided further that Sponsor or its designee (as applicable) as Owner of Unsold Units, shall not vote its interests appurtenant to any Unsold Units for withdrawal unless more than 95% in number and Common Interest of all other Unit Owners have voted in favor of such withdrawal, at which time Sponsor or its designee (as applicable) may vote either in favor of, or against, withdrawal from condominium ownership, as it sees fit.

The Condominium Board and its affiliated nominee or designee shall have no voting rights with respect to any Units owned by each of them and such Parties and Units shall be excluded from the base number of Owners, Units and Common Interests for quorum and voting purposes in determining whether such 95% threshold is met.

Section 19.2 **Partition**. If the entire Property is Taken pursuant to said Section 19.1(a) above, then the award of the Taking authority shall be apportioned and divided among all Unit Owners Pro Rata to the respective then existing fair market values of the Units and their appurtenant Common Interests as provided in Article 18 of the By-Laws. If said withdrawal from the Condominium Act is so authorized pursuant to Section 19.1(b) above, the Property shall be subject to an action for partition by any Unit Owner or lienor as if owned in common. The net proceeds of sale resulting from such action for partition shall be divided among all of the Unit Owners Pro Rata 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 its share of such funds, such amounts as may be necessary to discharge all unpaid liens on its Unit in the order of the priority of such liens.

ARTICLE 20

COOPERATION AND FURTHER ASSURANCES

Section 20.1 **Covenant to Cooperate**. The Condominium Board (including the members and officers of the Board), each Unit Owner and all other Persons (including tenants, subtenants and occupants of Units) who, or whose interests in the Property or a Unit, are subject to this Declaration (each of the foregoing, an "**Interested Party**"), shall fully cooperate with each other to effectuate the purposes and provisions of the Condominium Documents, including the Maintenance, Repair, Alteration and Operation of a Unit, the Common Elements or the Association's Properties.

Section 20.2 **Actions and Documents**. In furtherance of such cooperation, an Interested Party shall diligently take such actions and shall diligently and properly complete, sign, have notarized or acknowledged (if and as required) and deliver such documents (including Government Documents and Litigation Documents) as may be reasonably requested by another Interested Party (the latter, a "**Requesting Party**") in order to effectuate the purposes and provisions of the Condominium Documents and to realize the benefits intended to be conferred thereby.

Section 20.3 **Rights and Obligations of Requesting Party**. The Requesting Party shall:

(a) pay or reimburse the Condominium Board (as directed) for the reasonable Costs and Expenses of the Interested Party to perform a request made by a Requesting Party under Section 20.2, other than those matters expressly stated elsewhere in this Declaration or the By-Laws to be performed by the Interested Party without (i.e., free of) fee or charge, or payment of any Costs and Expenses (such as in the case of a Requesting Party who is the Sponsor or an Unsold Unit Owner);

(b) pay the governmental fees and charges required in connection with a Government Document;

(c) have the exclusive right to select the attorney, make all decisions, conduct and control the litigation and all settlement and other negotiations in connection with the litigation that is the subject of a Litigation Document; provided however, that each Interested Party who is a party to a litigation shall have the right to approve any proposed compromise or settlement thereof that would adversely affect such Interested Party;

(d) pay all legal fees and disbursements (other than those of any separate attorney the Interested Party may retain for services not included in the following clause (e) hereof), court costs and other expenses of such litigation;

(e) pay the reasonable fees and disbursements of architects, engineers, attorneys, professionals and other consultants and experts of the Interested Party to review a Government Document or Litigation Document, except where expressly stated elsewhere in this Declaration or the By-Laws that such Document is to be executed without (i.e.,

free of) payment of Costs and Expenses (such as in the case of a Requesting Party who is the Sponsor or an Unsold Unit Owner); and

(f) indemnify each and every Interested Party and all "Indemnified Parties" (as defined and provided in Section 29.1 below) from and against all Claims and Liabilities and Expenses resulting from the execution of a Government Document or Litigation Document by the Interested Party or from any Work performed by contractors or other workers engaged by the Requesting Party pursuant to a Government Document or from any action or inaction taken or omitted in accordance with these provisions, other than those Costs and Expenses (such as fees and disbursements of attorneys, architects, engineers, attorneys, professionals and other consultants and experts) expressly stated elsewhere in this Declaration or the By-Laws to be paid by the Interested Party without reimbursement (such as in the case of Requesting Party who is the Sponsor or an Unsold Unit Owner).

Section 20.4 **Giving Assurances**. Each Interested Party shall make and give such assurances as may be reasonably requested by a Requesting Party to confirm or effectuate the provisions of the Condominium Documents or any transaction, action, right, power, privilege, exemption, easement, license, indemnity, remedy, benefit, requirement or other matter provided, authorized, permitted or contemplated in the Condominium Documents (collectively, "**Assurances**").

Section 20.5 **Giving Instruments and Documents**. The making and giving of Assurances includes the requirement for the Interested Party to sign, have notarized or acknowledged (if and as applicable) and deliver to the Requesting Party, and the Requesting Party to receive, within ten (10) calendar days after written request therefor is given, instruments or documents (in addition to those specifically provided in the Condominium Documents) prepared or provided by, and at the expense of, the Requesting Party in accordance with, and if and to the extent required in Section 20.2 above.

Section 20.6 **Limited Power of Attorney**.

Section 20.6.1 Grant of Limited Power of Attorney. With the intention to constitute a limited, durable power of attorney, an Interested Party who improperly refuses or fails to timely make or give an Assurance, shall automatically have, and deemed to have, irrevocably authorized, appointed and designated the applicable Requesting Party to act as agent and attorney-in-fact, "coupled with an interest" and for valuable consideration, and with the "power of substitution" (as defined and provided in subsection 20.6.2 below) of such Interested Party, in the name, place and stead of such Interested Party in any way which such Interested Party could do if personally present, with respect only to the matters involved in the making and giving of such Assurance, to the full extent that such Interested Party is permitted by Law to act through an agent.

Section 20.6.2 Power of Substitution. The "**power of substitution**" in the foregoing limited power of attorney in Section 20.6.1 includes the full and unqualified authority of the attorney-in-fact to delegate this limited power of attorney to any Person or Persons whom such attorney-in-fact shall select.

Section 20.6.3 Durable. This limited power of attorney shall be durable and shall not be affected by the disability or incompetence of the principal (that is, the applicable Interested Party) or any other Person comprising the principal.

ARTICLE 21

COVENANTS TO RUN WITH THE LAND; COMPLIANCE WITH CONDOMINIUM ACT

Section 21.1 Covenants Run With Land. All provisions of this Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, are, and shall be construed: (a) to be perpetual; (b) to be covenants running with the Land and with every part thereof and interest and estate therein; (c) to inure to, benefit and bind each Owner of all or any part thereof, or interest or estate therein, and such Owner's heirs, distributees, executors, administrators, legal representatives, successors and assigns; and (d) to not create any rights in, or for the benefit of, the general public.

Section 21.2 Binding Effect. All present and future Owners and Permitted Tenants/Occupants/Invitees of Units shall be subject to, and shall comply with, the provisions of this Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time.

Section 21.3 Acceptance, Adoption and Ratification. The recording or the acceptance of a deed or conveyance or the succeeding to title, the entering into a lease, or the entering into occupancy of any Unit shall constitute, and be deemed conclusively to constitute, an irrevocable agreement that the provisions of this Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time, are accepted, adopted and ratified by the Owner and Permitted Tenants/Occupants/Invitees of such Unit as covenants running with the Land and binding upon such Owner and Permitted Tenants/Occupants/Invitees and any other Person having, at any time, any interest or estate in such Unit or a portion thereof, with the same force and effect as though such provisions were recited and stipulated at length in each and every deed, conveyance, lease or other document granting or establishing an interest or estate in such Unit.

Section 21.4 Invalidity and Reformation. If any provision of the Condominium Documents is invalid under, or would cause the Condominium Documents to be insufficient to submit the Property to, the provisions of the Condominium Act, or otherwise fails to comply with the Condominium Act, such provision shall be deemed deleted from the Condominium Documents for the purpose only of submitting the Property to the provisions of the Condominium Act or shall be deemed to be appropriately reformed so as to be in compliance in the Condominium Act. However, to the extent the validity of establishment of condominium ownership of the Property under the Condominium Act is not adversely affected, such provision shall nevertheless be valid, enforceable and binding upon, and shall inure to the benefit of, the Owners of the Property or any portion thereof and their respective heirs, legatees, distributees, 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 other 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.

Section 21.5 **Deemed Inclusion of Necessary Provisions**. 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. Such deemed included provision shall also be regarded as part of the covenants running with Land as provided in this Article 21.

Section 21.6 **Correction Declaration**. The Sponsor (while it owns any Unit) or the individuals who shall from time to time constitute the Condominium Board, as agent and on behalf of all Unit Owners, shall each have a limited, durable power of attorney as provided in Section 17.1 above to record a correction Declaration to effectuate the provisions of Sections 21.4 and 21.5 above or to reform the Declaration to the provisions of the Plan.

ARTICLE 22

AMENDMENTS TO DECLARATION

Section 22.1 **Application to Declaration and By-Laws**. All references in this Article 22 to the "Declaration" shall mean and include the Declaration and/or By-Laws (whether or not the By-Laws are expressly indicated).

Section 22.2 **Requirements**. Subject and subordinate to compliance with Section 22.4 below, the Condominium Board and the Unit Owners specified below shall each have the power to amend the Declaration under the circumstances and (if required) upon obtaining the approvals and/or consents (if and as indicated below) in the following cases (all references to "Unit Owners" or "Units" shall exclude the Condominium Board or its affiliated nominee or designee as Owner of any Unit and shall exclude the Units and Common Interests owned by the Board or its affiliated nominee or designee in determining the number and Common Interests of Unit Owners for quorum and voting purposes):

(a) in the case of an Amendment affecting only the Common Elements, the Association's Properties, the Common Expenses, the Common Charges and/or two (2) or more Units, but subject and subordinate to clause (d) below: the Amendment may be made by the Condominium Board: (a-1) if approved or adopted by a majority of those Board Members attending a duly constituted Board meeting at which a quorum is present; and (a-2) if approved or consented to by at least two-thirds (2/3rds) or (in the case of an Amendment to Articles 7, 9, 10 or 19 above) more than 95% in number and Common Interest of all Unit Owners;

(b) INTENTIONALLY OMITTED;

(c) INTENTIONALLY OMITTED;

(d) in the case of an Amendment affecting only an Unsold Unit or (if established) a Limited Common Element appurtenant to an Unsold Unit, or a Unit Change to an Unsold Unit:

the Amendment may be made alone by the applicable Owner (including Sponsor) of such Unsold Unit, without the approval or consent of the Condominium Board and without the express approval or consent of other Unit Owners, all of whom automatically and irrevocably shall be deemed to have approved or consented to such Amendment;

(e) in the case of an Amendment to reflect changes required by an Institutional Lender holding, or having issued a written commitment for, a Unit mortgage, a Governmental Authority having jurisdiction over the Property or the Condominium Association, or a title insurer of a Unit: subject and subordinate to the restrictions set forth in Section 22.4 below: (e-1) the Amendment may be made alone by Sponsor so long as Sponsor owns a Unit, without the approval or consent of the Condominium Board and without the express approval or consent of other Unit Owners, all of whom automatically and irrevocably shall be deemed to have approved or consented to such Amendment; or (e-2) the Amendment may be made alone by the Condominium Board, subject to obtaining the prior written Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period and until said permanent new or amended C of O of the Building issues, but without the express approval or consent of other Unit Owners, all of whom automatically and irrevocably shall be deemed to have approved or consented to such Amendment);

(f) in the case of an Amendment to reflect only the subdivision of a Sold Unit and the proper apportionment of the Common Interest of the Sold Unit being subdivided, or the combination of a Sold Unit with all or part of one (1) or more other Sold Units and the proper apportionment of the Common Interests of the Sold Units involved in such Unit Combination: the Amendment may be made by the Owner of the Sold Unit being subdivided or by the Owner or Owners of the Sold Units involved in the Unit Combination, as applicable, subject to obtaining the prior written Reasonable Approval or Consent of the Condominium Board (except no Board approval or consent shall be required in the case of an Authorized First Sold Unit Owner who is expressly authorized by Sponsor or an Unsold Unit Owner (as applicable) to make such Unit Change as provided in Article 13 above), but without the express approval or consent of other Unit Owners, all of whom automatically and irrevocably shall be deemed to have approved or consented to such Amendment; and

(g) in the case of an Amendment affecting a Unit's appurtenant Common Interest, size or configuration: the prior written Discretionary Approval or Consent of the Owner of the affected Unit must be obtained therefor.

Section 22.3 **Illustration**. In furtherance of Section 22.2 above and in accordance with Article 13 above, Sponsor shall have the right to execute, record and file Amendments to the Condominium Documents from time to time, without the consent or approval of, and without such Amendments being executed by, the Condominium Board, other Unit Owners (who automatically and irrevocably shall be deemed to have approved or consented to such Amendments) or Unit mortgage lenders (other than the consent of the holder of a mortgage on the applicable Sponsor Unit which is the subject of a Unit Change, if and to the extent required under such mortgage):

(a) to reflect a change in the size or number of one (1) or more Sponsor Units and the reallocation of the Common Interest(s) appurtenant to said Unit(s) involved in such Unit Change, provided such reallocation will not change the Common Interest of any other Unit without obtaining the prior written Discretionary Approval or Consent of the Owner of such other Unit; or

(b) to reflect a Description Change of a Sponsor Unit to a Common Element or a Limited Common Element, or vice versa (pursuant to Section 13.1(e) above).

An Unsold Unit Owner shall have the same right as Sponsor to execute, record and file Amendments to the Condominium Documents from time to time to reflect a Unit Change to such Owner's Unsold Unit, without obtaining the consent or approval of, and without such Amendments being executed by, the Condominium Board, other Unit Owners (who automatically and irrevocably shall be deemed to have approved or consented to such Amendments) or holders of mortgages on other Units.

Section 22.4 **Restrictions**. The following restrictions apply to each and every Amendment to this Declaration:

(a) the prior written Discretionary Approval or Consent of the applicable mortgage holder must be obtained to an Amendment that would with reasonable likelihood adversely affect the priority or validity of the lien of a purchase money mortgage or a mortgage held by an Institutional Lender on the Unit; and

(b) the prior written Discretionary Approval or Consent of Sponsor, an Unsold Unit Owner, the Commercial Unit Owner or the Roof Terrace Unit Owner (hereinafter, "**such Owner**"), as applicable, must be obtained to an Amendment that would with reasonable likelihood: (b-1) unreasonably interfere with a potential or proposed sale, lease, mortgage or other Disposition of a Unit owned by such Owner; (b-2) abridge, modify, suspend, eliminate or otherwise affect any right, power, easement, license, privilege, indemnity, exemption, remedy or other benefit of such Owner; (b-3) impose any new, different or discriminatory charge, fee or other imposition against or on such Owner or a tenant or occupant of such Owner's Unit; (b-4) change or restrict the permitted use or occupancy of a Unit owned by such Owner; (b-5) adversely affect the value, marketing or other Disposition of a Unit owned by such Owner; or (b-6) adversely affect a tenant, operator or licensee of all or part of such Owner's Unit or cause such Owner to incur or suffer any additional obligation or Cost or Expense with respect to any tenant, operator, licensee or occupant of all or part of such Owner's Unit.

A provision of an Amendment which violates or is inconsistent with or fails to comply with any of these restrictions shall be invalid, null and void, and without any force or effect.

Section 22.5 **Acknowledgment and Recording**. Each Amendment to this Declaration or the By-Laws must be signed and acknowledged in accordance with the legal requirements for recording a Unit deed, and shall not be effective, binding or enforceable until recorded in the Register's Office.

Section 22.6 **Signatories**. In the case of an Amendment to the Declaration or By-Laws by:

(a) the Condominium Board: the Amendment shall be signed and acknowledged in recordable form by any of the President or the Vice-President or a co-Vice-President and by any of the Secretary or an Assistant Secretary of the Condominium Association and (if applicable) shall include a certification by the Secretary or an Assistant Secretary that the required percentage of Unit Owners have, or are deemed to have, approved or consented to the Amendment; or

(b) Sponsor, an Unsold Unit Owner or an Authorized First Sold Unit Owner: the Amendment shall be signed and acknowledged in recordable form by only:

(b-1) the applicable Party recording such Amendment or (in the case of a corporation, partnership, limited liability partnership or company, trust, estate or other Entity) an officer, partner, member, trustee, executor, administrator or other appropriate Person authorized by, or having authority to act in behalf of, such Party; and

(b-2) (in the case only of an Authorized First Sold Unit Owner) shall include a certification by the Secretary or an Assistant Secretary of the Condominium Association that the approval or consent of the Amendment by the Condominium Board or other Unit Owners is not required and the approval or consent of the other Unit Owners has been given or deemed to have been given.

Section 22.7 **Floor Plans**. The Party authorized to sign, acknowledge and record an Amendment to this Declaration in Section 22.6 above is also authorized to cause to be properly certified and filed and/or recorded with the tax assessor (and other Governmental Authority having jurisdiction) and said Register's Office an appropriate Amendment to the Floor Plans whenever required in connection with such Amendment to this Declaration (such as in the case of an Amendment to this Declaration to reflect a Unit Subdivision, a Unit Combination or a Unit Expansion).

Section 22.8 **Limited Power of Attorney**. With the intention to constitute a limited, durable power of attorney:

(a) Sponsor (as the initial Owner of all Units) does hereby irrevocably authorize, appoint and designate, and

(b) all successive Owners of each and every Unit, by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit (whether by operation of Law, or by transfer, merger consolidation, liquidation, dissolution or otherwise) shall thereupon automatically have, and be deemed to have, irrevocably authorized, appointed and designated,

each of the respective Persons (individually, "**attorney-in-fact**") listed in Section 22.6 above, severally, as agent and attorney-in-fact, "coupled with an interest" and for valuable consideration, and with full power of substitution, of Sponsor and each such successive Unit Owner (either, "**Principal**"), as applicable, to act on behalf and as agent of Principal and in the name, place and stead of the Principal in any way which the Principal could do if personally present, to the full extent that the Principal is permitted by Law to act through an agent, with

respect only to the execution, acknowledgment and recording and/or filing by said appropriate attorney-in-fact of said Amendments to this Declaration and (when applicable) Amendments to the Floor Plans in accordance with this Article 22. This limited power of attorney shall be durable and shall not be revoked in the event of the disability or incompetence of the Principal (that is, Sponsor or a successor Unit Owner).

Section 22.9 **Filing of Conformed Copy**. A conformed copy of the Amendment to this Declaration and (if applicable) the Amendment to the Floor Plans shall be filed promptly with the Secretary or an Assistant Secretary of the Condominium Association or the Condominium's Managing Agent (if any) by the applicable Party recording the Amendment and shall be made available by the Condominium Board at the Property or the office of the Managing Agent (if any) for inspection (without charge) and copying (at a reasonable charge) by each of the following Parties or a representative of such Party expressly authorized in writing by such Party: (a) a Unit Owner; (b) a Unit mortgage lender; (c) a tenant of a Unit who is expressly authorized in writing by the Owner of such Unit; and (d) a prospective purchaser, mortgage lender or tenant of a Unit who is expressly authorized in writing by the Owner of such Unit.

Section 22.10 **Filing with Secretary of State**. With reasonable promptness following the recording of an Amendment to this Declaration, such Amendment shall be filed with the Department of State of the State of New York, if and as required by the Condominium Act (including Section 339-s thereof) and the rules, regulations or requirements of the said Department of State. Such filing with the Department of State shall be the duty of the Condominium Board, at the sole Cost and Expense of the applicable Party recording the Amendment, except that if the applicable Party is the Sponsor or an Unsold Unit Owner, then such applicable Party shall have the duty to so file the Amendment.

ARTICLE 23

CONSENT OF SPONSOR

Section 23.1 **Consent of Sponsor**. Any provision of the Condominium Documents or the Plan that requires the consent (including the Discretionary or Reasonable Approval or Consent), satisfaction or permission of Sponsor (collectively, "**Consent**") shall mean and be construed to read "the prior written Consent of Sponsor" and unless expressly stated to require the Reasonable Consent, shall mean and be construed to read the "prior written Discretionary Consent". In addition, the requirement to obtain Sponsor's Consent shall continue unabated for so long as Sponsor owns a Unit, unless otherwise expressly provided. All references to Sponsor in this Article 23 shall mean and include each of the following parties where the Consent of such Party is required: (a) an Unsold Unit Owner; (b) a Designee of an Unsold Unit Owner, or a Designee of a Designee; (c) an Involuntary Transferee of Sponsor, an Unsold Unit Owner or a Designee; and (d) a Successor in Interest to Sponsor, an Unsold Unit Owner, a Designee or an Involuntary Transferee.

Section 23.2 **Consent of Unsold Unit Owner**. In the event Sponsor no longer owns any Unit, the then existing Unsold Unit Owner(s) (if any) shall automatically succeed to Sponsor's Rights hereunder (other than Sponsor' Rights with respect to the Unused Development Rights of the Property, which shall continue to be owned exclusively by Sponsor after it no

longer owns any Unit) and under the By-Laws and the Plan, and the Consent of such Unsold Unit Owner(s) shall be required in place and stead of Sponsor.

Section 23.3 **Supremacy of Sponsor**. In the event Units are at the same time owned separately by Sponsor and an Unsold Unit Owner, then the Consent of Sponsor shall be sufficient for all Unsold Units whenever the Consent of Sponsor is required under the Condominium Documents, except the Consent of the applicable Unsold Unit Owner will be required if (and only if): (a) the required Consent will affect only such Owner's Unsold Unit(s) and in no way will Sponsor's Unsold Units be affected by giving, conditioning, withholding or denying the required Consent; or (b) the Common Interest or size of such Owner's Unsold Unit(s) will change by reason thereof.

Section 23.4 **Expiration**. From and after the date there are no longer any Sponsor Units or Unsold Units, the Consent of Sponsor or an Unsold Unit Owner, or (if applicable) an Involuntary Transferee of Sponsor or an Unsold Unit Owner, or a Successor in Interest of any of the foregoing, shall no longer be required, except the Discretionary Approval or Consent of Sponsor shall continue to be required for any use, Disposition, abridgement or impairment of the Unused Development Rights of the Property, which shall continue to be owned exclusively by Sponsor after there are no longer any Sponsor Units or Unsold Units.

ARTICLE 24

SERVICE OF PROCESS

Section 24.1 **Designation of Secretary of State**. The Secretary of State is hereby appointed the agent of the Condominium Board upon whom process against it or the Condominium Association may be served. Service of process on the Secretary of State as agent of the Condominium Board and the Condominium Association shall be made by personally delivering to, and leaving with, the Secretary of State or his or her deputy, or with any Person authorized by the Secretary of State to receive such service, at the office of the New York State Department of State in Albany, New York, duplicate copies of such process together with the statutory fee, which shall be a taxable disbursement. Service of process on the Condominium Board and the Condominium Association shall be complete when the Secretary of State is so served. Nothing in this Section 24.1 shall affect the right of any Person to serve process against the Condominium Board on behalf of the Condominium Association in any other manner permitted by Law.

Section 24.2 **Person and Address to Whom Process is To Be Sent**. 100 Vandam, LLC, having a post office address at c/o Beck Street Capital LLC, 100 Vandam Street, 4th Floor, New York, NY 10013 is hereby designated as the Person and address to which the Secretary of State shall mail a copy of any such process served upon the Secretary of State with respect to any Lawsuit against the Condominium Association or the Condominium Board. Each change in the name and/or post office address of the Person to whom a copy of such service of process is to be mailed by the Secretary of State shall be appropriately updated with reasonable promptness by filing such updated information with the Secretary of State in a form then acceptable to the Secretary of State.

Section 24.3 **Foreign Entity**. The recording or acceptance of a deed or conveyance of a Unit, or the succeeding to title to a Unit, by a Foreign Entity, or the entering into a lease or occupancy agreement of a Unit by a Foreign Entity, shall constitute, and be deemed conclusively to constitute, an acknowledgement and irrevocable agreement by such Foreign Entity to the following:

(a) such Foreign Entity is subject to the jurisdiction of the federal, state and local courts located in the City, County and State of New York and to the American Arbitration Association (or any successor thereto with similar function) under Article 19 of the By-Laws, and any defenses by a Foreign Entity with respect to jurisdictional defects are unconditionally waived;

(b) any judgment, order or award obtained by the Condominium Board, Sponsor, the Commercial Unit Owner, an Unsold Unit Owner or whomsoever against a Foreign Entity in a Lawsuit shall be fully enforceable against it, subject to any rights of appeal, and any defense by a Foreign Entity as to the validity or enforceability of same is hereby unconditionally waived;

(c) at or prior to the time such Foreign Entity becomes the Owner or a tenant or occupant of a Unit, it shall duly execute and deliver to the Condominium Board or the Condominium Association's then Managing Agent, and the Condominium Board or such then Managing Agent shall receive, a written designation or appointment of an agent ("Registered Agent") in the State of New York upon whom process against such Foreign Entity may be served;

(d) such Registered Agent shall be: (d-1) a natural person (i.e., an individual) who is a resident of the State of New York, or has a business address in the State of New York, or (d-2) an attorney duly licensed to practice law, and maintains an office and is doing business, in the State of New York; or (d-3) an Entity authorized to do business in the State of New York; or (d-4) the Secretary of State of the State of New York;

(e) such designation or appointment of a Registered Agent shall remain in full force and effect, and may be relied upon, until such Foreign Entity duly executes and delivers to the Condominium Board or said then Managing Agent, and the Condominium Board or said then Managing Agent receives, a further written designation or appointment of a new, substitute Registered Agent who meets the qualifications set forth in the preceding clause (d);

(f) in the event of the resignation, death, incapacity, incompetency, dissolution, merger, consolidation or other cessation of a Registered Agent upon whom service of process may no longer be effectuated in the State of New York, such Foreign Entity shall immediately execute and deliver to the Condominium Board or said then Managing Agent, and the Condominium Board or said then Managing Agent shall receive, a further written designation or appointment of a new, substitute Registered Agent who meets the qualifications set forth in clause (d) above;

(g) pending receipt of such further designation or appointment of a new Registered Agent, the then Managing Agent of the Condominium Association shall automatically be, and

deemed to be, the Registered Agent of such Foreign Entity and any process served on said Managing Agent while acting in such capacity as Registered Agent shall be given to such Foreign Entity in the same manner as provided for giving of notices in Article 20 of the By-Laws;

(h) the said written designation or appointment of a Registered Agent or a new, substitute Registered Agent shall be in form and substance satisfactory to the Condominium Board and may, at the Board's sole option, be prepared by the Board's attorneys at the expense of such Foreign Entity; and

(i) the failure or refusal of a Foreign Entity to comply with the provisions of the preceding clauses (c) through (h), shall, in addition to all other legal and equitable rights and remedies, entitle the Condominium Board to withhold or deny furnishing the Certificate of Waiver or Exemption set forth in Article 16, subsection 16.6.1 of the By-Laws and the Estoppel Certificate set forth in Section 16.12 of said Article 16 of the By-Laws, without the Condominium Board and Unit Owners incurring any Liabilities and Expenses, and without recourse of any kind against the Condominium Board or Unit Owners by reason thereof.

ARTICLE 25

INCORPORATION IN DECLARATION

Section 25.1 **Incorporation of Exhibits, Floor Plans and Offering Plan**. Each of the EXHIBITS attached to this Declaration, the Floor Plans of the Building and Units intended to be recorded and filed in the Register's Office contemporaneously with the recording of this Declaration, and the Plan (i.e., the Condominium Offering Plan of the Property and all Amendments thereto accepted for filing by the New York State Department of Law prior to the First Closing of an Office Unit under such Offering Plan) form a part of, and are hereby incorporated in, this Declaration with the same force and effect as though set forth at length herein. In the event of any inconsistency or conflict between the provisions of the Plan and this Declaration or the By-Laws (including the Rules and Regulations annexed thereto), the provisions of the Plan are paramount and shall govern and prevail. This Declaration shall govern and prevail in the event of any inconsistency or conflict between its provisions and the provisions of the By-Laws (including said Rules and Regulations).

ARTICLE 26

CHANGES AND WAIVER

Section 26.1 **Changes**. The provisions of this Declaration may be changed only by Amendment made, executed, filed and/or recorded in accordance with Article 22 above, except the Rules and Regulations appended to the By-Laws may be amended or otherwise changed without recording an amendment to this Declaration or the By-Laws as provided in Article 14, Section 14.5 of the By-Laws.

Section 26.2 **No Waiver of Consent**. The provisions of this Declaration or the Condominium Act requiring the consent or approval of a specified percentage of Common

Interest or number of Unit Owners may not be waived (subject to the right to provide a different percentage or number as provided in Section 339-e(8) of the Condominium Act).

Section 26.3 **Waiver in Writing**. All other provisions may be waived only in writing signed by or in behalf (through a duly authorized representative or agent) of the Unit Owner or Condominium Board (as applicable) waiving a provision hereof, unless such provision is expressly stated to have been waived or deemed waived if not exercised, satisfied or performed within a specified period.

Section 26.4 **No Inference of Waiver**. The delay or failure to enforce or insist on strict performance of, or compliance with, any provision of this Declaration shall not mean or infer that the provision has been waived or that the right to enforce or insist then or thereafter on strict performance of, or compliance with, that or any other provision of this Declaration has been waived. A waiver of any breach or violation or requirement of this Declaration shall not be, or construed to be, a waiver of any subsequent or other breach or violation or requirement hereof.

ARTICLE 27

SEVERABILITY

Section 27.1 **Valid and Enforceable**. Subject to the provisions of Sections 21.4 and 21.5 above: (a) the invalidity or unenforceability of any provision of this Declaration shall not affect the validity or enforceability of any other provision hereof; and (b) each provision of this Declaration is, and shall be construed to be, valid, binding and enforceable to the fullest extent permitted by Law.

Section 27.2 **Condominium Act is Paramount**. The Condominium Act is paramount and shall govern and supersede any provision of the Condominium Documents which is contrary to, or prohibited by, the Condominium Act.

ARTICLE 28

SPONSOR'S RIGHTS

Section 28.1 **Who May Exercise**. The special rights, powers, privileges, exemptions, easements, licenses, indemnities, remedies, protections and other benefits of Sponsor and Unsold Unit Owners (collectively "**Sponsor's Rights**") in the Plan and the Condominium Documents (as each may be duly amended from time to time), excluding (however) the Sponsor Rights with respect to the Unused Development Rights of the Property (which are owned, and after Sponsor no longer owns any Unit shall continue to be owned, exclusively by Sponsor), and the limitations, restrictions and requirements thereunder (if any) in connection with such Sponsor's Rights or otherwise applicable to each, shall inure to, benefit, bind and be enforceable by and against: (a) the Sponsor; (b) the Unsold Unit Owners (each such Owner having with regard to all Unsold Units owned by said Unsold Unit Owner all or (only if specified by Sponsor) certain of Sponsor's Rights under the Plan and the Condominium Documents); (c) a Person who is designated by Sponsor or an Unsold Unit Owner in a deed, an Amendment to this Declaration or an instrument executed and acknowledged in recordable form

by Sponsor or such Unsold Unit Owner (as applicable) as Sponsor's or such Owner's "**Designee**" having, with regard to the Unsold Unit owned by such Designee, all or (if specified by Sponsor or such Unsold Unit Owner, as applicable) certain of said Sponsor's Rights (each Designee shall have the same right to designate a Person as a Designee); (d) a Person who acquires title to a Sponsor Unit, an Unsold Unit or the Designee's Unit, respectively, by sale or conveyance following a mortgage foreclosure or by deed given in lieu thereof or similar involuntary conveyance of such Unit ("**Involuntary Transferee**"); and (e) a Person who succeeds to the interest in a Unit owned by Sponsor, an Unsold Unit Owner or a Designee by operation of the Law (e.g. by Laws of descent, distribution, inheritance or the like) or by merger, consolidation, liquidation, dissolution or a similar succession ("**Successor in Interest**"). Sponsor, an Unsold Unit Owner, a Designee, an Involuntary Transferee and a Successor in Interest of each of the foregoing shall continue to have, and may exercise, such Sponsor's Rights so long as each of the foregoing owns, leases or holds any other estate or interest in the applicable Unit. All of Sponsor's Rights (excluding Sponsor's Rights with respect to the Unused Development Rights of the Property, which are owned exclusively by Sponsor as aforesaid) shall inure to, benefit and be enforceable by an Unsold Unit Owner, a Designee, an Involuntary Transferee and a Successor in Interest, with respect to the Unit owned by such Party (unless otherwise expressly provided in the instrument granting or giving such Sponsor's Rights to a Designee as aforesaid). The Sponsor's Rights apply to all Units owned at the time in question by Sponsor, an Unsold Unit Owner, a Designee, an Involuntary Transferee or a Successor in Interest, including Sold Units reacquired by each of the foregoing, whether such reacquisition results from the exercise of a right of rescission, or a right to sell back to such Party or a mortgage foreclosure, or a deed given in lieu of such foreclosure, or otherwise. However, such reacquired Units shall not be regarded as Unsold Units for purposes of determining the expiration of the Sponsor Board Control Period or the Sponsor Veto Control Period.

Section 28.2 **Other Unit Owners**. The Owner of a Unit who is not the Sponsor, an Unsold Unit Owner, a Designee, or the Commercial Unit Owner, or an Involuntary Transferee or a Successor in Interest of any of the foregoing, shall not have, or benefit from, and may not exercise or enforce, any of such Sponsor's Rights under this Declaration or the By-Laws, unless otherwise expressly provided.

Section 28.3 **Covenants with Land Supplemented**. This Article 28 is in furtherance of, supplements and supersedes any inconsistencies in Section 21.1 above.

ARTICLE 29

INDEMNIFICATION

Section 29.1 **Indemnification Generally**. Whenever a Person ("**Indemnifying Party**") is required under any provision of this Declaration or the By-Laws to indemnify or give any other Person(s) ("**Indemnified Party**") an indemnification, then such Indemnifying Party shall indemnify the Indemnified Party and all past, present and future Related Parties of the Indemnified Party, all agents, employees, attorneys and other consultants of such Indemnified Party, and the respective heirs, distributees, legatees, executors, administrators, legal representatives, successors and assigns (all of the foregoing are collectively, the "**Indemnified Parties**"), to the full extent lawful, from and against all Claims and Liabilities and Expenses that shall be paid or incurred, related to or arising from the indemnified matter, including Costs and

Expenses in connection therewith and in connection with the prosecution and collection of the indemnity ("**such Claims**"). Any such indemnification shall be in addition to any liability that such Indemnifying Party may otherwise have.

Section 29.2 **Contribution**. If indemnification were for any reason not to be available with respect to any matter, the Indemnifying Party shall contribute to the settlement of such Claims and Liabilities and Expenses in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party, on the one hand, and the Indemnified Parties, on the other hand, as well as any other relevant equitable considerations.

Section 29.3 **Application**. The provisions of this Article shall be applicable to any indemnity given or required to be given under the provisions of this Declaration or the By-Laws, whether or not expressly so stated in any particular provision giving or requiring such indemnity. Nothing contained in this Article shall be deemed to supersede or circumscribe any express limitation on or express expansion of any indemnity given or required to be given under the provisions of this Declaration or the By-Laws.

Section 29.4 **Notice of Claims or Lawsuit**. Promptly after receipt by the Indemnified Party of notice of any such Claims or the commencement of any Lawsuit covered by the indemnity pursuant to any of the provisions of this Declaration or the By-Laws, the Indemnified Party shall notify the Indemnifying Party in writing of such Claims or the commencement of any Lawsuit and shall with reasonable promptness give the Indemnifying Party copies of the pleadings and other litigation documents in any such Lawsuit, as and when received.

Section 29.5 **Selection of Attorneys and Settlement**. The Indemnifying Party, at such Party's sole Cost or Expense, shall defend the applicable Indemnified Party with counsel reasonably satisfactory to such Indemnified Party, shall keep the Indemnified Party apprised of all legal proceedings and shall be entitled to control and conduct the defense of such Claims (including any Lawsuit), but shall not enter into any compromise or settlement thereof without obtaining the prior written Reasonable Approval or Consent of the Indemnified Party.

Section 29.6 **Cooperation of Indemnified Party**. The Indemnified Party shall cooperate fully and make available to the Indemnifying Party such information and documents under the control or in the possession of the Indemnified Party as are reasonably related to the defense of such Claims (including any Lawsuit).

Section 29.7 **Participation of Indemnified Party**. The Indemnified Party shall have the right, but not the obligation, at such Indemnified Party's sole Cost and Expense, to participate and be represented by separate counsel (chosen by the Indemnified Party) in the defense, compromise and settlement of such Claims or Lawsuit.

Section 29.8 **Allocation of Costs and Expenses**. If the Indemnifying Party is the Condominium Board, then the Costs and Expenses of the Condominium Board in connection with an indemnification shall be allocated to the Common Expenses in accordance with the provisions or (if not expressly provided) purposes and equitable principles of this Declaration or the By-Laws.

Section 29.9 Indemnification of Board Parties.

Section 29.9.1 Business Corporation Law. The indemnification provisions of the New York Business Corporation Law ("**BCL**") for corporate directors and officers shall apply respectively to the Board Members and officers of the Condominium Association to the same effect as though the Condominium Association of Unit Owners were a corporation and the Board Members and officers of the Condominium Association were respectively a board of directors and officers of such corporation.

Section 29.9.2 Indemnity. The Condominium Board on behalf and as agent of the Unit Owners or only the Unit Owners on whose behalf the Board is acting (as applicable) shall indemnify to the fullest extent provided in the BCL, the Board Members and officers of the Condominium, made, or threatened to be made, a party to an action or proceeding, whether civil or criminal, including an action by or in the right of the Board or any corporation of any type or kind, or any partnership, limited liability partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise, whether domestic or foreign, which such Board Member or officer or other person on behalf of the Board heretofore or hereafter served in any capacity at the request of the Board, by reason of the fact that such person, whether testate or intestate, was a Board Member or officer, or served such other corporation, limited liability partnership, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees and disbursements actually and necessarily incurred as a result of the threat of, the commencement of and/or the continuation of such action or proceeding, or any appeal therein, if such Board Member or officer acted, in good faith, for a purpose which such person reasonably believed to be in, or, in the case of service for any such other corporation, partnership, limited liability partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise, not opposed to, the best interests of the Board and the Condominium Association and, in criminal proceedings, in addition, had no reasonable cause to believe that his or her conduct was unlawful. The liability of each Unit Owner under this indemnity shall be limited as provided in Article 4, Section 4.12 of the By-Laws.

Section 29.9.3 No Presumption. The termination of any such civil or criminal proceeding by judgment, settlement, conviction or upon a plea of nolo contendere, or its equivalent, shall not in itself create a presumption that any such Board Member or officer did not act in good faith, for a purpose which such person reasonably believed to be in, or, in the case of service for any such other corporation, partnership, limited liability partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise, not opposed to, the best interests of the Board and the Condominium Association or that such person had reasonable cause to believe that his or her conduct was unlawful.

Section 29.9.4 Expenses. Expenses incurred in defending a civil or criminal action or proceeding by a Board Member, officer or other person to be indemnified under this Article shall be paid by the Board on behalf and as agent of the Unit Owners or only the Unit Owners on whose behalf the Board is acting (as applicable) in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of such Board Member, officer or other person to repay such amounts as, and to the extent, required by BCL Section 325(a). The indemnification provided by the preceding Section 29.9.2 shall not be deemed exclusive of any

other rights to which a Board Member or officer seeking indemnification or advancement of expenses may be entitled, whether contained in this Declaration or the By-Laws, or a resolution of Unit Owners, a resolution of disinterested Board Members, or an agreement providing for such indemnification or under any statute, provided that no indemnification may be made to or on behalf of any Board Member or officer if a judgment or other final adjudication adverse to the Board Member or officer establishes that such Board Member's or officer's acts were committed in bad faith or were the result of active and deliberate dishonesty or willful misconduct and were material to the cause of action so adjudicated, or that such Board Member or officer thereby personally gained a financial profit or other advantage to which he or she was not legally entitled.

Section 29.9.5 Other Person. A person who has been successful, on the merits or otherwise, in the defense of a civil or criminal action or proceeding of the character described in BCL Section 322 shall be entitled to indemnification as authorized by such section.

Section 29.9.6 Specific Case. Except as provided in BCL Section 323(a), any indemnification under BCL Section 321, unless ordered by a court under BCL Section 324, shall be made by the Condominium Board on behalf and as agent of the Unit Owners or only the Unit Owners on whose behalf the Board is acting (as applicable), only if authorized in the specific case set forth in BCL Section 323(b).

Section 29.9.7 Standard of Conduct. Any determination as to whether a person has met an applicable standard of conduct shall be made in accordance with the provisions of BCL Section 323.

Section 29.9.8 Employees Agents and Committee Members. The Condominium Board on behalf and as agent of the Unit Owners or only the Unit Owners on whose behalf the Board is acting (as applicable) may, to the extent authorized from time to time by resolution of a majority of the Board Members, provide indemnification to employees or agents of the Board or members of committees appointed by the Board, with such scope and effect as determined by said majority of the Board Members, but in no event shall such indemnification be greater than would be available to such individual under this Declaration or the By-Laws, if such individual were a Board Member.

Section 29.9.9 Remedies. If a claim for indemnification under this Article is not paid in full by the Condominium Board within thirty (30) days after a written claim has been received by the Board, the claimant may at any time thereafter bring suit against the Board to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the reasonable expense of prosecuting such claim. It shall be a defense to any such action (other than action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Board) that the claimant has not met the standards of conduct prescribed hereunder, but the burden of proving such defense shall be on the Condominium Board. Neither the failure of the Condominium Board (including its independent legal counsel or the Unit Owners) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper under the circumstances because he or she has met the applicable standard of conduct set forth herein or in the BCL, nor an actual determination by the Board (including its independent legal counsel or the Unit Owners) that the claimant has not met

such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

Section 29.9.10 Insurance. The Condominium Board on behalf and as agent of the Unit Owners or only the Unit Owners on whose behalf the Board is acting (as applicable) shall have the power to purchase and maintain insurance to indemnify: (a) the Condominium Board for any obligation which it incurs as a result of the indemnification of Board Members and officers under the provisions of this Article; (b) the Board Members and officers in instances in which they may be indemnified by the Board under the provisions of this Article; (c) the Condominium Board for any obligation which the Board incurs on behalf and as agent of the Unit Owners or only the Unit Owners on whose behalf the Board is acting (as applicable); and (d) Board Members and officers under any indemnification provided in this Declaration or the By-Laws, a resolution of Unit Owners, a resolution of the Board, or any agreement.

Section 29.9.11 Interpretation. The intent of the foregoing indemnification provisions in this Article is both to provide and to expand upon the indemnification provided by the BCL, as the BCL may from time to time be amended, so as to maintain and continue to attract persons of high quality to serve on the Condominium Board as Board Members, officers or in similar capacities.

Section 29.9.12 Notice of Claim or Lawsuit. Promptly after being notified of a Claim or served in a Lawsuit for which indemnity is sought, the indemnified party shall give notice thereof to the Condominium Board.

Section 29.9.13 Control of Defense. The Condominium Board on behalf and as agent of the Unit Owners or only the Unit Owner or Unit Owners on whose behalf the Board is acting (as applicable), as a Common Expense (if on behalf of all Unit Owners) or a specially allocated expense in accordance with the Special Allocation and Apportionment Rule (if on behalf of only a certain Unit Owner or Unit Owners), shall be entitled: (a) to control the defense, compromise and settlement of such Claim or Lawsuit, provided the indemnified party shall not be adversely affected by the proposed compromise or settlement and shall be fully and unconditionally released and discharged in writing from all Liabilities and Expenses with respect to such Claim by all claimants or with respect to such Lawsuit by all plaintiffs or petitioners or counter-claimants or cross-claimants (such release and discharge to be in form and content as shall be reasonably approved by the indemnified party); and (b) to choose the attorneys, who shall be reasonably satisfactory to the indemnified party.

Section 29.9.14 Cooperation. The indemnified party shall cooperate fully and make available to the Condominium Board such information and documents under the control or in the possession of the indemnified party as are reasonably related to the defense of the Claim or Lawsuit.

Section 29.9.15 Participation. The indemnified party shall have the right, but not the obligation, at such indemnified party's sole Cost and Expense, to participate and be represented by separate counsel (chosen by the indemnified party) in the defense, compromise and settlement of the Claim or Lawsuit.

ARTICLE 30

MISCELLANEOUS: USAGES AND GRAMMAR

Section 30.1 **Table of Contents and Captions**. The Table of Contents and captions in this Declaration are for convenience and reference only and do not, and shall not be construed to, affect the meaning or interpretation of any provision of this Declaration.

Section 30.2 **References**. The words "Article", "Section", "provision", "paragraph", "clause", "EXHIBIT" or similar words refer to an Article, section, provision, paragraph and clause of this Declaration, or an EXHIBIT attached to this Declaration, unless otherwise expressly stated. Similarly, the words "hereof", "herein", "above", "below" and similar terms mean this Declaration.

Section 30.3 **Grammar**. Any word or term in this Declaration or any of the EXHIBITS to this Declaration that is: used in the singular, shall include the plural and vice versa; or used in any gender shall include any other gender; or used in any tense (past, present or future), shall include any other tense, whenever required by the sense of this Declaration and not contrary to the express context.

Section 30.4 **Notices**. Unless otherwise expressly provided elsewhere in this Declaration or the By-Laws, any request, consent, approval, election, demand, communication or notice (collectively, "**notice**") to be given or made under this Declaration or the By-Laws (including the Rules and Regulations) must be in writing and delivered or sent as provided in Article 20 of the By-Laws, all of whose provisions shall apply to the giving of notices hereunder and are hereby incorporated herein with the same force and effect as though set forth at length.

Section 30.5 **Governing Law**. The internal laws of the State of New York will govern this Declaration (including al Exhibits hereto) and the interpretation and enforcement of its provisions, without regard to legal principles or conflicts of laws.

Section 30.6 **Day**. All references in this Declaration and the Exhibits to "day" shall mean a "calendar day", unless expressly stated to be a business day.

SIGNATURE PAGE FOLLOWS

END OF TEXT ON THIS PAGE

SIGNATURE PAGE OF DECLARATION OF CONDOMINIUM

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the ___ day of _____, 200_.

100 Vandam, LLC

By: BSCKIM Holdco III, LLC, Manager
BSCNYC Holdings, LLC, Manager
Beck Street Capital LLC, Manager

By: _____

Signature:_____
Name: Kevin Comer
Title: Manager

ACKNOWLEDGMENT

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

On this _____ day of _____, 200__, before me, the undersigned, a notary public in and for said state, personally appeared Kevin Comer personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

EXHIBIT A
TO
DECLARATION OF CONDOMINIUM
ESTABLISHING
100 Vandam

DESCRIPTION OF LAND

ALL OF THE FOLLOWING PLOTS, PIECES OR PARCELS OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN AND COUNTY OF NEW YORK, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE SOUTHERLY SIDE OF VANDAM STREET WITH THE EASTERLY SIDE OF GREENWICH STREET; RUNNING THENCE

EASTERLY ALONG THE SOUTHERLY SIDE OF VANDAM STREET, 99 FEET 11-1/8 INCHES TO THE LAND HERETOFORE CONVEYED BY THE CONSOLIDATED EDISON COMPANY OF NEW YORK INC. TO [redacted] AND [redacted] BY DEED DATED AUGUST 30, 1944; THENCE

SOUTHERLY AT AN INTERIOR ANGLE OF 89° 44'05" WITH THE LAST MENTIONED COURSE AND ALONG THE WESTERLY SIDE OF LAND SO CONVEYED BY SAID DEED DATED AUGUST 30, 1944, 64 FEET 7-¼ INCHES; THENCE

WESTERLY AT AN INTERIOR ANGLE OF 90° 00'50" WITH THE LAST MENTIONED COURSE, 99 FEET 11-¾ INCHES TO THE EASTERLY SIDE OF GREENWICH STREET AT A POINT THEREON DISTANT 64 FEET 2 INCHES SOUTHERLY FROM THE POINT OR PLACE OF BEGINNING.

NORTHERLY ALONG THE SAID EASTERLY SIDE OF GREENWICH STREET, 64 FEET 2 INCHES TO THE POINT OR PLACE OF BEGINNING.

TOGETHER WITH THE BENEFITS CONTAINED IN THAT CERTAIN AGREEMENT BY AND BETWEEN [redacted], [redacted] AND CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., DATED 8/31/1944, RECORDED ON 9/6/1944 IN LIBER 4306 CP 339, AS REPEATED IN AGREEMENT RECORDED ON 10/25/1988 IN REEL 1483 PAGE 1910, AND IN THAT CERTAIN AGREEMENT BY AND BETWEEN 92-94 VANDAM BUILDING CORPORATION AND OKANAGA U.S.A. CO., LTD. DATED 3/2/1988, RECORDED ON 10/25/1988 IN REEL 1483 PAGE 1916.

TOGETHER with all the right, title and interest of the party of the first part, of in and to the land lying in the street in front of and adjoining said premises.

The premises are known as 100 Vandam Street (a/k/a 96-100 Vandam Street and 527-531 Greenwich Street) New York, NY.

END OF EXHIBIT A

EXHIBIT B TO DECLARATION OF CONDOMINIUM
ESTABLISHING THE CONDOMINIUM KNOWN AS 100 VANDAM

DESCRIPTION OF UNITS

Unit Designation	Tax Lot No.	Location (in Portion of Building Facing in the Direction Set Forth Below)	Approximate Floor Area in Square Feet(1)			Approximate Unit Height in Feet/ Inches (3)	Common Elements to Which Unit Has Immediate Access	Percentage of Common Interest (4)
Office Units:			Indoor	Skylight	Unit Total (2)			
100			5,663	0	5,663			16.9961%
200			5,663	0	5,663			16.9961%
300			5,672	0	5,672			17.0231%
400			5,658	0	5,658			16.9811%
500			5,631	18	5,631			16.9000%
Sub-total: 5 Office Units			28,287	18	28,287			84.8964%
Commercial Unit:			4,927 *	0	4,927			14.7871%
Roof Terrace Unit					5,274			0.3165%
Total: All 7 Units			33,214	18	38,488			100.0000%

*Cellar Level: 4,836 square feet
Street Level: 91 square feet

Footnotes start after the end of this EXHIBIT B.

TO BE COMPLETED PRIOR TO RECORDING

FOOTNOTES TO EXHIBIT B

DESCRIPTION OF UNITS

1. Floor Area of Unit.

   1.1 Unit Boundaries. The approximate indoor floor area of each Unit has been measured from the exterior side of the Building Walls at the Building line (but not beyond the Property line) enclosing the Unit, or from the public stair side of an interior Party Wall separating the Unit from a public area or public stair, respectively, or from the unexposed mechanical space side of an interior Party Wall separating the Unit from an elevator shaft or other Common Element.

   1.2 Inclusion of Common Elements. The floor area occupied by any Common Elements bordering or within a Unit (such as the Building Walls, vents, chase walls or areas, conduits, ducts, shafts or pipes) have been included in the computation of the floor area of the Unit, but such Common Elements are not part of the Unit.

   1.3 Allowance. All floor areas used in the calculations of Common Interests are approximations within a tolerance of about 5%.

   1.4 Based on Full (Actual) Square Footage. The approximate floor areas shown in the "Indoor" and "Skylight" columns equal their full (actual) square footages as measured in accordance with note 1.1 above.

   1.5 Skylights. The Skylights appurtenant to the Roof Terrace Unit are part of such Unit.

2. Unit Total.

   2.1 Based on Full (Actual) Square Footage. The approximate floor area shown in the "Unit Total" column equals the full (actual) square footage of the Unit and its appurtenant Skylights (if and as applicable), which are included in, and part of, such Unit.

3. Unit Height. The height of each Office and Commercial Unit consists of the volume space measured vertically from the top of the Base Floor below (located under the finished flooring and sub-flooring materials) to the underside of the Base Ceiling above (located above the finished ceiling material). Ceiling heights on each floor vary and do not reflect beams, shelves, coves or dropped ceilings in certain areas to accommodate ducts, light fixtures or other Equipment. The height shown is approximate and is measured from below the flooring installed over the Base Floors.

4. Common Interest. The Common Interest of each Unit is based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit, in accordance with Section 339-i(1)(iv) of the Condominium Act.

END OF EXHIBIT B

EXHIBIT C TO DECLARATION OF CONDOMINIUM

ESTABLISHING

100 VANDAM

GLOSSARY

The words frequently used in the Declaration and the EXHIBITS thereto (whether uppercase or lowercase) are defined below in this EXHIBIT C. Unless the context otherwise requires, words used in the singular include the plural, and vice versa, and a reference to any one gender (masculine, feminine or neuter) includes the other two.

"Access Requirements": As defined in Article 11, Section 11.15.4 of the Declaration.

"Additional Common Charges": As defined in Article 9, Section 9.1.5 of the Declaration.

"Additional Utility Easements/Rights": As defined in Article 11, Section 11.11 of the Declaration.

"Agents, Employees and Contractors": This term includes all agents, employees, contractors, subcontractors, and their respective employees and workers.

"All Repair Work": All Maintenance and Repairs, whether structural or non-structural, or extraordinary or ordinary.

"Allocation Change": As defined in Article 9, Section 9.5 of the Declaration.

"Allocation/Apportionment Change": As defined in Article 9, Section 9.6 of the Declaration.

"Alter", "Alters", "Alterations" and other derivations thereof: All alterations, additions, improvements, installations, demolitions, removals or replacements, whether structural or non-structural, or extraordinary or ordinary.

"amend", "amended", "Amendment" and variations thereof: An amendment to the Plan accepted and filed by the New York State Department of Law or to any of the Condominium Documents (as indicated by the text), including any modification, addition, deletion, repeal or other change to a provision thereof.

"Apportionment Change": As defined in Article 9, Section 9.5 of the Declaration.

"approval": Unless otherwise expressly provided, the approval to be obtained is Discretionary Approval.

"Association": As defined in Article 1, Section 1.3 of the Declaration.

"Association's Properties": As defined in Article 7, Section 7.4 of the Declaration.

"Authorized First Sold Unit Owner": The first Owner of a Sold Unit, who is expressly granted the right in writing by Sponsor or an Unsold Unit Owner (whoever is the grantor of the deed conveying the Sold Unit) to make a Unit Change.

"Base Ceiling": The wood joists, metal decking or other construction material and any gypsum wallboard (or other construction material) above the plaster or other finish covering a ceiling. The Base Ceiling borders the top of a Unit or Common Element and constitutes one of the Structural Components of the Building. The Base Ceiling of a Unit is also the Base Floor of the Unit (if any) immediately above such Unit.

"Base Floor": The wood joists, metal decking or other construction material below the wood, stone, tile, carpet or other finish covering a floor, together with any underflooring. The Base Floor borders the bottom of a Unit or Common Element and constitutes one of the Structural Components of the Building. The Base Floor of a Unit is also the Base Ceiling of the Unit (if any) immediately below such Unit.

"Board": The Board of Managers of the Condominium.

"Board Alterations": As defined in Article 14, Section 14.5.2 of the Declaration.

"Board Member": A member of the Condominium Board, including an Independent Board Member or a Sponsor Board Member.

"Budget" or **"Budget of Condominium Operation"**: The Budget of Projected Receipts and Expenses of Condominium Operation of the Property for a Budget Year, as determined and adopted in accordance with Article 9 of the Declaration.

"Budget Year": A Budget for the twelve (12) month period (fiscal or calendar) determined and adopted by the Condominium Board.

"Building": The building known by the street address of 100 Vandam Street, New York, NY 10013.

"Building Walls": As defined in Article 6, Section 6.5 of the Declaration.

"Building's Maintenance Standard": To Maintain and Repair a Unit, including its individual Equipment, Facilities, Installations and Systems, windows and skylights (if any), the Common Elements, the Association's Properties, the Immediately Adjacent Sidewalks to the Property and the Vaults thereunder (as applicable) by the Party responsible for the Maintenance and Repair thereof, in good and proper working order, in accordance with good construction practices, free of water leaks and undue air penetration, and (as to outdoor areas) free and clear of snow, ice, water accumulation and debris, and otherwise in clean, neat and sanitary condition, good appearance and first class condition in keeping with the high quality, character, dignity and standards of the Building and all applicable Laws.

"business day": Any day of the year that is not a Saturday, Sunday or a legal holiday of the State of New York or United States government.

"business hours": Between the hours of 9:00 a.m. and 5:30 p.m.

"By-Laws": The By-Laws of the Condominium set forth as EXHIBIT D to the Declaration, as such By-Laws or a provision thereof may be amended from time to time in accordance with its provisions. The By-Laws provide for (among other matters) the administration and governance of the Condominium Association, the Operation and uses of the Property and Units and the rights and obligations of the Condominium Board and the Unit Owners.

"C of O": As defined in Article 15, Section 15.2(k) of the Declaration.

"calendar day": Any day of the year.

"Claims": All claims, disputes, controversies, rights, causes for Lawsuits and Lawsuits.

"Commercial Signage Easement Area": As defined in Article 10, Section 10.4.1(b-2) of the Declaration.

"Commercial Unit": The retail or office space in the Building and constituting one of the Condominium Units established under, and so designated as such in EXHIBIT B to, the Declaration, together with the Common Interest appurtenant to such Unit. The Commercial Unit includes all Equipment, Installations, Facilities and Systems, or portions thereof, wherever located, that are for the exclusive use, service or benefit of such Unit or its Owner and are not expressly stated in the Declaration to be part of the Common Elements or another Unit. The location of the Commercial Unit is more precisely shown on the Floor Plans and referred to in said EXHIBIT B.

"Commercial Unit Owner": The Owner of the Commercial Unit.

"Common Charges": As defined in Article 9, Section 9.1.5 of the Declaration.

"Common Elements": As defined in Article 7, Section 7.1 of the Declaration.

"Common Expenses": As defined in Article 9, Section 9.1.1 of the Declaration.

"Common Interest": As defined in Article 7, Section 7.1 of the Declaration.

"Common Profits": As defined in Article 9, Section 9.1 of the Declaration.

"Communications Equipment and Other Installations": All antennae, satellite dishes and other communication devices and related Equipment (including fiber optic cable and other communication lines, wires, cables and conduits), plus any and all other new and/or additional Equipment, Facilities and Installations that service or benefit Office Units and/or the Commercial Unit and/or the general public.

"Condominium": The condominium known as 100 Vandam, which is the subject of the Declaration to which this Glossary is attached and is being established on the Property by the filing and recording of the Condominium Documents. This term refers to the Property being submitted to the provisions of the Condominium Act..

"Condominium Act": Article 9-B of the Real Property Law of the State of New York.

"Condominium Association": As defined in Article 1, Section 1.3 of the Declaration.

"Condominium Board": The same as the Board, i.e., the Board of Managers of the Condominium, which is the body that governs the affairs of the Condominium and the Operation of the Common Elements. The Condominium Board comprises the Independent Board Member(s) and (while there is an Unsold Unit) the Sponsor Board Member(s).

"Condominium Documents": The Declaration, including the Exhibits thereto (e.g., the By-Laws and Rules and Regulations), and Floor Plans of the Condominium, as each may be amended from time-to-time.

"consent": Unless otherwise expressly provided, the consent to be obtained is Discretionary Consent.

"Costs and Expenses" or **"Costs or Expenses"** or similar words: All losses, damages, liabilities, costs, expenses and amounts paid, payable or incurred (including reasonable legal fees and disbursements, court costs and all other litigation expenses together with per diem interest thereon at the rate equal to the lower of 16% a year or the maximum legal rate, computed from the date paid to the date reimbursed) in connection with any Claim or to perform, observe, enforce, uphold, protect, defend, maintain and collect sums payable under a right, remedy, obligation, requirement, agreement or indemnity given in or pursuant to the Condominium Documents or an Amendment thereto or the Plan. This term also includes (where appropriate) all costs and expenses: (a) to Operate and make any Disposition of the Common Elements and the Association's Properties, including interest and principal payments under a loan; (b) to conduct the affairs of the entire Property, the Association's Properties and the Condominium Association generally; and (c) to provide services to all Unit Owners or to only a specified Unit Owner (as applicable).

"damages": All damages, whether actual, compensatory, consequential, indirect, incidental, special, punitive or otherwise.

"days": All references in the Declaration and By-Laws to "days" shall mean calendar days, unless expressly stated to be business days.

"Declarant": 100 Vandam, LLC, the Declarant of the Declaration and the offeror of the Office, Commercial and Roof Terrace Units under the Plan.

"Declaration": The instrument executed by Sponsor (Declarant) and recorded in the Register's Office, which submits the Property to the Condominium Act.

"Decorate," "Decorations" and derivations thereof: All painting, ornaments, furnishings, furniture, fixtures, embellishments and decorations of any kind, including: all manner of flooring (wood, tiles of any composition, carpeting, rugs and other floor coverings); all manner of wall and ceiling finishes and coverings (e.g., paint, plaster, paper, fabric, wood, glass and other materials); all manner of baseboards and moldings; all manner of lighting fixtures and chandeliers and related switch plates and electrical outlets; all manner of doorknobs, hinges and other hardware; all manner of plants, flowers and landscaping; and all manner of wall and ceiling finishes and coverings (e.g., paint, plaster, tiles, wood paneling, fabric and wallpaper).

"Department of Law": The Department of Law of the State of New York.

"Description Change": As defined in Article 13, Section 13.1 of the Declaration.

"Designee": As defined in Article 28, Section 28.1 of the Declaration.

"Discretionary Consent" or **"Discretionary Approval"** or **"Discretionary Consent or Approval"** or similar words: The consent or approval to be obtained is discretionary and may be conditioned, delayed, withheld or denied, without cause or explanation, in the sole and absolute judgment of the Party whose consent or approval is sought or required to be given, without recourse against such Party in the event consent or approval is conditioned, delayed, withheld or denied.

"Disposition": To own, hold, lease, sublease, rent, grant easements or concessions, license, mortgage, grant security interests, collateralize, assign, transfer, sell, convey, market, advertise, Promote, offer, administer, Operate, improve, combine, subdivide, expand, contract and to otherwise transact any matter with respect to, and to make any other disposition of, real or personal property allowed by Law, whether or not similar to the foregoing (but not to cast the votes appurtenant to any Unit owned by the Condominium Board or its nominee or designee).

"duties": All duties, obligations, burdens, responsibilities, requirements and services.

"elect", **"elected"**, **"election"** and similar words and derivations: In the case of the election of the Condominium Board: the Independent Board Member(s) shall be elected by nomination and voting exclusively by all Sold and Unsold Unit Owners; and the Sponsor Board Member(s) shall be elected by appointment and designation in writing exclusively by Sponsor or (after Sponsor no longer owns any Unsold Unit) other Unsold Unit Owners.

"Entity": A partnership, limited liability partnership or company, corporation, trust, estate, fiduciary, unincorporated association, syndicate, joint venture, organization, government, embassy, consulate, Governmental Authority or any other entity legally competent to own real property.

"Equipment": All machinery, tools, apparatus, devices and implements comprising part of a Common Element or Unit (as applicable), now or hereafter, whether mechanical, electrical, electronic, plumbing or otherwise, including: boilers, converters, radiator, heaters, blowers, exchanges and related equipment forming part of a heating system; motors; pumps; water and electric meters, electrical panels, circuit breakers, transformers, switches and related equipment forming part of an electrical system; elevator (including cab, cables, electronics, motor, air-

conditioner, pit, shaft and related equipment forming part of an elevator system); air-conditioners (including cooling tower, all chillers, condensers, compressors, fan coil units and related equipment forming part of an air-conditioning system); fans; telephones and related equipment forming part of a telephone system; intercom (including all equipment forming part of an intercom system); cameras, monitors and related equipment forming part of a security system); televisions, antennae, satellite dishes and related equipment forming part of a television, Internet or other communication system (electric, cable, wireless or otherwise); appliances (including washers, dryers, refrigerators, ranges and ovens); sinks; toilets; fire alarms; smoke detectors; tanks and tank assemblies; sprinkler heads and alarms and related equipment forming part of a sprinkler system; bells; thermostats; thermometers; vents; sensors; valves; panels; receptacles; outlets; wiring; siamese connections; hoses, electrical, lighting, plumbing and other fixtures and bulbs; Signs; pipes; lines; ducts; conduits; cables; risers; mains; shafts; pits, flues; chases; hardware; locks; screens, strainers; traps; drains; catch basins; leaders; filters; incinerators; compactors; canopies; closets; cabinets; doors; railings; metal stairs; 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; horticultural boxes; equipment used for cleaning halls, floors, carpets, walls and other areas (whether indoor or outdoor) including for snow removal; and all other equipment forming a part of a system of the Building.

"Exempt Transaction": As defined in Article 16, Section 16.2, subsection 16.2.1 of the By-Laws.

"Existing Lease": A lease, operating agreement or license for space in the Building in effect on, or entered into prior to, the date the Declaration is recorded in the Register's Office so long as same shall remain in effect, including all extensions or renewals thereof in accordance with any option or other provision thereof, but excluding any other extensions or renewals thereof and all Amendments thereto made subsequent to said recording of the Declaration.

"Existing Tenant": A tenant under an Existing Lease at the date of recording the Declaration.

"Facilities": All fixtures and personal property not otherwise comprising the Equipment, now or hereafter existing in, on, or under the Land or Building and for the use, service or benefit of one (1) or more Units or Unit Owner(s) or forming a part of the Common Elements, or necessary or desirable for the existence, Maintenance, life, health, safety, security or protection of the Property or any portion thereof or the Owners or occupants of one (1) or more Units.

"First Closing" or **"First Unit Closing"**: The first conveyance of a Unit to a bona fide Purchaser under the Plan.

"First Year's Budget": The projection of receipts and expenses of the Property for the first twelve (12) months following the projected date of First Unit Closing under the Plan, which is set forth as SCHEDULE B in Section E of Part I of the Plan.

"Floor Plans": The tax lot floor plans of the Building (showing, among other things, the layout, location and approximate square footages of the Units as built) certified by a registered architect or licensed professional engineer and filed with the Real Property Assessment Department for the Borough of Manhattan, in the City and State of New York and in the Register's Office contemporaneously with the recording of the Declaration.

"Force Majeure": Acts of nature (such as flood, earthquake or severe or unusually inclement weather), explosion, fire, strikes, work stoppage or slowdown, unavailability of materials supplies, war, emergencies, national defense preemptions, governmental restrictions or actions, injunctions or court orders, or any other cause or event beyond the reasonable control of Sponsor, the Condominium Board or other Person in question (as applicable) and not attributable to the improper or bad faith acts or omissions of such Person.

"Foreign Entity": Any organization that is not formed or organized under the Laws of the State of New York or is not an instrumentality of the State of New York or any county, municipality, village or other Governmental Authority of the State of New York.

"freely": Same as Freely and Without Consent, Payment or Restriction.

"Freely and Without Consent, Payment or Restriction": This term means and includes, unless otherwise expressly provided: (a) unfettered and unconditional; (b) without consent or approval of the Condominium Board or other Unit Owners or mortgagees of Units; (c) without paying any kind of fee, rental, charge, imposition or other sum to the Condominium Board or its Managing Agent, attorneys, architects, engineers or other professionals or consultants, or to Unit Owners; and (d) without complying with any kind of work rule, restriction, requirement or limitation, other than the requirement to comply with applicable Laws, the applicable Work Requirements set forth in Article 15, Section 15.2 of the Declaration, the restriction against Prohibited Uses and any other expressly stated restriction, requirement or limitation.

"GBL": Article 23-A of the General Business Law of the State of New York.

"good construction practices": The quality of the workmanship and materials with respect to any Maintenance, Repair, Alteration or other Work in, on, to or affecting the Building (including the Common Elements and Units) shall meet or exceed any relevant specific standards required by applicable Laws as well as the standards of locally accepted building practices for high quality office buildings in the locale of the Building and comparable to the construction and amenities of the Building.

"Government Documents": All notices, reports, registrations, applications, petitions, declarations, easements, licenses, forms, items, papers and other documents to be filed with, or given or submitted to, a Governmental Authority, including any Government Document that is required to be signed by the Condominium Board on behalf and as agent of the Unit Owners in connection with any permit, approval, consent, waiver, exemption, variance or license, building notice, alteration, application or other form of legally required permission to or from a Governmental Authority (including a permit that is necessary to perform Work on any part of the Property), including: (a) a notice, report, registration or other information to be filed with a Governmental Authority relative to a Unit, or an Owner, tenant or occupant of such Unit; (b) any

proposed Unit Change to a Unit in accordance with the Declaration; (c) an application, petition or other document required for a zoning variance or an amended or new Certificate of Occupancy for the Building or an Alteration permit related to such Unit Change of a Unit or an obligation undertaken in the Plan, a Plan Amendment or a Purchase and Sale Agreement for an Unsold Unit; (d) any Signs permitted to be installed, Altered or replaced pursuant to the Declaration or the By-Laws; or (e) an application, petition or other document required to increase the rent of an Unsold Unit or to obtain a real estate tax or other tax exemption, abatement or benefit for a Unit.

"Governmental Authorities": All authorities, agencies, departments, assessors, boards, bodies court and other instrumentalities of federal, state, county, municipal, village, local, foreign, international, regional, domestic and other governmental and quasi-governmental authorities having jurisdiction.

"HVAC": Heating, ventilating and air-conditioning.

"HVAC/Mechanical/Utility Building Systems": All Building Systems, including (if existing): HVAC; hot and cold water; storm drainage; refuse; waste; fire protection (e.g., sprinkler, sprinkler alarm, hoses, standpipe, siamese connection and related Installations); utilities (e.g., electric, gas, telephone, cable television, Internet and other telecommunications); intercom; and security cameras, monitors and other devices.

"immediate family" or similar words: A spouse, child (whether by blood, marriage or adoption), parent (including a step-parent or parent-in-law), grandparent, grandchild, sibling or certified domestic partner.

"Immediately Adjacent Sidewalks": As defined in Article 10, Section 10.1 of the Declaration.

"include", **"includes"**, **"including"**, **"such as"**, **"for example"** and similar words and derivations: Wherever these words precede a list of one or more items, the list is not be limited to the item(s) mentioned and shall always be construed as though followed by the words "but not limited to".

"indemnify": Whenever this term is used, it shall include to defend and hold harmless and shall apply to all Related Parties of the Party being indemnified and the respective heirs, distributees, legatees, executors, administrators, legal representatives, successors and assigns of such Indemnified Party and Related Parties.

"Independent Board Members": The members of the Condominium Board who have no family, employment or business relationship or affiliation with Sponsor, an Unsold Unit Owner or a Related Party to Sponsor or an Unsold Unit Owner. Generally, an Independent Board Member is an Owner of a Sold Unit or one of such Owner's Related Parties who is unrelated to Sponsor and Sponsor's principal.

"individual": A natural person.

"Installation Requirements": As defined in Article 10, Section 10.4 of the Declaration.

"Installations": All Equipment, Facilities, Systems, structures and fixtures now or hereafter existing in, on, under or adjacent to the Land or Building and for the use, service or benefit of one (1) or more Units or Unit Owner(s) or forming a part of the Common Elements, or necessary or desirable for the Use and Enjoyment of the Property or any portion thereof or the Owner, tenant or occupants of one (1) or more Units.

"Institutional Lender": A savings bank; savings and loan association; bank or trust company; credit union; insurance company; real estate investment trust; mortgage trust; a federal, state, municipal, union or other employee, welfare, pension or retirement fund or system; or the holder of a mortgage encumbering one (1) or more Unsold Units.

"Institutional Mortgage": Any mortgage covering one (1) or more Units whose initial holder is either an Unsold Unit Owner (including Sponsor), or its designee, or an Institutional Lender.

"Insurance Trustee": An Institutional Lender having both an office in the City and State of New York and a capital surplus and undivided profits of $100,000,000 or more, from time-to-time appointed to serve as such by the Condominium Board.

"Involuntary Transferee": As defined in Article 28, Section 28.1 of the Declaration.

"Land": The parcel of land on which the Building is located more particularly identified in EXHIBIT A to the Declaration together with the volume of air space thereover. The portions of said air space occupied by: (a) the Units are included in, and are part of, the respective Units; and (b) the areas and improvements included in the Common Elements are part of the Common Elements. All Unused Development Rights of the Property (which include the unused floor area or unimproved air space of the Property, whether now existing or hereafter available or acquired) are owned exclusively by Sponsor and its successors (excluding a Purchaser of a Unit under the Plan) and assigns, and are part of any Unit owned by Sponsor, but only while such Unit is owned by Sponsor, and shall continue to be owned exclusively by Sponsor and its said successors and assigns after Sponsor no longer owns any Unit. The Land includes, and is subject to, all easements, agreements, covenants, restrictions, rights, privileges, benefits, encumbrances, burdens and other matters of record appurtenant thereto.

"Laws": All laws and ordinances of federal, state, city and other local Governmental Authorities and all applicable regulations, codes, rules, orders, permits, directives and requirements of Governmental Authorities having jurisdiction over the Property or the Condominium Association.

"Lawsuits": All suits, litigation, controversies and disputes, whether legal or equitable, brought in or before any court or judicial system (federal, state, local or international), governmental or administrative authority, arbitration or mediation association or alternative dispute resolution body.

"Liabilities and Expenses": All liabilities, judgments, awards, losses, damages (whether actual, consequential, incidental, special, indirect or otherwise), penalties, fines and Costs and Expenses.

"Limited Common Elements": As defined in Article 7, Section 7.1 of the Declaration.

"Litigation Document": Any pleading, affidavit, petition, application, motion, interrogatory or other document utilized in connection with any litigation, including any litigation required to be brought or defended in the name of the Condominium Board or in the name of the Condominium Board as agent and on behalf of the Unit Owners, such as litigation instituted or defended at the request of Sponsor or an Unsold Unit Owner relative to: (a) any Government Document or any matter which is the subject of a Government Document; or (b) any of Sponsor's Rights or the rights, powers, easements, licenses, privileges, exemptions, indemnities, remedies and other benefits of Sponsor or an Unsold Unit Owner under the Plan, a Plan Amendment or the Condominium Documents.

"Maintain, Maintenance" and similar words: To inspect, test, paint, wash, clean, keep and otherwise maintain a Unit or the Common Elements (as applicable) in accordance and compliance with the Building's Maintenance Standard.

"majority in Common Interest of Unit Owners" or words of similar import or other specified percentage: Owners of more than fifty percent (50%) (or other specified percentage) in aggregate absolute Common Interests appurtenant to all Units or Owners of more than fifty percent (50%) (or other specified percentage) in aggregate absolute Common Interests of only those Unit Owners who are present, in person or by proxy, and voting at a duly constituted meeting of Unit Owners at which a quorum is present, as applicable or indicated. All references herein to "Units" shall exclude any Unit while such Unit is owned by the Condominium Board or its affiliated nominee or designee and all references to "Unit Owners" shall exclude theCondominium Board or its affiliated nominee or designee as Owner of any Unit for quorum and voting purposes. An Owner of more than one (1) Unit shall be counted as a separate Owner for each such Unit for quorum and voting purposes. A Unit owned by two (2) or more Persons shall be counted as one (1) Unit Owner for quorum and voting purposes.

"majority in number of Unit Owners" or words of similar Import or other specified percentage: Owners of more than fifty percent (50%) (or other specified percentage) in aggregate absolute number of all Units or Owners of more than fifty percent (50%) (or other specified percentage) in aggregate number of only those Unit Owners who are present, in person or by proxy, and voting at a duly constituted meeting of Unit Owners at which a quorum is present, as applicable or indicated. All references herein to "Units" shall exclude any Unit while such Unit is owned by the Condominium Board or its affiliated nominee or designee and all references to "Unit Owners" shall exclude the Condominium Board or its affiliated nominee or designee as Owner of a Unit for quorum and voting purposes. An Owner of more than one (1) Unit shall be counted as a separate Owner for each such Unit for quorum and voting purposes. A Unit owned by two (2) or more Persons shall be counted as one (1) Unit Owner for quorum and voting purposes.

"majority of Board Members": More than fifty percent (50%) of the Board Members or more than fifty percent (50%) of the Board Members attending a duly constituted Board meeting at which a quorum is present, as may be specified or indicated by the text.

"Managing Agent": The Person engaged from time-to-time by the Condominium Board to perform the duties of a managing agent of the Building.

"Match Offer Right": As defined in Article 16, Section 16.2, subsection 16.2.8 of the By-Laws. Same as Right of First Refusal.

"Mortgage Representatives": The representatives of the holders of all mortgages encumbering Units, designated by the holders of Institutional Mortgages in accordance with the terms of the By-Laws.

"Net Award Trust Funds": As defined in Article 18, Section 18.3, subsection 18.3.4 of the By-Laws.

"Offensive Office Uses": As defined in Article 10, Section 10.13.2 of the Declaration.

"Office Unit": One of the Office Units (including a Sold Office Unit and an Unsold Office Unit, unless the context expressly provides otherwise) and constituting one of the Condominium Units established under, and so designated as such in EXHIBIT B to, the Declaration and on the Floor Plans, together with the Common Interest appurtenant to such Unit. The location of each Office Unit is more precisely shown on the Floor Plans and referred to in said EXHIBIT B. Each Office Unit includes all Equipment, Facilities, Installations and Systems, or portions thereof, wherever located, that are for the exclusive use, service or benefit of such Unit or its Owner and are not expressly stated in the Declaration to be part of the Common Elements or another Unit.

"Office Unit Owner": The Owner of an Office Unit.

"100 Vandam Street Public Areas": As defined in Article 7, Section 7.2(d) of the Declaration.

"Operate", "Operates", "Operation" or derivations thereof: To Maintain, Repair, Alter and otherwise use, operate, manage and conduct the business and affairs of: (a) the Condominium Association, (b) the Common Elements, (c) the Association's Properties, (d) the entire Property, or (e) a Unit (Office or Commercial), as the context requires, or as otherwise indicated by the text.

"Owner": The legal (record) owner of fee simple title of a Unit, including (as indicated, or otherwise expressly provided, by the text): (a) a Unit Owner; (b) an Office Unit Owner; or (c) the Commercial Unit Owner. An Owner of more than one (1) Unit shall be counted as a separate Owner for each such Unit for quorum and voting purposes. A Unit owned by two (2) or more Persons shall be counted as one (1) Unit Owner for quorum and voting purposes.

"Party": A Unit Owner, the Condominium Board (including an Independent or Sponsor Board Member), a Permitted Mortgagee, a Registered Tenant and an Insurance Trustee are each a party.

"Party Wall": As defined in Article 6, Section 6.5 of the Declaration.

"Permitted First Mortgage": A first mortgage placed on a Unit in compliance with the By-Laws.

"Permitted First Mortgagee": The holder of a Permitted First Mortgage.

"Permitted Mortgage": A mortgage placed on a Unit in compliance with the By-Laws.

"Permitted Mortgagee": The holder of a Permitted Mortgage.

"Permitted Tenants/Occupants/Invitees": The tenants, occupants, invitees, licensees, contractors, subcontractors, agents, employees and workers permitted or authorized to occupy, use, visit or enter a Unit by the Owner of such Unit or pursuant to Law or the Condominium Documents.

"Person": A natural person (i.e., an individual) or an Entity.

"Plan": The Condominium Offering Plan for the Property and all Amendments thereto accepted for filing by the Department of Law prior to the First Unit Closing under such Offering Plan.

"Plan Obligations": As defined in Article 12, Section 12.7 of the Declaration.

"powers": All powers, rights, authorities, remedies, protections and benefits.

"Pro Rata": In the proportion that the Common Interest or floor area or asking price or Common Charge of a Unit bears to the total Common Interests or the total floor areas or total offering prices or total Common Charges of all Units, or otherwise, as may be specified or indicated by the text. For example, the Common Expenses generally are payable by all Unit Owners and apportioned and assessed among them Pro Rata to their respective Common Interests. This means that each Unit Owner shall pay that portion of the Common Expenses as the Common Interest appurtenant to such Owner's Unit bears to 100% (i.e., the total Common Interests appurtenant to all Units).

"Prohibited Uses": As defined in Article 10, Section 10.2 of the Declaration.

"Promote", **"Promotion"** or derivations thereof: All manner of offering, advertising, marketing, Signage, displays and other promotion and promotional activities in connection with the sale, rental or Operation of a Unit or a business conducted in a Unit.

"Property": As defined in Article 2, Section 2.1 of the Declaration.

"Purchase and Sale Agreement": The agreement between Sponsor and a Purchaser for the purchase and sale of a Unit in the form set forth as DOCUMENT 1 in Part II of the Plan.

"Purchaser": A Person or Persons buying an Office, Commercial or Roof Terrace Unit under a fully executed Purchase and Sale Agreement with Sponsor pursuant to the Plan, whether for personal occupancy or use of the Purchaser or a Related Party to Purchaser or for rental or other investment purposes.

"Reasonable Approval" or **"Reasonably Approved"** or similar words: The approval required to be obtained shall not be unreasonably conditioned, withheld, denied or delayed.

"Registered Mortgage": As defined in Article 16, Section 16.13 of the By-Laws.

"Register's Office": The office of the Register of the County of New York, in the City and State of New York.

"Related Party": An individual who has or had an employment, business or family relationship to a Unit Owner or an Entity comprising a Unit Owner or a partner, member, manager, shareholder, officer, director or principal of a Unit Owner or an Entity comprising a Unit Owner; or an Entity whose legal, equity or beneficial interest is owned (directly or indirectly) by a Unit Owner or an Entity comprising a Unit Owner or a partner, member, manager, shareholder, officer, director or principal of a Unit Owner or an Entity comprising a Unit Owner.

"Repair", **"Repaired"**, **"Repairs"** or derivations thereof: To repair, fix, correct, rebuild, restore, replace, substitute, remove and to perform any other Work, apart from Maintenance or Alterations, in or to a Unit or the Common Elements.

"Responsible Party": As defined in Article 15, Section 15.2(d) of the Declaration.

"Right of First Refusal": As defined in Article 16, Section 16.2, subsection 16.2.8 of the By-Laws. Same as Match Offer Right.

"Roof": A "Roof" consists of the following (if and to the extent existing): the wood joists or other structural material; the asphalt/bitumen striproofing or other roofing material thereover: the insulation; the membrane; the flashing; the counterflashing, and similar elements protecting the interior portions of the Building. A reference to a "Roof" shall be deemed to include all Roof Structures appurtenant to such Roof, unless otherwise expressly provided. The main roof above the top floor of the Building, the roof above each bulkhead enclosing a public stair or the Building's elevator equipment are each a "Roof"

"Roof Structures": The drainage System of a Roof (including, if and to the extent existing, drains, gutters, leaders and similar elements), the parapets, the copings, the railings, the walls and all other structures enclosing a Roof, including said main Roof and the Roof of said bulkhead enclosing a public stair or the elevator equipment.

"Roof Terrace Unit": The Roof Terrace Unit (including a Sold Roof Terrace Unit and an Unsold Roof Terrace Unit, unless the context expressly provides otherwise) and constituting one of the Condominium Units established under, and so designated as such in EXHIBIT B to, the Declaration and on the Floor Plans, together with the Common Interest appurtenant to such Unit. The location of the Roof Terrace Unit is more precisely shown on the Floor Plans and referred to in said EXHIBIT B. The Roof Terrace Unit includes all Equipment, Facilities, Installations and Systems, or portions thereof, wherever located, that are for the exclusive use, service or benefit of such Unit or its Owner and are not expressly stated in the Declaration to be part of the Common Elements or another Unit.

"Roof Terrace Unit Owner": The Owner of the Roof Terrace Unit.

"Rules and Regulations": As defined in Article 14, Section 14.5 of the By-Laws.

"Section 339-m": Section 339-m of the Condominium Act.

"Sidewalk Cleaning Obligations": The obligations imposed by Law to keep the Immediately Adjacent Sidewalks to the Property clean and free of snow, ice, water accumulation and debris.

"Sidewalk Repair Obligations": The obligations imposed by Law to keep the Immediately Adjacent Sidewalks to the Property properly Maintained and Repaired.

"Sidewalk Structure": As defined in Article 15, Section 15.2(m) of the Declaration.

"Sign", **"Signs"** or **"Signage"** or similar words: Each or every kind whatsoever of: sign, inscription or lettering (on doors, windows or elsewhere), picture, banner, flag, awning, canopy, planter, landscaping, structure, placard, board, stanchion, decoration and display used for sales, rental, Promotional, advertising, identity, business, Operation and/or any other lawful purpose. There is no restriction or limitation whatsoever on the nature, composition, design, size, illumination, configuration, fabrication, quality, character, color, appearance or content of Signs, unless otherwise expressly provided.

"Sold Unit Owner Affiliate": As defined in Article 2, Section 2, subsection 2.6.6 of the By-Laws.

"Sold Office Unit", **"Sold Commercial Unit"**, **"Sold Roof Terrace Unit"** or **"Sold Unit"**: An Office Unit, or the Commercial Unit or the Roof Terrace Unit (as applicable) that is sold and conveyed to a bona fide Purchaser under the Plan. Generally, a Sold Unit is any Unit that is not an Unsold Unit.

"**Sold Office Unit Owner**", **"Sold Commercial Unit Owner"**, **"Sold Roof Terrace Unit Owner"** or **"Sold Unit Owner"**: The Owner of a Sold Office Unit, Sold Commercial Unit or Sold Roof Terrace Unit (as applicable). Generally, a Sold Unit Owner is any Unit Owner that is not an Unsold Unit Owner.

"Special Allocation and Apportionment Rule": As defined in Article 9, Section 9.1.2 of the Declaration.

"Special Assessment": The amount assessed by the Condominium Board to pay a portion of the Common Expenses and payable by Unit Owners in the time and manner determined by the Condominium Board.

"Sponsor": 100 Vandam, LLC, the Declarant of the Declaration and the offeror of the Office and Commercial Units under the Plan.

"Sponsor Board Control Period": The period ending on the *earlier* of: (a) the date that the Unsold Units constitute less than fifty percent (50%) in number and Common Interest of all Units; or (b) the fifth (5th) anniversary of the First Unit Closing under the Plan.

"Sponsor Board Member": A Board Member appointed and designated exclusively by Sponsor (or, after Sponsor no longer owns any Unsold Unit, other Unsold Unit Owners, if any) to serve as a Board Member and represent the interests of Sponsor and other Unsold Unit Owners on the Condominium Board. There is no restriction or limitation whatsoever on who may serve as a Sponsor Board Member and may be anyone that either has or does not have a family, employment or business relationship or affiliation with Sponsor or other Unsold Unit Owner or a Related Party to either.

"Sponsor Related Party": A Person who is a Related Party to Sponsor.

"Sponsor Unit": A Unit (including an Office Unit, the Commercial Unit or the Roof Terrace Unit) owned by Sponsor at the time in question.

"Sponsor Veto Control Period": As defined in Article 9, Section 9.11 of the Declaration.

"Sponsor's Rights": As defined in Article 28, Section 28.1 of the Declaration.

"Structural Components": The following components of the Building (if and to the extent existing): foundations, foundation walls, pilings, structural columns, beams, supports, wood joists, metal decking and similar structural members; load bearing walls; all Building Walls; all Base Floors and Base Ceilings; and all Roofs (including the Roof Structures appurtenant thereto).

"Successor in Interest": As defined in Article 28, Section 28.1 of the Declaration.

"Systems": All mechanical, electrical, electronic, video, audio, Internet, plumbing and other Equipment, Facilities and Installations relating to: heat; ventilation; air-conditioning; utilities for power, lighting and cooking; security; telephone; waste; refuse; fire protection; sprinklers; standpipe; hot and cold water; elevator; intercom; cable and satellite television; Roofs, including Roof Structures; Building Walls; and all other services provided to one (1) or more Units or the Common Elements.

"Taken" or **"Taking"**: As defined in Section 19.1 of the Declaration.

"Tenant Obligations": As defined in Article 12, Section 12.7 of the Declaration.

"Unauthorized Sold Unit Owner": A Sold Unit Owner who is not an Authorized First Sold Unit Owner.

"Unavoidable Causes": Same as Force Majeure.

"Unit": A Unit is a portion of the Property established under the Declaration as a condominium unit which is owned separately and exclusively by its Owner together with the Common Interest appurtenant to the Unit. Each Owner has exclusive ownership and possession of the Owner's Unit, subject to certain use and occupancy restrictions, and certain rights and easements (including those in favor of the Condominium Board, Sponsor and an Unsold Unit Owner), as and to the extent set forth in the Plan and the Condominium Documents. A Unit is designated in EXHIBIT B to the Declaration and on the Floor Plans as an Office Unit, the Commercial Unit or the Roof Terrace Unit.

"Unit Alteration": As defined in Article 13, Section 13.1 of the Declaration.

"Unit Change": As defined in Article 13, Section 13.1 of the Declaration.

"Unit Combination": As defined in Article 13, Section 13.1 of the Declaration.

"Unit entrance" or similar words: The entrance and exit leading directly into a Unit from the Common Elements or street or from a Unit directly to the Common Elements or street, including the street entrance doors to the Commercial Unit.

"Unit Equipment": As defined in Article 6, Section 6.10 of the Declaration.

"Unit Expansion": As defined in Article 13, Section 13.1 of the Declaration.

"Unit Owner": The Owner of a Unit.

"Unit Subdivision": As defined in Article 13.1 of the Declaration.

"Unsold Commercial Unit": A Commercial Unit owned at the time in question by an Unsold Commercial Unit Owner, regardless of whether such Owner is Sponsor or other Person designated by Sponsor as such. An Unsold Commercial Unit shall retain its status and character as an Unsold Commercial Unit until it is conveyed to a bona fide Purchaser under the Plan.

"Unsold Commercial Unit Owner": Sponsor and (if applicable) a Person designated by Sponsor in writing or a Plan Amendment as an Unsold Commercial Unit Owner having, with regard to the Unsold Commercial Unit owned by such designated Person, all of Sponsor's Rights under the Plan and the Condominium Documents (i.e., all of the rights, powers, easements, licenses, privileges, exemptions, indemnities, remedies, protections and other benefits of Sponsor under the Plan and Condominium Documents with respect to the Unsold Commercial Unit

owned by such designee), but subject in each case to the same limitations and restrictions as are applicable to Sponsor under the Plan and the Condominium Documents.

"Unsold Office Unit": An Office Unit owned at the time in question by an Unsold Office Unit Owner, regardless of whether such Owner is Sponsor or other Person designated by Sponsor as such. An Unsold Office Unit shall retain its status and character as an Unsold Office Unit until it is conveyed to a bona fide Purchaser under the Plan.

"Unsold Office Unit Owner": Sponsor and (if applicable) a Person designated by Sponsor in writing or a Plan Amendment as an Unsold Office Unit Owner having, with regard to the Unsold Office Unit owned by such designated Person, all of Sponsor's Rights under the Plan and the Condominium Documents (i.e., all of the rights, powers, easements, licenses, privileges, exemptions, indemnities, remedies, protections and other benefits of Sponsor under the Plan and Condominium Documents with respect to each Unsold Office Unit owned by such designee), but subject in each case to the same limitations and restrictions as Sponsor under the Plan and the Condominium Documents.

"Unsold Roof Terrace Unit": The Roof Terrace Unit owned at the time in question by an Unsold Roof Terrace Unit Owner, regardless of whether such Owner is Sponsor or other Person designated by Sponsor as such. An Unsold Roof Terrace Unit shall retain its status and character as an Unsold Roof Terrace Unit until it is conveyed to a bona fide Purchaser under the Plan.

"Unsold Roof Terrace Unit Owner": Sponsor and (if applicable) a Person designated by Sponsor in writing or a Plan Amendment as an Unsold Roof Terrace Unit Owner having, with regard to the Unsold Roof Terrace Unit owned by such designated Person, all of Sponsor's Rights under the Plan and the Condominium Documents (i.e., all of the rights, powers, easements, licenses, privileges, exemptions, indemnities, remedies, protections and other benefits of Sponsor under the Plan and Condominium Documents with respect to the Unsold Roof Terrace Unit owned by such designee), but subject in each case to the same limitations and restrictions as Sponsor under the Plan and the Condominium Documents.

"Unsold Unit": Any Office, Commercial or Roof Terrace Unit owned at the time in question by an Unsold Unit Owner (regardless of whether such Owner is Sponsor or other Person designated by Sponsor as such). A Sold Unit that is reacquired by Sponsor shall be regarded as an Unsold Unit for all purposes other than for the purpose of determining the expiration of the Sponsor Board Control Period or the Sponsor Veto Control Period. An Unsold Unit shall retain its status and character as an Unsold Unit until it is conveyed to a bona fide Purchaser under the Plan.

"Unsold Unit Owner": Sponsor and (if applicable) a Person designated by Sponsor in writing or a Plan Amendment as an Unsold Unit Owner having, with regard to each Unsold Unit owned by such designated Person, all of Sponsor's Rights under the Plan and Condominium Documents (i.e., all of the rights, powers, easements, licenses, privileges, exemptions, indemnities, remedies, protections and other benefits of Sponsor under the Plan and Condominium Documents), excluding (however) Sponsor's Rights with respect to the Unused Development Rights of the Property (which are owned exclusively by Sponsor), but subject in each case to the same limitations and restrictions as are applicable to Sponsor under the Plan and the Condominium Documents.

"**Unused Development Rights**": As defined in Article 5, Section 5.3 of the Declaration.

"Usage": As defined in Article 9, Section 9.1.2 of the Declaration.

"Use and Enjoy", **"Use and Enjoyment"** or **"Used and Enjoyed"** or similar words: This term means and includes all manner of permitted use, occupancy, Operation, Disposition and other enjoyment of a Unit and the Common Elements for their respective intended purposes, as indicated or inferred in, and in compliance with, the Declaration, the By-Laws and the Rules and Regulations, as each may be duly amended from time to time.

"utility services": As defined in Article 11, Section 11.11 of the Declaration.

"Vault": A Vault is the space below a sidewalk adjacent to the Property and is permitted to be used by the Property pursuant to an undocumented revocable license or right from The City of New York. The license or right to use a Vault is part of the Common Elements.

"Work" or derivations thereof: All labor performed, and all materials and supplies used, to Maintain, Repair, Alter or perform other Work in or to a Unit or the Common Elements.

"Work Requirements": As defined in Article 15, Section 15.2 of the Declaration.

END OF EXHIBIT C

EXHIBIT D TO DECLARATION

BY-LAWS of 100 VANDAM

See DOCUMENT 7 in PART II of the OFFERING PLAN

EXHIBIT E TO DECLARATION

UNIT OWNER'S POWER OF ATTORNEY

See DOCUMENT 2 in PART II of the OFFERING PLAN

EXHIBIT F TO DECLARATION

DIAGRAMS OF UNITS AND COMMON ELEMENTS

TO BE ATTACHED PRIOR TO RECORDING

This Page Intentionally Left Blank

EXHIBIT D TO DECLARATION OF CONDOMINIUM

BY-LAWS

OF

Name of Condominium:	**100 Vandam**
Address of Condominium Property:	**100 Vandam Street** **New York, NY 10013**
Declarant:	**100 Vandam, LLC**
Prepared by:	**Seyfarth Shaw LLP** **620 Eighth Avenue** **New York, NY 10018** **Attn: Alan L. Kazlow, Esq.**

© 2009 Alan L. Kazlow, Esq.
Seyfarth Shaw LLP.
All rights reserved.

Table of Contents

Caption		Page
ARTICLE 1	GENERAL	2
Section 1.1	Purpose	2
Section 1.2	Location and Description	2
Section 1.3	Definitions	2
Section 1.4	Applicability of By-Laws	2
Section 1.5	Application of By-Laws	3
Section 1.6	Principal Office of the Condominium Association	3
ARTICLE 2	THE CONDOMINIUM BOARD	3
Section 2.1	General	3
Section 2.2	Status of the Condominium Board	3
Section 2.3	Principal Office of the Condominium Board	3
Section 2.4	Powers and Duties of the Board	4
Section 2.5	Delegation and Restrictions	10
Section 2.6	Number, Election, Composition and Qualification of Board Members	12
Section 2.7	Term of Office of Board Members	15
Section 2.8	Removal and Resignation of Board Members	15
Section 2.9	Vacancies	16
Section 2.10	Organizational Meeting of the Condominium Board	16
Section 2.11	Regular Meetings of the Condominium Board	17
Section 2.12	Special Meetings of the Condominium Board	17
Section 2.13	Waiver of Notice of Meetings	17
Section 2.14	Quorum of the Condominium Board	17
Section 2.15	Conduct of Meetings	18
Section 2.16	Decisions by the Condominium Board	18
Section 2.17	Compensation of Members	19
Section 2.18	Standards for Fiduciary Responsibility and Self-Dealing	19
Section 2.19	Liability of the Condominium Board	20
Section 2.20	Transactions by Declarant in Lieu of Condominium Board	21
ARTICLE 3	OFFICERS	22
Section 3.1	General	22
Section 3.2	President	23
Section 3.3	Vice President and Co-Vice Presidents	23
Section 3.4	Secretary and Assistant Secretaries	23
Section 3.5	Treasurer	23
Section 3.6	Election, Term of Office and Qualifications of Officers	24
Section 3.7	Removal and Resignation of Officers	24
Section 3.8	Vacancies	24
Section 3.9	Compensation of Officers	24
Section 3.10	Liability of the Officers of the Condominium	24

Caption — Page

ARTICLE 4 UNIT OWNERS 25
Section 4.1 Annual Meetings of the Unit Owners 25
Section 4.2 Special Meetings of the Unit Owners 26
Section 4.3 Place of Meetings 27
Section 4.4 Notice of Meetings 27
Section 4.5 Quorum of the Unit Owners 28
Section 4.6 Conduct of Meetings 28
Section 4.7 Order of Business 29
Section 4.8 Voting 29
Section 4.9 Election of Members of the Condominium Board 31
Section 4.10 Action Without a Meeting 32
Section 4.11 Title to Units 33
Section 4.12 Joint, Non-recourse and Limited Liability of Unit Owners 33

ARTICLE 5 MAINTENANCE, REPAIRS AND ALTERATIONS OF UNITS AND COMMON ELEMENTS 34
Section 5.1 Maintenance and Repairs 34
Section 5.2 Alterations and Major Repairs 39
Section 5.3 Declaration Governs Maintenance, Repairs and Alterations of Units, Common Elements and Association's Properties 48
Section 5.4 Acts, Omissions, Negligence, etc. 48
Section 5.5 Damages Necessitated by Repairs or Alterations 48

ARTICLE 6 INSURANCE 49
Section 6.1 Insurance Requirements for the Condominium Board 49
Section 6.2 Fire and Casualty Insurance 50
Section 6.3 Liability Insurance 51
Section 6.4 Boiler and Machinery Insurance 52
Section 6.5 Workmen's Compensation 52
Section 6.6 Other Insurance 52
Section 6.7 Insurance Covering Work Performed by Board 52
Section 6.8 Insurance Amounts and Deductibility 52
Section 6.9 Adjustment and Payments 53
Section 6.10 Allocation of Insurance Premiums 53
Section 6.11 Insurance Requirements for Unit Owners 53
Section 6.12 General Insurance Matters 55

ARTICLE 7 DESTRUCTION OR DAMAGE OF BUILDING 57
Section 7.1 Destruction or Damage 57
Section 7.2 Insurance Trust Funds 58
Section 7.3 Repairs 58
Section 7.4 Allocation of Net Insurance Trust Funds 59
Section 7.5 Insufficient Trust Funds 59
Section 7.6 Surplus Trust Funds 59
Section 7.7 Lien Priority 60
Section 7.8 Abatement in Common Charges 60

Caption — Page

ARTICLE 8 COMMON CHARGES 60
Section 8.1 Determination of Common Charges 60
Section 8.2 Budget Revisions 62
Section 8.3 Failure to Adopt 62
Section 8.4 Special Assessments 62
Section 8.5 Application of Net Receipts 63
Section 8.6 Budget Surplus and Budget Reconciliation 63
Section 8.7 Separate Fees and Charges 63
Section 8.8 Payment of Common Charges 64
Section 8.9 Lien 64
Section 8.10 Liability 64
Section 8.11 Conveyance to Condominium Board 66
Section 8.12 Statement of Common Charges 67
Section 8.13 Collection and Remedies on Non-Payment of Common Charges 67
Section 8.14 Sales, Use or Occupancy Tax Exemptions 69

ARTICLE 9 PROPERTY TAXES AND CHARGES 69
Section 9.1 Real Estate Taxes 69
Section 9.2 Real Estate Tax Benefits 71
Section 9.3 Water Charges and Sewer Rent 72
Section 9.4 Board Certificate 73
Section 9.5 Vault Charges 73

ARTICLE 10 UTILITIES 73
Section 10.1 Gas Service to Common Elements and Units 73
Section 10.2 Electricity 74
Section 10.3 Hot Water 74
Section 10.4 Air Conditioning 74
Section 10.5 Ventilation 75
Section 10.6 Utility Installations 75

ARTICLE 11 USES AND OCCUPANCY OF PROPERTY, IMMEDIATELY ADJACENT SIDEWALKS AND VAULTS 76
Section 11.1 Declaration Governs 76
Section 11.2 Common Elements 76
Section 11.3 Units 76
Section 11.4 Building Walls and Immediately Adjacent Sidewalks 79
Section 11.5 Vaults 79
Section 11.6 General Prohibitions 80

ARTICLE 12 ROOFS 80
Section 12.1 Roofs 80
Section 12.2 Maintenance, Repair and Alteration 81

Caption — Page

ARTICLE 13 FIRE SAFETY SYSTEMS 81
Section 13.1 Maintenance, Repairs and Alterations 81
Section 13.2 Changes 81

ARTICLE 14 GENERAL OPERATING MATTERS 82
Section 14.1 Compliance with Laws 82
Section 14.2 Indemnification 83
Section 14.3 Building Employees, Agents and Contractors 84
Section 14.4 Refuse Disposal System 85
Section 14.5 Rules and Regulations 85
Section 14.6 Interruption or Reduction in Services 86
Section 14.7 Records and Audits 86
Section 14.8 Tenants and Occupants of Units Entitled to Receive Building Services 88
Section 14.9 Building Services Required to be Provided to Unit Owners 89

ARTICLE 15 EXISTING LEASES 89
Section 15.1 Subordination 89
Section 15.2 Provision of Services 89

ARTICLE 16 UNIT CONVEYANCES, SALES, LEASES AND MORTGAGES 89
Section 16.1 General 89
Section 16.2 Match Offer Right (or Right of First Refusal) 92
Section 16.3 Acceptance of Offer 94
Section 16.4 Failure to Accept Offer 98
Section 16.5 Transactions Exempt from Match Offer Right 98
Section 16.6 Certificate of Waiver or Exemption as to Match Offer Right 99
Section 16.7 No Severance of Ownership 101
Section 16.8 Payment of Common Charges 101
Section 16.9 Unit Owner's Power of Attorney 101
Section 16.10 Gifts and Devises, Etc. 102
Section 16.11 Charges Imposed on Non-Exempt Transactions 102
Section 16.12 Estoppel Certificate 103
Section 16.13 Registration of Mortgages 104
Section 16.14 Prohibition and Restriction on Mortgaging 104
Section 16.15 Notice of Unpaid Common Charges and Default 105
Section 16.16 Performance by Permitted Mortgagees 105
Section 16.17 Examination of Minutes 105
Section 16.18 Consent of Mortgagees; Designation of Mortgage Representatives 105
Section 16.19 Subordination 106
Section 16.20 Waiver of Rights of Partition, Use and Occupancy of Units Acquired By Board 106
Section 16.21 Registration of Tenants 107
Section 16.22 Notices to Registered Tenants 107

Caption — Page

Section 16.23 Performance by Registered Tenants 107
Section 16.24 Subordination, Non-Disturbance and Attornment Agreement 107

ARTICLE 17 CERTAIN REMEDIES 108
Section 17.1 Self-Help 108
Section 17.2 Abatement and Enjoinment 110
Section 17.3 Reimbursement of Legal Expenses 111
Section 17.4 Remedies Cumulative 111
Section 17.5 No Arbitration 111

ARTICLE 18 CONDEMNATION OR EMINENT DOMAIN 112
Section 18.1 Taking of Entire Property 112
Section 18.2 Taking of Units 112
Section 18.3 Taking of Portions of Common Elements 112
Section 18.4 Lien Priority 114
Section 18.5 Adjustment of Common Interests 115
Section 18.6 Abatement in Common Charges 115

ARTICLE 19 ARBITRATION 116
Section 19.1 Submission to Arbitration 116
Section 19.2 Notice of Arbitration 116
Section 19.3 Commercial Arbitration Rules 116
Section 19.4 Selection of Arbitrators 117
Section 19.5 Decision of Arbitrator(s); Binding Effect 118
Section 19.6 Expenses of Arbitration 119
Section 19.7 Limitation on Power of Arbitrator(s) 119
Section 19.8 Payment of Undisputed Sums 119

ARTICLE 20 NOTICES 119
Section 20.1 General 119
Section 20.2 Waiver of Service of Notice 120

ARTICLE 21 FURTHER ASSURANCES 120
Section 21.1 Provisions of Declaration Apply and Govern 120

ARTICLE 22 AMENDMENTS TO BY-LAWS 121
Section 22.1 Provisions of Declaration Apply and Govern 121

ARTICLE 23 TERMINATION OF CONDOMINIUM 121
Section 23.1 Provisions of Declaration Apply and Govern 121

ARTICLE 24 GENERAL 121
Section 24.1 Inspection of Documents 121
Section 24.2 Changes and Waiver 121
Section 24.3 Conflicts 122
Section 24.4 Severability 122
Section 24.5 Successors and Assigns 122
Section 24.6 Table of Contents and Headings 122

Caption		Page
Section 24.7	References	123
Section 24.8	Grammar	123
Section 24.9	Insurance Trustee	123
Section 24.10	Approvals or Consents	123
Section 24.11	Incorporation of Declaration	123
RULES AND REGULATIONS OF 100 VANDAM		124

BY-LAWS

OF

100 VANDAM

ARTICLE 1

GENERAL

Section 1.1 **Purpose**

The purpose of these By-Laws is to set forth the requirements, rules and procedures concerning the governance and conduct of the affairs of the Condominium Association as well as certain rights and obligations of the Condominium Board and the Unit Owners, including the Disposition of the Property (including the Building and the Units) and the Association's Properties.

Section 1.2 **Location and Description**

The Condominium Declaration covers the Property, which consists of: (a) the Land, which lies in Section 2, Block 597, Lots f/k/a Lot 7, and n/k/a Lots ____ to ____ on the Tax Map of the Real Property Assessment Department of The City of New York, Borough of Manhattan, County of New York, in the State of New York; (b) the Building, which includes the Units, certain of the Common Elements and all easements, rights and appurtenances belonging thereto; and (c) all other property, real, personal or mixed, 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 1.3 **Definitions**

The words frequently used in these By-Laws (whether initial uppercase or lowercase) without express definition are defined in EXHIBIT C to the Declaration and apply wherever these words appear in these By-Laws, regardless of whether such words are bolded or expressly stated to be defined in such EXHIBIT C, unless the context in which such words are used shall otherwise require. The meanings stated for the words bolded within quotation marks in any provision of the Declaration or these By-Laws apply wherever these words appear in these By-Laws, unless the context in which they are used shall otherwise require.

Section 1.4 **Applicability of By-Laws**

These By-Laws are applicable to the Property and to the uses and occupancies thereof.

Section 1.5 **Application of By-Laws**

All present and future Unit Owners, mortgagees, lessees, sublessees and occupants of Units, and Agents/Employees/Contractors, invitees 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 duly 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 or a portion 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 duly amended from time to time, are accepted, ratified and will be complied with.

Section 1.6 **Principal Office of the Condominium Association**

The principal office of the Condominium Association shall be located either at the Property or at such other place in the County of New York reasonably convenient thereto as may be designated from time to time by the Condominium Board.

ARTICLE 2

THE CONDOMINIUM BOARD

Section 2.1 **General**

The affairs of the Condominium Association and the operation of the Property and the Association's Properties shall be governed by the Condominium Board as provided in Section 2.4 hereof and elsewhere herein and in the Declaration. In exercising its powers and performing its duties under the Declaration and these By-Laws, the Condominium Board shall act on behalf, and shall be the agent, of all or (where otherwise expressly provided) certain of the Unit Owners.

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 reasonably convenient thereto as may be designated from time to time by the Condominium Board.

Section 2.4 **Powers and Duties of the Board**

2.4.1 General Powers and Duties. The Condominium Board shall have all of the powers and duties necessary for, or incidental to, the administration of the affairs of the Condominium Association and the operation of the Property (including the Common Elements) and the Association's Properties, as agent of all or (where otherwise expressly provided) certain of the Unit Owners, and each Board Member shall act in the best interests of the Unit Owner or Unit Owners who elected such Board Member (i.e., all Sold Unit Owners in the case of an Independent Board Member; the Sponsor and all Unsold Unit Owners in the case of a Sponsor Board Member), with due regard to the Maintenance, preservation, protection and value of the Property as a whole and the security, protection, safety and health of Owners and occupants of Units. The Condominium Board may do all such acts and things except those that by Law, or pursuant to the terms of the Declaration or these By-Laws, may not be, or are expressly not, delegated to the Condominium Board by the Unit Owners. The Condominium Board shall exercise its powers and perform its duties in a manner consistent with the Operation and Maintenance of the Building as a high quality, mixed office and commercial-use building in the Borough of Manhattan with office uses in the Office Units, retail, office and all other lawful uses in the Commercial Unit and all lawful uses in the Roof Terrace Unit, other than Prohibited Uses and Offensive Office Uses applicable to all or specified Units, as provided in Sections 10.2 and 10.13 of the Declaration.

2.4.2 Specific Powers and Duties. Without intention to limit the generality of the foregoing in any respect, the Condominium Board shall have the following specific powers and duties:

(a) to lease, license, Maintain, Repair, Alter and otherwise Operate and make any other Disposition of the Common Elements and the Association's Properties, including any Units or other property or assets owned, leased or otherwise held or Operated by the Condominium Board or its affiliated nominee or designee, and in connection therewith to do the following as the Condominium Board shall deem necessary or proper: (a-1) purchase and lease supplies, Equipment and material; (a-2) employ or engage, compensate and dismiss Building personnel, including the Building staff disclosed in the First Year's Budget (Schedule B in Section E of Part I of the Plan), subject and subordinate to Sponsor's veto rights during only the Sponsor Veto Control Period as provided in Section 2.5.8 below), a Managing Agent, attorneys, accountants, engineers, architects and other professionals and consultants; and (a-3) lease and grant licenses and easements for portions of the Common Elements and the Association's Properties;

(b) to acquire Units in accordance with Article 16 of the Declaration and Sections 8.11 and 8.13 of these By-Laws, to acquire and lease Units in accordance with Section 16.2 of these By-Laws, and generally to acquire and lease 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, Maintenance, Repair, Alteration and other Operation and Disposition of the Property and the Association's Properties as a condominium regime; each of such acquisitions and leases to be in the name of the Condominium Board or its designee, corporate or otherwise, as agent of the Unit Owners, as provided in Article 16 of the Declaration and these By-Laws;

(c) to maintain complete and accurate books and records with respect to the finances and the Operation of the Condominium, including: (c-1) detailed accounts, in chronological order, of receipts and expenditures affecting the Property (including the Common Elements) and the Association's Properties; (c-2) detailed books of account of the Condominium Board; (c-3) other financial records, as well as other books of account of the Condominium Association, as may be required to be kept pursuant to the terms of these By-Laws; and (c-4) minutes and other records of all meetings held pursuant to the terms of these By-Laws;

(d) to prepare and adopt a Budget of Condominium Operation of the Property and the Condominium Association for each Budget Year, setting forth, without limitation: (d-1) a detailed accounting of the anticipated Common Expenses for the ensuing Budget Year; (d-2) a detailed projection of all sources and amounts of income and receipts necessary to discharge the same; and (d-3) such reserves for unanticipated expenses, contingencies, Alterations, additions, improvements and capital replacements and Repairs as the Board may consider appropriate in its discretion, but subject to the veto rights of Sponsor (during only the Sponsor Veto Control Period) under Section 9.7 of the Declaration;

(e) to determine the amount and establish the means and methods of payment of, and to collect and institute appropriate Lawsuits for non-payment of, the Common Charges and Additional Common Charges (including Special Assessments) from the Unit Owners or one (1) or more specified Unit Owners;

(f) to require all Unit Owners execute and deliver to the Condominium Board one or more promissory notes in favor of the Condominium Board in such form and substance (including, at such interest rate and other terms) as the Condominium Board shall determine, in connection with Special Assessments levied by the Condominium Board to pay for any duly authorized Repairs and Alterations to the Common Elements, or the Association's Properties (including any Unit or other property to be acquired, owned, leased or otherwise held or Operated by the Condominium Board, or its affiliated nominee or designee);

(g) to incur debt on behalf of all Unit Owners in connection with the Maintenance, Repair, Alteration or other Operation or Disposition of the Common Elements or the Association's Properties (including real or personal property owned, leased or otherwise held or Operated by the Condominium Board or its affiliated nominee or designee) and to secure any debt incurred by it as provided in Section 339-jj(2) of the Condominium Act; provided, however, that: (g-1) no debt shall be incurred during only the Sponsor Veto Control Period without obtaining the prior written Discretionary Approval or Consent of Sponsor; (g-2) no lien to secure repayment of any debt may be created on any Unit or its appurtenant Common Interest (other than a Unit owned by the Board or its affiliated nominee or designee) without obtaining the prior written Discretionary Approval or Consent of the Owner of such Unit; and (g-3) the liability of each such Unit Owner shall be limited to the legal and equity interest of such Owner in its Unit and its appurtenant Common Interest, and if the debt shall not be fully repaid by the Board and such Unit Owner shall pay the lender such proportion of the then outstanding indebtedness represented or secured thereby as such Unit Owner's Common Interest bears to the

aggregate Common Interests appurtenant to all Units, such Unit Owner shall be entitled to obtain from the lender a release of any judgment or other lien that the said lender shall have filed, or shall have the right to file, against such Owner's Unit, and the loan documentation shall so provide;

(h) to open and maintain bank accounts on behalf of the Condominium Association and to designate the signatories required therefor;

(i) to use the Common Charges and Additional Common Charges (including Special Assessments) collected from Unit Owners, as well as all other assets and funds held by the Condominium Board or received in connection with the Operation of the Property and the Association's Properties, for the administration and Operation of the Condominium Association, the Common Elements and the Association's Properties, including: (i-1) the payment of Common Expenses; and (i-2) the Maintenance, Repair, Alteration and overall Operation and any other Disposition of the Common Elements and the Association's Properties including any Units, property or assets owned, leased or otherwise held or Operated by the Condominium Board or its affiliated nominee or designee in accordance with the Declaration and these By-Laws;

(j) to obtain insurance for the Property, including the Units, pursuant to the terms of Article 6 hereof;

(k) to adjust and settle Claims under insurance policies obtained pursuant to the terms of Article 6 hereof or otherwise, and to execute and deliver releases upon such adjustment and settlement on behalf and as agent of: (k-1) all Unit Owners; (k-2) all holders of mortgages and other liens on such Units; and (k-3) all holders of any other interest in the Property or the Association's Properties; provided, however, each Unsold Unit Owner shall have the right to adjust and settle any Claim for a loss or damage to such Owner's Unsold Unit if such adjustment or settlement does not reduce any Claim or recovery of any other Unit Owner or the Condominium Board;

(l) to make, or to contract with others for the making of, Repairs, Alterations and other Dispositions of, or to, the Property or the Association's Properties 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 the Declaration and these By-Laws;

(m) to obtain and keep in force (as part of the Common Expenses) fidelity bonds, in amounts deemed appropriate by the Condominium Board, but in no event less than the amount therefor set forth in the First Year's Budget (SCHEDULE B in Section E of Part I of the Plan), for: (m-1) all members of the Condominium Board; (m-2) all officers and employees of the Condominium Association; and (m-3) the Managing Agent;

(n) to accept the surrender of a Unit pursuant to the terms of Section 8.11 hereof, in the name of the Condominium Board or its affiliated nominee or designee, corporate or otherwise, and on behalf and as agent of the Unit Owners;

(o) to purchase or acquire a Unit at foreclosure or other judicial sale in connection with the foreclosure of the lien for unpaid Common Charges, or to so purchase or acquire title by deed in lieu of foreclosure, or to acquire a Unit by surrender, or to purchase, lease or otherwise acquire a Unit in accordance with Article 16 of these By-Laws or clause (b) above in the name of the Condominium Board or its nominee or designee (whether affiliated or non-affiliated with the Board), corporate or otherwise, on behalf and as agent of all Unit Owners and, in connection therewith, to borrow money on behalf of all Unit Owners and to grant mortgages and other security interests and collateral in connection therewith in accordance and compliance with clause (g) hereinabove (including obtaining the prior written Discretionary Approval or Consent of Sponsor for any borrowing during only the Sponsor Veto Control Period);

(p) to sell, lease, mortgage, securitize, collateralize and otherwise deal with, and make any Disposition of, Units or other real or personal property acquired by, and to sublease Units or other real or personal property leased by, the Condominium Board or its affiliated nominee or designee, corporate or otherwise, on behalf and as agent of all Unit Owners, provided, however, that the Condominium Board or its affiliated nominee or designee shall in no event be entitled to vote the votes appurtenant to any such Unit and, provided further, no debt shall be incurred without complying with clause (g) hereinabove;

(q) to adopt new and additional Rules and Regulations and to amend the Rules and Regulations from time to time (all without recording an Amendment to the Declaration or these By-Laws) and to adopt, impose, levy and collect charges, fees, interest and fines against Sold Unit Owners (but not against Unsold Unit Owners) for violations of the same;

(r) to enforce by any legal means (including Lawsuits) the terms, covenants, conditions and provisions contained in the Condominium Documents and to bring, prosecute, defend and settle any Claims or Lawsuits that may be instituted on behalf of, or against, the Unit Owners pursuant to the Declaration, these By-Laws or the Condominium Act;

(s) to organize as a corporation, limited liability company or other Entity, to the extent and in the manner provided or permitted in the Condominium Act, provided, however, that: (s-1) the organizational documents of any such resulting corporation, limited liability company or other Entity shall conform as closely as practicable to the terms of the Declaration and these By-Laws; and (s-2) 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 organizational documents;

(t) to organize corporations, limited liability companies and other Entities to act as the nominees or designees of the Condominium Board in acquiring title to, or leasing of, Units and in acquiring rights, titles and interests in real, personal or mixed property for use in connection with the ownership and Operation of the Property and the Association's Properties;

(u) to execute, acknowledge and deliver the following (unless expressly prohibited by the Declaration or these By-Laws to be executed and delivered by the Board): (u-1) any

application, declaration, consent, document or other instrument (including any Government Document or Litigation Document) affecting all or part of the Property or the Association's Properties that the Condominium Board deems necessary or appropriate in accordance with the Declaration or these By-Laws or to comply with any Law, including a zoning resolution or requirement of any Governmental Authority, applicable to the Maintenance, Repair, Alteration or other Disposition of all or part of the Property or the Association's Properties; and (u-2) any agreement, application, document, consent, covenant, restriction, license, easement or declaration, or any Amendment thereto, affecting the Condominium Association, the Common Elements or the Association's Properties that the Condominium Board deems necessary or appropriate;

(v) to prepare, execute, acknowledge and record on behalf and as agent of all Unit Owners, in their names as attorney-in-fact, "coupled with an interest" and for valuable consideration, with full power of substitution: (v-1) Amendments to the Declaration to amend the Declaration and/or By-Laws whenever requested by a Unit Owner, to the extent required or permitted under the Declaration or these By-Laws; or (v-2) a restatement of the Declaration or these By-Laws, whenever, in the Condominium Board's judgment, it is advisable to consolidate and restate all Amendments, modifications, additions and deletions theretofore made to the same (subject, however, to compliance with the restrictions set forth in Article 22, Section 22.4 of the Declaration);

(w) to do the following act on behalf and as agent for one (1) or more Unit Owners (subject to the right of any Unit Owner to revoke such agency by written notice to the Condominium Board, provided such notice is received before the Condominium Board has commenced the applicable action):

(w-1) to protest, complain or apply to the appropriate taxing authority to correct the tax assessments of the Units for any year by filing a single complaint on behalf of all such Unit Owners;

(w-2) to commence and prosecute a special proceeding for the review of assessments of real property as an aggrieved person under the Real Property Tax Law;

(w-3) to seek administrative and judicial review of the tax assessments for any year;

(w-4) to negotiate and settle with the taxing authority the tax assessments and any resulting Lawsuit;

(w-5) to execute and acknowledge in the name of each Unit Owner for which it is acting on behalf and as agent, as such Unit Owner's attorney-in-fact, all applications, certifications, petitions, complaints, settlement agreements, releases and other documents in furtherance of the foregoing; and

(w-6) to retain legal counsel and other professionals and experts on behalf and as agent of the Unit Owners for whom it is so acting to represent such Unit Owners in connection with the foregoing;

(x) to do the following on behalf and as agent for all Unit Owners or (where appropriate) only the applicable group of Unit Owners or Unit Owner where required or permitted in carrying out the duties imposed upon the Condominium Board under these By-Laws, and the Declaration or the Condominium Act:

(x-1) to commence and prosecute as well as defend Claims or Lawsuits;

(x-2) to seek administrative and judicial review;

(x-3) to negotiate and settle any such Claims or Lawsuits;

(x-4) to execute and acknowledge in the name of each Unit Owner for which it is acting as agent, as such Unit Owner's attorney-in-fact, all applications, certifications, petitions, complaints, answers, counterclaims, crossclaims, affidavits, motions, interrogatories, depositions, Litigation Documents, settlement agreements, releases and other documents in furtherance of the foregoing; and

(x-5) to retain legal counsel and other professionals on behalf and as agent of the Unit Owners for whom it is so acting to represent such Unit Owners in connection with the foregoing;

provided, however, that nothing herein will preclude a Unit Owner from commencing, defending and settling any Claim or Lawsuit affecting only such Unit Owner or such Owner's Unit, and provided further that all Costs and Expenses, awards, judgments and settlement payments incurred or collected in connection with any Claim or Lawsuit by the Condominium Board as agent for Unit Owners shall be borne and shared only by those Unit Owners on whose behalf the Condominium Board is so acting;

(y) to control power shut-offs and other interruptions of the normal functioning of the Property, necessary to facilitate the performance of Work in or to particular Units and/or the Common Elements, which is permitted or required under the Declaration or these By-Laws; provided that the Condominium Board will make all reasonable efforts to minimize to the extent reasonably possible and practical any disruption in the Use and Enjoyment of Units;

(z) to invest any excess funds held by the Board in obligations of federal, state and local governments, certificates of deposit of Institutional Lenders, market instruments and funds which invest in any such obligations, and similar investment grade securities; and

(aa) generally, to carry out any and all other powers and duties granted or imposed upon the Condominium Board pursuant to the Declaration, these By-Laws and the Condominium Act.

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 Permitted Tenants/Occupants/.

Section 2.5 **Delegation and Restrictions**

2.5.1 Right to Delegate. The power and duties of the Condominium Board under the Declaration, these By-Laws, the Condominium Act and other Laws shall be exercised and performed by the Condominium Board or shall be exercised and performed on its behalf and at its direction by the agents, employees, designees or nominees of the Condominium Board.

2.5.2 Executive Committee. The Condominium Board may appoint an Executive Committee by duly adopted resolution, which Executive Committee shall have, and may exercise and perform, all of the powers and duties of the Condominium Board during the intervals between the meetings of the Condominium Board, subject to both the exceptions and limitations contained in subsection 2.5.6, and the restrictions set forth in subsection 2.5.7, of this Section 2.5 and such additional exceptions, limitations and restrictions as the Condominium Board may from time to time deem appropriate.

2.5.3 Other Committees. 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 exercise and perform such powers and duties as the Condominium Board shall direct, each of which committees shall have, and may exercise and perform, all of the powers and duties delegated to it in its enabling resolution, subject, however, to the exceptions and limitations contained in subsection 2.5.6, and the restrictions in subsection 2.5.7, of this Section 2.5.

2.5.4 Sponsor Board Member Requirement. So long as there is a Sponsor Board Member, the Executive Committee and each other committee appointed by the Condominium Board shall consist of two (2) or more Board Members of whom at least one (1) committee member shall be a Sponsor Board Member, unless waived in writing by Sponsor or the Sponsor Board Member.

2.5.5 Managing Agent and/or Manager. The Condominium Board may employ a Managing Agent and/or a manager to serve at a compensation to be negotiated by, and acceptable to, the Condominium Board and to perform such duties and services as the Condominium Board shall direct. Subject to the exceptions and limitations contained in subsection 2.5.6 and the restrictions in subsection 2.5.7 of this Section 2.5, the Condominium Board may delegate to such Managing Agent and/or a manager employed by it any of the delegable powers and duties granted to the Condominium Board in these By-Laws.

2.5.6 Non-Delegable Powers and Duties. Notwithstanding anything to the contrary contained in this Section 2.5, the Executive Committee and the Managing Agent shall neither have nor be entitled to exercise or perform, and the Condominium Board shall not delegate to either of them or to any other committee, the powers or duties described in subsections 2.4.2(a), (b), (d), (e), (f), (g), (k) and (n) through (aa) hereof ("**non-delegable powers and duties**"). In addition, neither the Managing Agent, a manager nor any of the committees described in this Section 2.5 shall have, or be entitled to exercise or perform, any of the powers or duties that are expressly prohibited from being delegated under the Condominium Act or other Law (if any).

2.5.7 Exception. However, any and all of these non-delegable powers and duties and all other powers and duties of the Condominium Board may be delegated to a manager or other Person designated by the Board, under such terms and conditions as are approved and determined by the Condominium Board, in connection with a loan (secured or unsecured) obtained by the Condominium Board in accordance with its authority under these By-Laws as agent for all Unit Owners.

2.5.8 Sponsor Veto Control Period Restrictions. Notwithstanding anything to the contrary contained in these By-Laws, during only the Sponsor Veto Control Period (i.e., the period ending the *earlier* of: (a) the date that the Common Interests appurtenant to the Unsold Units constitute less than 25% of the aggregate Common Interests appurtenant to all Units; or (b) the fifth (5th) anniversary of the First Unit Closing under the Plan), the Condominium Board and Unit Owners shall and must obtain Sponsor's prior written Discretionary Approval or Consent to do any of the following:

(a) to raise Common Charges or levy a Special Assessment for any of the following purposes:

(a-1) to make an Alteration to the Common Elements or the Association's Properties (the latter includes any Unit owned, leased or otherwise held or Operated by the Condominium Board, or its nominee or designee);

(a-2) to create a fund for reserves for Repairs, Alterations, unanticipated expenses and/or contingencies which in the aggregate exceed five percent (5%) of the projected annual Common Expenses for any Budget Year of Condominium Operation;

(a-3) to increase, decrease, eliminate or otherwise change the number, type, classification or working hours of the Building's service staff as set forth in the First Year's Budget (i.e., SCHEDULE B in Section E of Part I of the Plan);

(a-4) to increase, decrease or eliminate Building services by (for example) entering into contracts for new or additional services or maintenance work not included in said First Year's Budget, or failing to provide any service or maintenance contract set forth in such First Year's Budget, or otherwise; or

(a-5) to increase, decrease, eliminate or otherwise change the amounts or types of insurance coverage from those set forth in said First Year's Budget; or

(b) to borrow money on behalf of the Condominium.

2.5.9 Limit on Sponsor Veto Control Period Restrictions. Sponsor has the right to condition, delay, withhold or deny its approval or consent to any of the items in the preceding subsection 2.5.8 without cause or explanation, and without liability for any Claims or Costs and Expenses or other recourse against Sponsor for conditioning, delaying, withholding or denying its consent. Nevertheless, Sponsor will give its approval or consent if the Costs and Expenses (as determined by Sponsor, in its sole and absolute judgment) of the proposed action requiring Sponsor's approval or consent, when added to all other budgeted Common Expenses, will not increase the Common Charges, inclusive of any Special Assessments of the Condominium Board, for the Budget Year of the Condominium at issue, by more than 5% above the Common Charges for the immediately preceding Budget Year of the Condominium. In

addition, Sponsor may not exercise veto control over expenses included in the First Year's Budget (i.e., SCHEDULE B in Section E of Part I of the Plan) or over expenses required: (a) to comply with applicable Laws; (b) to remedy a governmental notice or violation; or (c) to remedy a work order of an insurer of the Building.

2.5.10 Veto Control of Sponsor and Unsold Unit Owners. Sponsor's veto control, as set forth herein, may be exercised during only the Sponsor Veto Control Period and solely by Sponsor while Sponsor owns any Unsold Unit. If Sponsor no longer owns any Unsold Unit, each successor Unsold Unit Owner will have the same right of veto control as Sponsor during only the Sponsor Veto Control Period. In the event of two (2) or more Unsold Unit Owners, the required Discretionary Consent of only those Owners of Unsold Units constituting a majority of the Common Interests of all Unsold Units will suffice. Nothing contained herein will extend the Sponsor Veto Control Period.

Section 2.6 **Number, Election, Composition and Qualification of Board Members**

2.6.1 Initial Board. Until the first meeting of the Unit Owners following the First Unit Closing under the Plan is held pursuant to the terms of Section 4.1 hereof, the Condominium Board shall consist of one (1) or more individuals to be appointed and designated from time to time exclusively by Sponsor.

2.6.2 First Elected Board. At such first meeting of Unit Owners and at all subsequent meetings of Unit Owners to elect the Condominium Board, the Board shall be composed of three (3) Board Members, unless changed pursuant to Section 2.6.5 below. For so long as there is at least one (1) Unsold Unit, the Board Members shall consist of a specified number of Independent Board Members and a specified number of Sponsor Board Members as provided in the following subsection 2.6.4.

The Independent Board Members shall be elected by all Sold and Unsold Unit Owners, including Sponsor as Owner of any Unsold Units. The Sponsor Board Members shall be appointed and designated exclusively by Sponsor for so long as Sponsor owns at least one (1) Unsold Unit or (after Sponsor no long owns any Unsold Unit) the Owner or Owners of a majority in Common Interest of Unsold Units.

The Independent Board Members shall represent the interests of the Sold Unit Owners. The Sponsor Board Members shall represent the interests of the Unsold Unit Owners.

2.6.3 Sponsor Voting Control of Board. Sponsor shall have the exclusive right to designate and appoint a majority of the members of the Condominium Board and thereby have "voting control" of the Condominium Board for five (5) years from the First Unit Closing or whenever the Unsold Units constitute less than fifty percent (50%) in number and Common Interest of all Units, whichever is sooner ("**Sponsor Board Control Period**"). At all elections held after the end of the Sponsor Board Period, Sponsor will no longer have the right to nominate candidates to serve as the Independent Board Members (who will then constitute a majority of the Board Members) and thus Sponsor shall not thereafter exercise voting control of the Board. Sponsor, however, will continue to have the right, for as long as there is at least one (1) Unsold

Unit, to vote for all Independent Board Members and to exclusively designate and appoint one (1) Sponsor Board Member (see subsection 2.6.4 below for composition of Board).

2.6.4 Composition, Nomination and Voting Rules for Board Members. From and after the first meeting of Unit Owners following the First Unit Closing, the Condominium Board shall consist of three (3) Board Members. For so long as there is at least one (1) Unsold Unit, the composition of the Condominium Board shall be as follows:

(a) at all elections held during only the Sponsor Board Control Period, the Condominium Board Members shall consist of two (2) Sponsor Board Members and one (1) Independent Board Member; and

(b) at all elections held after the end of the Sponsor Board Control Period, the Condominium Board Members shall consist of two (2) Independent Board Members and one (1) Sponsor Board Member.

After all Unsold Units are sold and conveyed, the three (3) Board Members shall all be Independent Board Members.

The following rules shall govern the nomination and voting for the election of the Independent Board Members by the Unsold Unit Owners (including Sponsor):

(a) at all elections held during only the Sponsor Board Control Period, there is no restriction or limitation on the nomination and voting rights of Sponsor and other Unsold Unit Owners and they may both nominate and vote to elect any qualified candidates to serve as the Independent Board Member; and

(b) at all elections held after the end of the Sponsor Board Control Period, Sponsor and other Owners (if any) of Unsold Units shall have the following rights: (b-1) they shall continue to have the unfettered and unconditional right to vote (*without restriction or limitation*) for any and all candidates nominated to serve as Independent Board Members; but (b-2) they may NOT nominate any candidates to serve as Independent Board Members.

The foregoing restriction limiting Sponsor's nomination rights after the end of the Sponsor Board Control Period applies only to nominating candidates to serve as Independent Board Members and does not apply to the Sponsor Board Member to be appointed and designated exclusively by Sponsor as aforesaid.

2.6.5 Change in Number. The number of Board Members may be increased or decreased by vote of a majority in number and Common Interest of Unit Owners, but only on the following terms and conditions:

(a) Sponsor (or, after Sponsor no longer owns any Unsold Unit, all Owners of Unsold Units) must consent in writing to the proposed change so long as there is any Unsold Unit;

(b) the vote may be taken at any annual or special meeting of Unit Owners, except that the vote must be taken at an annual meeting to decrease the number below those then in office;

(c) (in the event the number of Board Members is decreased) such decrease may only affect those Board Members whose terms are expiring at the annual meeting, but in no event shall the decrease affect the exclusive right of Sponsor to designate and appoint the number of Sponsor Board Members set forth in these By-Laws;

(d) (in the case of an increase) the number of Sponsor Board Members to be appointed and designated exclusively by Sponsor will increase proportionately so as to maintain the same proportional Board representation for the Sponsor Board Members as existed at the election of the first Condominium Board by the Unit Owners after the First Unit Closing (any fraction will be rounded up to the next whole number); and

(e) no change in the number of Board Members shall affect, abridge or otherwise impair: (e-1) the voting control of the Sponsor Board Members over the Condominium Board at all elections held during the Sponsor Board Control Period; or (e-2) the voting control of the Independent Board Members over the Condominium Board at all elections held after the end of the Sponsor Board Control Period.

2.6.6 Qualification. Each Board Member shall be at least 18 years old, but need not be a Unit Owner. Each Independent Board Member shall be either a Sold Unit Owner (including a Sponsor Related Party who acquires a Sold Unit) or any of the following (each, a "**Sold Unit Owner Affiliate**"): (a) a Sold Unit mortgage lender; (b) an officer, director, shareholder, partner, member, principal, employee, trustee, executor, administrator or beneficiary of a corporation, partnership, company, trust, estate or other Entity that owns a Sold Unit or is a Sold Unit mortgage lender; (c) an individual designated by a sovereign government, consulate or other governmental instrumentality that owns a Sold Unit; (d) a permitted tenant of a Sold Unit; or (e) an adult member of the immediate family of a Sold Unit Owner or any of the foregoing.

There are no requirements to qualify as a Sponsor Board Member. Sponsor (or after Sponsor no longer owns any Unsold Unit, other Unsold Unit Owners) shall have the exclusive right to appoint and designate anyone (regardless of relationship or lack of relationship) to serve as a Sponsor Board Member. Sponsor, as Owner of an Unsold Unit, shall have the right to appoint and designate the same individual to serve as both Sponsor Board Members. Such dual capacity Board Member shall have one (1) vote for each Board membership (e.g., a total of two (2) votes as the two (2) Sponsor Board Members), on all transactions and determinations to be voted upon by the Condominium Board.

2.6.7 Ineligibility. If the Condominium Board perfects a lien against a Sold Unit for unpaid Common Charges, the following shall apply until the lien is paid or discharged by bonding or otherwise: (a) the Owner of such Sold Unit may not nominate or vote for the election of Board Members; (b) such Owner and such Owner's Sold Unit Owner Affiliate shall not be an eligible candidate in an election of an Independent Board Member; and (c) if such Sold Unit Owner or Sold Unit Owner Affiliate is then serving as an Independent Board Member, such Board membership by such Owner or said Owner's Sold Unit Owner Affiliate (as applicable) shall immediately be suspended upon perfection of the lien and such Board membership shall automatically cease thirty (30) days thereafter unless the lien is paid or discharged by bond or otherwise during such thirty (30) day period.

In addition, Board membership by a Sold Unit Owner or a Sold Unit Owner Affiliate (as applicable) shall automatically end when: (a) (in the case of a Sold Unit Owner) such Owner no longer owns a Sold Unit; or (b) (in the case of a Sold Unit Owner Affiliate) such Affiliate no longer qualifies as a Sold Unit Owner Affiliate.

Section 2.7 **Term of Office of Board Members**

The initial Board Member designated by Sponsor will serve at the pleasure of Sponsor and until the first meeting of Unit Owners following the First Unit Closing under the Plan when the new three (3) Board Members are qualified and elected (as to the Independent Board Member) or appointed and designated (as to the Sponsor Board Members). All Board Members elected at and after said first meeting of Unit Owners will serve for a term of one (1) year. There is no limit on the number of terms, successive or otherwise, a Board Member may serve.

Each annual meeting of Unit Owners is to be held within approximately thirty (30) calendar days of the anniversary of the previous annual meeting of Unit Owners, subject to the right of the Condominium Board (in its sole and absolute discretion) to change the date of such annual meeting, in its sole judgment.

Section 2.8 **Removal and Resignation of Board Members**

2.8.1 Removal. An Independent Board Member may be removed "with" or "without" cause only by a vote of a majority in number and Common Interest of Owners of Sold and Unsold Units cast at a duly constituted meeting of Unit Owners at which a quorum is present. In determining such majority vote, the Units and Common Interests owned by: (a) the Condominium Board or its nominee as designee; and (b) the Board Member to be removed, or a Related Party to such Board Member, shall be excluded from the count of the base number of Unit Owners and Common Interests for quorum and voting purposes. The Condominium Board and its affiliated nominee or designee shall have no voting rights with respect to any Units owned by each of them and the Board Member or the Related Party to such Board Member to be removed shall not have the right to vote on the issue of such Board Member's removal. Any Board Member who is to be removed for "cause" shall be given a written explanation of the basis of removal at least seven (7) business days in advance of the meeting of Unit Owners and a reasonable opportunity to be heard at the meeting before the vote is taken.

A Sponsor Board Member serves at the will of Sponsor or the Unsold Unit Owner who appointed and designated such Board Member (as applicable) and may be removed "with" or "without" cause by only Sponsor or said Unsold Unit Owner (as applicable).

2.8.2 Resignation. A Board Member may resign at any time by giving written notice to the following: (a) in the case of a resignation by an Independent Board Member: the resignation shall be given to any of the remaining Board Members; or (b) in the case of a resignation by a Sponsor Board Member: the resignation shall be given to the Sponsor or appropriate Unsold Unit Owner who appointed and designated such Board Member (as applicable).

In addition, an Independent Board Member who shall cease to be qualified for membership pursuant to the terms of Section 2.6.7 hereof shall be deemed to have resigned as a Board Member effective as of the date upon which such qualification shall cease.

Section 2.9 **Vacancies**

2.9.1 Replacement. A vacancy on the Condominium Board resulting from removal, resignation, death, incompetency, incapacity or other cessation of Board membership will be filled as follows:

(a) in the case of a vacancy by an Independent Board Member: such vacancy shall be filled exclusively by a majority of the remaining Board Members at a special meeting of the Board or (if there is no remaining Board Member) the vacancy shall be filled by vote of Sold and Unsold Unit Owners at a special meeting called to be held for such purpose within sixty (60) calendar days after the vacancy occurs or at the next annual meeting of Unit Owners, whichever occurs first; or

(b) in the case of a vacancy by a Sponsor Board Member: such vacancy shall be filled exclusively by Sponsor or the appropriate Unsold Unit Owner who originally appointed and designated the vacating Sponsor Board Member (as applicable).

2.9.2 Pre-emption. However, in the case of a removal of an Independent Board Member by the Owners of the Sold and Unsold Units, such Owners shall have the right to pre-empt the Board Members and elect the replacement at the same meeting the removal is voted upon or at a subsequent special or annual meeting of Unit Owners called for such purpose.

2.9.3 Term. The person elected (in the case of Independent Board Member) or appointed and designated (in the case of a Sponsor Board Member) to fill the vacancy will serve as a member of the Condominium Board for the remainder of the term of the Board Member being replaced.

2.9.4 Special Board Meeting. A special meeting of the remaining Board Members shall be held for the purpose of filling a vacancy of an Independent Board Member 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. Sponsor or the appropriate Unsold Unit Owner (as applicable) who originally appointed and designated such vacating Sponsor Board Member will fill such vacancy.

Section 2.10 **Organizational Meeting of the Condominium Board**

The first meeting of each Condominium Board elected annually by the Unit Owners at meetings held from and after the First Unit Closing under the Plan shall be held immediately after each such annual meeting of Unit Owners and no notice of such Board meeting shall be necessary to the newly elected Board Members in order to legally constitute the meeting, provided a quorum shall be present. Alternatively, such first Board meeting may convene at such place, date and time as shall be fixed by a majority of the Board Members present at said annual meeting of Unit Owners, even though less than a quorum shall be present. In such case, written notice thereof shall be given to all Board Members by hand delivery, mail, telecopier

(with electronic confirmation of transmission) or telegram at least five (5) business days prior to the date set for the first Board meeting. In any event, however, such first meeting of the Board shall be held within approximately thirty (30) calendar days following said election by the Unit Owners.

Section 2.11 **Regular Meetings of the Condominium Board**

Regular meetings of the Condominium Board may be held at such time and place as shall be determined from time to time by a majority of the Board Members; provided, however, that at least four (4) such meetings of the Condominium Board shall be held during each Budget Year. Written notice of all regular meetings of the Condominium Board shall be given to each Board Member by hand delivery, mail, overnight mail, telecopier (with electronic confirmation of transmission) or telegram at least five (5) business days prior to the day named for such meeting.

Section 2.12 **Special Meetings of the Condominium Board**

The President may call a special meeting of the Condominium Board whenever determined by the President to be necessary or desirable. Upon the written request of two (2) or more Board Members, the President shall call a special meeting of the Board to be held within ten (10) business days after such written request is given. Written notice of all special meetings shall be given to each Board Member at least two (2) business days (if sent by hand delivery, telecopier (with electronic confirmation of transmission) or telegram, or at least five (5) business days (if sent by mail), prior to the day fixed for such meeting, which notice shall state the date, time, place and purpose of the meeting.

Section 2.13 **Waiver of Notice of Meetings**

Any Board Member may, at any time, waive notice of any meeting of the Board or any committee thereof in writing, and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Board Member at any such meeting or any such committee shall constitute a waiver by such Board Member of notice of the time and place thereof. However, if all Board Members or committee members are present at any said meeting of the Board or any said committee, respectively, no notice of such meeting shall be required and any business authorized pursuant to these By-Laws may be transacted at such meeting.

Section 2.14 **Quorum of the Condominium Board**

2.14.1 Quorum. A quorum of the Condominium Board is required to be present at a Board meeting in order to make any determination or to transact any business. Alternatively, such determination or transaction may be made without such meeting if all Board Members consent in writing to the determination or transaction. To constitute a quorum of the Board for such meeting, the following number of Board Members shall be present at the meeting:

(a) attendance (in person or by telephone, electronic mail or other effective communications equipment) of a majority of the Board Members will be required for any business relating solely to one or more of the following: (a-1) the Common Elements; (a-2) the Association's Properties; (a-3) the Common Expenses; (a-4) the Common Charges; or

(a-5) any other matter involving the affairs of the entire Property or the whole Condominium Association; or

(b) attendance of only the Sponsor Board Member(s) (without attendance by any Independent Board Member(s) will be required for any business relating solely to all or a portion of one or more Unsold Units.

2.14.2 Attendance Requirements. Attendance at a meeting of the Condominium Board or any committee thereof shall be in person or by conference telephone, electronic mail or other communication's equipment permitting all individuals participating in the meeting to hear or otherwise effectively communicate with each other at the same time, and such participation shall constitute presence at such meeting for all purposes. In addition, a Sponsor Board Member (but not an Independent Board Member) shall be permitted to attend such Board or committee meeting by proxy, provided the proxy is signed by Sponsor or the Unsold Unit Owner (as applicable) who appointed and designated such Sponsor Board Member.

2.14.3 Adjournment. If, at any meeting of the Condominium Board there shall be less than a quorum present, a majority of the Board Members 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 2.15 **Conduct of Meetings**

2.15.1 Presiding Officer. 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.

2.15.2 Robert's Rules of Order. Unless in conflict with the terms of the Declaration, these By-Laws or the Condominium Act, each meeting of the Condominium Board shall be conducted in accordance with 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 Board Members attending the meeting.

Section 2.16 **Decisions by the Condominium Board**

2.16.1 Majority Vote. Subject and subordinate to subsection 2.5.8 above and except as otherwise expressly provided in the Declaration or these By-Laws:

(a) a majority of those Board Members attending a duly constituted meeting of the Board at which a quorum is present shall decide all matters on behalf of the Board relating solely to one (1) or more of the following: (a-1) the Common Elements; (a-2) the Association's Properties; (a-3) the Common Expenses; (a-4) the Common Charges; ; or (a-5) any other matter involving the affairs of the entire Property or the whole Condominium Association; or

(b) the Sponsor Board Member(s) or (at exclusive option of the Sponsor or Unsold Unit Owners who exclusively appointed the Sponsor Board Member(s), the Sponsor or Unsold Unit Owners (as applicable), in lieu of the Sponsor Board Member(s), shall decide all matters on behalf of the Board (without the necessity of a Board meeting) relating solely to one (1) or more Unsold Units.

Alternatively, any decision that is required or permitted to be made by the applicable Board Members may be made without a meeting thereof if all of such applicable Board Members shall individually or collectively consent in writing to such decision. All such written consents shall be duly filed by the Secretary of the Condominium in the minutes of the Condominium Board.

2.16.2 Board Votes. Each Board Member shall have one (1) vote on all matters and transactions to be determined and voted upon by the Condominium Board.

2.16.3 Business Judgment Rule. The decisions and transactions of the Condominium Board shall have the equivalent status of the decisions and transactions of a cooperative housing corporation as to which the so-called "business judgment rule" articulated in Levandusky v. One Fifth Ave Corp. (75 NY2d 530 [1990]) shall apply, except said "business judgment rule" shall not apply to any decisions or transactions affecting, directly or indirectly, the Sponsor, the Unused Development Rights of the Property or other Owner of an Unsold Unit, the Sponsor's Rights or an Unsold Unit. Instead, the decisions and transactions of the Condominium Board that affect, directly or indirectly, the Sponsor or other Owner of an Unsold Unit, the Sponsor's Rights, the Unused Development Rights of the Property or an Unsold Unit shall be subject to scrutiny and determined solely on the merits by a court, arbitration panel or other forum having jurisdiction, without any deference, weight or favorable assumption being given to the Condominium Board.

Section 2.17 **Compensation of Members**

No member of the Condominium Board or any committee thereof shall receive any compensation from the Condominium for acting as such.

Section 2.18 **Standards for Fiduciary Responsibility and Self-Dealing**

2.18.1 General Standard. All powers and duties shall be exercised and performed by each Board Member and officer, in good faith and with a view to the interests of the Unit Owners or Unit Owner who elected such Board Member, but with due regard to the Maintenance, preservation, protection and value of the Property as a whole and the security, protection, life, safety and health of Owners and occupants of Units.

2.18.2 Interested Party Transactions. The Condominium Board may contract or effect any other transaction with any member or officer of the Board or any Unit Owner, or Related Parties to any of the foregoing (collectively, "**Interested Party**"), without the Condominium Board or such Interested Party incurring any liability for self-dealing, provided that the terms of such contract or other transaction, including any compensation paid in respect thereof, shall be on no less favorable terms than those commercially reasonable and at

competitive rates at the time such contract or transaction is entered into and reasonable evidence or documentation thereof is given to the Board ("**commercial reasonableness standard**").

2.18.3 Disclosure. No contract or other transaction between the Condominium Board and an Interested Party, shall be deemed either void or voidable because of the interest (pecuniary or otherwise) therein of such Interested Party or the presence of such Interested Party at the meeting or meetings of the Board during which such contract or transaction was discussed, authorized, approved or ratified; provided, however, that the contract or transaction shall meet the commercial reasonableness standard at the time that the same is authorized, approved, ratified, executed or otherwise consummated and either:

(a) the terms of the contract and/or transaction are disclosed to all Board Members or the fact thereof is disclosed to, or known by, a majority of the Board Members or noted in the minutes thereof, and a majority of the Board Members having a majority of the votes shall authorize, approve or ratify such contract or transaction in good faith, less the number of votes of such interested Board Members; or

(b) the fact thereof is disclosed to, or known by, a majority in number and Common Interest of the Unit Owners affected thereby, excluding any Unit Owner who or whose Related Party also has an interest in such contract or transaction, and a majority in number and Common Interest of such affected Unit Owners, excluding any such interested Unit Owner, shall authorize, approve or ratify such contract or transaction.

2.18.4 Quorum. The votes of any such interested Board Member may be counted in determining the presence of a quorum of any meeting of the Board that authorizes, approves or ratifies any such contract or transaction, but no such Board Member shall be entitled to vote thereat to authorize, approve or ratify such contract or transaction.

Section 2.19 **Liability of the Condominium Board**

2.19.1 Standard for Liability. The members of the Condominium Board shall have no liability to the Unit Owners for errors of judgment, ordinary negligence or otherwise, except that each member of the Condominium Board shall be liable thereto for such member's own bad faith, self-dealing, gross negligence or willful misconduct.

2.19.2 Interested Party Transactions. In connection therewith, a Board Member (including a Sponsor Board Member) shall not be deemed either to have acted 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 such Board Member or a Related Party to such Board Member or to Sponsor or a Related Party to Sponsor in the case of Sponsor Board Members (collectively, "**Interested Board Party**"), provided that any compensation paid, or to be paid, to such Interested Board Party in connection with any such contract or transaction is either:

(a) disclosed to all Board Members; or

(b) is in accordance with the commercial reasonableness standard for goods sold or services rendered in the Borough of Manhattan, County and State of New York, and is approved by a majority of the Board Members who are not an Interested Board Party; or

(c) is disclosed in the Plan or a Plan Amendment.

2.19.3 Immunity. The Board Members and the agents (including a Managing Agent and/or manager) of the Condominium Board shall have no personal liability for merely having acted in such capacity. Such immunity from personal liability shall apply to all transactions of the Board authorized in these By-Laws or the Declaration, including each and every contract made, and other document executed, by or on behalf of the Condominium Board in accordance with these By-Laws or the Declaration, and each such contract or other document shall so provide (however, the failure to so provide shall not, and shall not be construed to, in any way affect, change or waive such immunity from personal liability). Such contract or document shall be regarded as being made or executed by or on behalf of the Board as agent of all Unit Owners and the liability thereunder of a Board Member shall be to the extent only that such Board Member is a Unit Owner and then only as limited in Section 4.12 hereof.

2.19.4 Service Interruptions and Force Majeure. Neither the Condominium Board nor any Board Member (in such capacity as a Board Member) shall be liable for any Claims or Liabilities and Expenses for either: (a) 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 (b) any injury, loss, or damage to any individual or property, occurring in or upon either a Unit or the Common Elements and either: (b-1) caused by Force Majeure, by any Unit Owner or by any other Person; (b-2) resulting from electricity, water, snow or ice, including water that may leak or flow from a Unit, its appurtenant Limited Common Element (if established) or any portion of the Common Elements; or (b-3) arising out of theft or otherwise.

2.19.5 Indemnity. Subject to the limitation of liability contained in Section 4.12 below, the Unit Owners on whose behalf the Condominium Board acted shall jointly, or the applicable Unit Owner on whose individual behalf the Board acted shall individually, indemnify each and every member of the Condominium Board from and against any and all Claims and Liabilities and Expenses to others arising from such Board Member's acts or omissions as, or by reason of the fact that such individual is or was, a member of the Condominium Board, except, however no Board Member shall be indemnified, if and to the extent that such Claims or Liabilities and Expenses shall be due to, or shall arise out, of the bad faith, self-dealing, gross negligence or willful misconduct of such Board Member. Accordingly, the Sponsor Board Member(s) shall not be indemnified by the Sold Unit Owners if and to the extent that the Claims or Liabilities and Expenses arose solely from a decision or transaction made alone by the Sponsor Board Member(s) which affect only the Unsold Units and do not affect the Condominium Association, the Common Elements, the Association's Properties, the Common Expenses or the Common Charges.

Section 2.20 **Transactions by Declarant in Lieu of Condominium Board**

Until the first Condominium Board is elected by the Unit Owners following the First Unit Closing, all business to be transacted by the Condominium Board, including all decisions to be

made and actions to be taken, may be transacted, made and taken by Declarant (as the initial Owner of all Units) in lieu of the Board with the same validity, force and effect as though same had been done by the Board.

ARTICLE 3

OFFICERS

Section 3.1 **General**

3.1.1 Election. The principal officers of the Condominium Association shall consist of a President, Vice President, Secretary and Treasurer, each of whom shall be elected by a majority of those Board Members attending a duly constituted Board meeting at which a quorum is present. In addition, the Sponsor Board Member(s) shall exclusively elect a co-Vice President and an Assistant Secretary. The Condominium Board shall also have the power to elect such other officers and assistant officers as it deem appropriate.

3.1.2 Powers and Duties. Generally, the officers will have all of the same powers and duties of the equivalent officer of a stock corporation organized under the Business Corporation Law of the State of New York ("**BCL**"). Assistant officers, in order of their seniority or in any other order determined by the applicable Board Members shall, in the absence or disability of the applicable principal officer, as the case may be, perform the duties and exercise the powers of the applicable principal officer, and shall perform such other duties as the applicable Board Members or the applicable principal officer shall prescribe, except that the officers elected exclusively by each the Sponsor Board Member(s) shall exercise such powers and perform such duties as the Sponsor Board Member(s) shall prescribe, even though the President and Secretary shall not be absent or disabled, and except further that the officers elected exclusively by the Sponsor Board Members may act only in connection with the operation and affairs of the Unsold Units.

3.1.3 Execution of Documents. Unless otherwise expressly provided elsewhere in these By-Laws or the Declaration or required by Law, all agreements, contracts, deeds, mortgages, leases, checks and other instruments and documents of the Condominium Association or Condominium Board shall be executed, upon the direction of the applicable Board Member(s) who elected such officers, by any two (2) 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 said applicable Board Member(s) who elected such officers.

3.1.4 Authorization. The applicable Board Members may, by resolution passed in accordance with the provisions hereof, authorize any officer to execute and deliver on behalf of the Board documents or other instruments necessary or desirable to the performance of its duties and obligations hereunder. Each of the principal officers (i.e., the President, Vice President, each co-Vice President, Secretary, each Assistant Secretary and Treasurer) are authorized to execute and deliver estoppel certificates regarding the payment of Common Charges or other matters related to an Office Unit or the Commercial Unit or its Owner to a Registered Mortgagee or a purchaser or tenant of an Owner's Unit or other parties reasonably entitled to such information.

Section 3.2 **President**

The President shall be the chief executive officer of the Condominium Association and shall preside at meetings of all 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 BCL, including the power to appoint the members of all committees created by the Board from among the Unit Owners, and other Persons, subject to compliance with subsection 2.5.4 above.

Section 3.3 **Vice President and Co-Vice Presidents**

The Vice President elected by the Board shall take the place of the President and exercise and perform such President's powers and duties whenever same shall be absent or unable to act. The co-Vice President elected exclusively by the Sponsor Board Member(s) shall have all of the general powers and duties that are incident to the office of vice president of a stock corporation organized under the BCL. If the President and the Vice President or a co-Vice President are unable to act, the applicable Board Member(s) who elected such officers shall appoint some other member of the Condominium Board (in the case of the President) or other individual (in the case of the Vice President or a co-Vice President) to act in the place of such absent or incapacitated officer on an interim basis. The Vice President shall also perform such other powers and duties as shall be required from time to time by the Condominium Board or the President (as applicable). The co-Vice President elected exclusively by the Sponsor Board Member(s) shall also perform such other powers and duties as shall be required from time to time by the Sponsor Board Member(s), but shall act in connection with only the operation and affairs of the Unsold Units.

Section 3.4 **Secretary and Assistant Secretaries**

The Secretary shall keep the minutes of all meetings of the Unit Owners, the Condominium Board. The Secretary shall have charge of such books and papers as the Condominium Board shall direct and, in general, shall have all of the powers and duties that are incident to the office of secretary of a stock corporation organized under the BCL. The Assistant Secretary, elected exclusively by the Sponsor Board Member(s), shall have all the same powers and duties as the Secretary, but shall act only in connection with the operation and affairs of the Unsold Units.

Section 3.5 **Treasurer**

The Treasurer shall have the care and custody of the funds and securities of the Condominium Association 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 and/or manager in such depositories as may from time-to-time be designated by the Board and, in general, shall have all of the powers and 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**

3.6.1 Election and Term. Each of the officers of the Condominium Board shall be elected annually by a majority of those Board Members attending a duly constituted organizational meeting of each new Condominium Board at which a quorum is present (except in case of an election to fill a vacancy or to create an additional or new officer), and shall serve at the pleasure of the Board Member(s) who elected such officer; subject and subordinate, however, to the right of the Sponsor Board Member(s) to always exclusively elect a co-Vice President and an Assistant Secretary as provided in subsection 3.1.1 hereof.

3.6.2 Qualifications. The President shall be elected from among the members of the Condominium Board. The other officers of the Condominium Board, however, need not be members of the Condominium Board and need not be Unit Owners or have any interest in the Condominium or a Unit. Any single individual may hold any combination of offices, except that the offices of President and Secretary shall be held by different individuals.

Section 3.7 **Removal and Resignation of Officers**

3.7.1 Removal. An officer may be removed at any time "with" or "without cause" by an affirmative vote of a majority of those Board Members who attend a duly constituted Board meeting at which a quorum is present, except an officer appointed and designated exclusively by the Sponsor Board Member(s) may be removed "with" or "without" cause by only the Sponsor Board Member(s).

3.7.2 Resignation. Each officer may resign at any time by giving written notice to the applicable Board Member(s) who elected such officer. However, the President will be regarded as having resigned effective on the date such officer ceases to be a Board Member.

Section 3.8 **Vacancies**

A vacancy in an office shall be filled by a majority of the Condominium Board in attendance at any regular meeting of the Condominium Board or at a special meeting thereof called for such purpose, except that a vacancy of an officer elected exclusively by the Sponsor Board Member(s) shall be filled by vote of only the Sponsor Board Member(s), without the necessity of a Board meeting.

Section 3.9 **Compensation of Officers**

No officer shall receive any compensation from the Condominium Association for acting as such.

Section 3.10 **Liability of the Officers of the Condominium**

3.10.1 Standard for Liability. The officers of the Condominium Association shall have no liability to the Unit Owners for errors of judgment, ordinary negligence or otherwise, except that each officer shall be liable thereto for such officer's own bad faith, self-dealing, gross negligence or willful misconduct.

3.10.2 Immunity. The officers of the Condominium Association shall have no personal liability for having acted in such capacity and such immunity from personal liability shall apply to all transactions of the Board authorized in these By-Laws or the Declaration, including each and every contract made, and other document executed, by or on behalf of the Condominium Board in accordance with these By-Laws or the Declaration, and each such contract and document shall so provide (however, the failure to so provide shall not, and shall not be construed to, in any way affect, change or waive such immunity from personal liability). Such contract or document shall be regarded as being made or executed by or on behalf of the Board as agent of all Unit Owners and the liability thereunder of an officer shall be to the extent only that such officer is a Unit Owner and then only as limited in Section 4.12 hereof.

3.10.3 Service Interruptions and Force Majeure. No officer of the Condominium Association (in his or her capacity as an officer) shall be liable for any Claims or Liabilities and Expenses for either: (a) any failure or interruption of any utility or other services to be obtained by any such officer on behalf of the Condominium Association or to be paid for as a Common Expense; or (b) any injury, loss or damage to any individual or property, occurring in or upon either a Unit or any portion of the Common Elements or the Association's Properties, and either: (b-1) caused by the Force Majeure, by any Unit Owner or by any other Person; (b-2) resulting from electricity, water, snow or ice, including water that may leak or flow from a Unit, its appurtenant Limited Common Element (if established) or any portion of the Common Elements or the Association's Properties; or (b-3) arising out of theft or otherwise.

3.10.4 Indemnity. Subject to the limitation of liability contained in Section 4.12 below, the Unit Owners on whose behalf an officer of the Condominium Board acted shall jointly, or the Unit Owner on whose individual behalf an officer acted shall individually, indemnify such officer from and against any Claims and Liabilities and Expenses to others arising from such officer's acts or omissions as, or by reason of the fact that such individual is or was, an officer of the Condominium Board, except, however, such officer shall not be indemnified to the extent that such Claims or Liabilities and Expenses shall be due to, or shall arise out of, the bad faith, self-dealing, gross negligence or willful misconduct of such officer. Accordingly, the officers elected exclusively by the Sponsor Board Member(s) shall not be indemnified by the Sold Unit Owners if and to the extent that the Claims or Liabilities and Expenses arose solely from a decision or transaction made alone by the Sponsor Board Member(s) affecting only the Unsold Units, and do not affect the entire Condominium Association, the Common Elements, the Association's Properties, the Common Expenses or the Common Charges.

ARTICLE 4

UNIT OWNERS

Section 4.1 Annual Meetings of the Unit Owners

4.1.1 First Meeting. The first meeting of Unit Owners shall be called to be held no later than approximately sixty (60) calendar days after the first anniversary of the First Unit Closing under the Plan. If prior thereto, the number and Common Interest of the Sold Units constitute more than fifty percent (50%) in number and Common Interest of all Units, such first

meeting will be called to be held within approximately thirty (30) calendar days after such 50% threshold is exceeded as provided in subsection 4.2.3 below. At such first meeting, the incumbent Condominium Board Member shall resign, or shall be deemed to have resigned, effective upon the qualification (in the case of an Independent Board Member) and election of a successor three (3)-member Condominium Board by the Unit Owners, as provided both in this Article 4 and in Article 2 hereof.

4.1.2 Subsequent Annual Meetings. Thereafter, annual meetings of the Unit Owners shall be held within approximately thirty (30) calendar days of the anniversary of the previous annual meeting, subject to the right of the Condominium Board (in its sole and absolute discretion) to change the date of such annual meeting. Each such annual meeting is to be held at such time and place in the Borough of Manhattan and County of New York as shall be determined by the Condominium Board. At each such subsequent annual meeting, the Unit Owners shall elect a new Condominium Board and shall transact such other business as may properly come before such meeting, subject and subordinate, however, to the right of Sponsor, as Owner of an Unsold Unit (or, if Sponsor no longer owns any Unsold Unit, the then existing Unsold Unit Owners, if any) to exclusively appoint and designate the number of Sponsor Board Members specified in Section 2.6.4 above.

Section 4.2 **Special Meetings of the Unit Owners**

4.2.1 Requirements For Special Meeting. 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 any two (2) Board Members or by the Owners of not less than twenty-five (25%) percent of the Common Interests of all Units. Each such resolution or petition shall set forth, in reasonable detail, the purposes for calling such a meeting. Within ten (10) calendar days after receipt of such resolution or petition (as applicable), the President shall call such special meeting to be held within twenty (20) business days following said receipt thereof, unless the purpose of a meeting is to consider an Amendment to the Declaration or these By-Laws, or to remove a Board Member, in which case the provisions of subsection 4.4.4 below apply. If the President fails to so timely call such special meeting, then any Board Member who voted for such resolution or any Unit Owner who signed such petition (as applicable) may so call such meeting by a notice of meeting in accordance with the requirements of Section 4.4 hereof (except that such notice need not be given by the Secretary).

4.2.2 Business of Meeting. No business shall be transacted at such special meeting except business reasonably related to purposes stated in the notice of special meeting or said petition.

4.2.3 Expiration of Sponsor Board Control Period. Notwithstanding anything to the contrary contained herein, after the expiration of the Sponsor Board Control Period (i.e., the period ending on the *earlier* of: (a) the date that the Unsold Units constitute less than fifty percent (50%) in number and Common Interest of all Units; or (b) the fifth anniversary of the First Unit Closing under the Plan) Sponsor will cause the Sponsor Board Members to call a special meeting of Unit Owners. At such meeting, one (1) additional Independent Board Member will be elected to replace one (1) Sponsor Board Member, who will resign or be deemed

to have resigned upon the election of such Independent Board Member, except a new three (3)-member Board will be elected if this is the first meeting of Unit Owners as provided in subsection 4.1.1 above. Such special meeting of Unit Owners is to be called to be held within approximately thirty (30) calendar days after the end of the Sponsor Board Control Period.

Section 4.3 **Place of Meetings**

Meetings of the Unit Owners shall be held at the principal office of the Condominium Association or at such other suitable and convenient place in the Borough of Manhattan, County of New York as may be designated by the Condominium Board (or applicable Board Members).

Section 4.4 **Notice of Meetings**

4.4.1 Contents. The Secretary of the Condominium Association shall give notice of each annual or special meeting of the Unit Owners to all Unit Owners then of record on the books of the Condominium Association entitled to vote at such meeting, which notice shall set forth the purpose, time and place of such meeting.

4.4.2 Procedure. Such notice may be given to a Unit Owner by hand delivery, regular mail, telecopier (with electronic confirmation of transmission) or telegram at least ten (10) calendar days prior to the day fixed for the meeting (except as otherwise provided in subsection 4.2.1 above). Absent receipt by the Secretary of written notice of another address to which notices are to be sent, the delivery or mailing of such notice to any Unit Owner, addressed to the Owner's address at the Property, at least ten (10) calendar days prior to the day fixed for the meeting (or the period specified in subsection 4.2.1, if applicable) shall be conclusively deemed the giving of notice to such Unit Owner of such meeting. Notice to Sponsor, as Owner of an Unsold Unit, shall be sent to the Sponsor's address set forth in Section 20.1(c) below.

4.4.3 Address Change. Any Unit Owner may designate an address other than such Unit Owner's address at the Property to which notices to such Owner are to be sent by giving written notice thereof to the Secretary not less than ten (10) calendar days prior to the giving of notice of the applicable meeting.

4.4.4 Required Approval or Consent of Unit Owners. Supplementing, modifying and superseding any inconsistency in Section 4.4.2 hereof, if the business to be conducted at any regular or special meeting of the Unit Owners shall include the consideration of a proposed Amendment to the Declaration or these By-Laws or the Rules and Regulations or a Budget item or a transaction or matter requiring the approval or consent of the Unit Owners, or a proposal to remove a Board Member, the notice of such meeting shall be mailed to all Unit Owners, at least thirty (30) calendar days prior to the day fixed for such meeting and shall be accompanied by a copy of the text of such proposed Amendment, or shall include a reasonably detailed notice of the Budget item or transaction or matter requiring approval or consent, or the basis for removal of the Board Member (as applicable). In such case, the President shall call such meeting to be held not sooner than thirty-one (31) calendar days no later than sixty (60) calendar days following receipt by the Secretary of a Board resolution or a petition signed by the requisite percentage of Unit Owners calling for such meeting.

Section 4.5 **Quorum of the Unit Owners**

4.5.1 Quorum Requirement. Subject to subsection 4.5.3 below, attendance (in person or by proxy) of Owners of a majority in Common Interest of all Units will be required if the business or purpose of the meeting involves one (1) or more of the following: (a) the Common Elements; (b) the Association's Properties; (c) the Common Expenses; (d) the Common Charges; or (e) the election or removal of Board Members or any other matter involving the operation or affairs of the entire Property or the whole Condominium Association.

Attendance at such meeting of Unit Owners shall be in person or by proxy.

Any business or transaction that affects only an Unsold Unit may be conducted by the Sponsor Board Member(s) or (at the exclusive option of the Unsold Unit Owner who exclusively appointed and designated the Sponsor Board Member(s)) such Unsold Unit Owner in lieu of the Sponsor Board Member(s), without the necessity of a meeting of the Condominium Board or other Unit Owners, and without the approval or consent of the other Board Members or other Unit Owners.

4.5.2 Adjournment. If, at any meeting of the Unit Owners, there shall be less than a quorum present, Owners of a majority in Common Interest of Units 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. Notice of the adjourned date shall be sent to all Unit Owners in accordance with subsection 4.4.2 above, except that the notice shall be given by hand delivery or telegram at least 24 hours before the adjourned date or by mail at least three (3) business days before the adjourned date.

4.5.3 Reduced Quorum. The provisions of subsection 4.5.1 to the contrary notwithstanding, if a meeting is adjourned two (2) or more times for the failure to attain a quorum, then the Unit Owners attending the next adjourned date for the meeting shall constitute a quorum for the transaction of business and the absentee Unit Owners shall be deemed to have consented or approved the transactions affirmatively voted for by a majority of those Unit Owners, in number of Units and/or Common Interest (as applicable), or in Common Interest if not otherwise expressly provided, attending such next meeting; provided, however, that: (a) all Unit Owners are given not less than ten (10) calendar days' advance written notice of such adjourned date; (b) the notice shall set forth in reasonable detail the actions or business proposed to be transacted; and (c) the failure of an Unsold Unit Owner (including Sponsor) to attend on such adjourned date shall not be caused by Force Majeure.

Section 4.6 **Conduct of Meetings**

4.6.1 Presiding Officer. The President shall preside at the meetings of 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. All votes of the Unit Owners shall be tallied by the individual(s) appointed by the presiding officer of the meeting.

4.6.2 Robert's Rules of Order. Unless in conflict with the terms of the Declaration, these By-Laws or the Condominium Act, each annual or special meeting of Unit Owners or Unit Owners shall be conducted in accordance with the then current edition of Robert's Rules of Order, or any other rules of procedure acceptable to: (a) a majority in Common Interest of those Unit Owners present at such meeting, in person or by proxy; and (b) (while there is any Unsold Unit) Sponsor or (if Sponsor no longer owns an Unsold Unit) a majority in Common Interest of Unsold Unit Owners.

Section 4.7 **Order of Business**

The order of business at all meetings of the Unit Owners shall be as follows: (a) roll call; (b) proof of notice of meeting; (c) reading of the minutes of the preceding meeting (unless waived); (d) reports of officers of the Condominium Board; (e) reports of members of the Condominium Board; (f) reports of committees; (g) election of inspector(s) of election (when so required); (h) election of members of the Condominium Board (when so required); (i) unfinished business; and (j) new business.

Section 4.8 **Voting**

4.8.1 Number of Votes. Subject to the terms of Sections 4.8.2 and 4.9 hereof, each Unit Owner (including Sponsor and other Owners of Unsold Units, but excluding the Board or its affiliated nominee or designee as Owner of any Unit) shall be entitled to cast one (1) vote at all meetings of the Unit Owners for each 0.0001% Common Interest appurtenant to each Unit owned by such Owner. Whenever the consent or approval of a specified number or percentage of Unit Owners is required in these By-Laws or the Declaration, then for quorum and voting purposes: (a) an Owner of more than one (1) Unit shall be counted as a separate Owner for each Unit so owned by such Unit Owner; and (b) if a Unit is owned by more than one (1) Person, all such Persons shall be counted as one (1) Unit Owner.

4.8.2 Disqualification. Notwithstanding the terms contained in subsection 4.8.1 hereof, no Sold Unit Owner may vote at any meeting of the Unit Owners if the Condominium Board has perfected a lien against such Owner's Sold Unit and the amount necessary to release such lien has not been paid or discharged by bonding or otherwise at the time of such meeting. In addition, neither the Condominium Board nor any affiliated designee or nominee thereof shall be entitled to cast the votes appurtenant to any Unit owned by the Condominium Board or such affiliated designee or nominee. The Units and their appurtenant Common Interests of all Owners who are precluded from voting pursuant to the terms of this subsection 4.8.2 shall be excluded when computing the aggregate number and/or Common Interests (as applicable) of all Unit Owners for quorum and voting purposes.

4.8.3 Fiduciary. A fiduciary shall be the voting member with respect to a Unit owned in a fiduciary capacity.

4.8.4 Co-Owners. If two (2) or more Persons own a Unit, they shall designate one Person amongst them to vote the Common Interest or votes appurtenant to their Unit in a writing given to the Secretary, 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 or cast such votes under one (1) ballot without division, and the concurrence of all such Persons shall be conclusively presumed if any one (1) of them purports to vote such Common Interest or cast such votes 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 or votes appurtenant to such Unit shall be counted solely for the purpose of determining whether a quorum is present for such voting.

4.8.5 Proxy. The Owner of any Unit may designate any individual to act as a proxy on such Owner's behalf. The designation of any such proxy shall be made in a writing both signed and dated by the Unit Owner and delivered to the Secretary or an Assistant Secretary at or before the appointed time for the meeting during which the same is to be effective.

4.8.6 Revocation of Proxy. Any such proxy designation shall be revocable at any time upon written notice given to the Secretary or an Assistant Secretary; 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 or an Assistant Secretary. In addition, a proxy may be revoked by a Unit Owner who is personally present at a meeting of the Unit Owners, provided such Unit Owner submits a ballot on the form prescribed by the Secretary or an Assistant Secretary, which ballot states the name of the Unit Owner, the Owner's Unit designation number and is signed by the Unit Owner. In such case, the votes cast by the proxy holder shall not be counted and the votes cast by the Unit Owner's ballot shall be counted. The foregoing shall not preclude or prohibit a Unit Owner from giving an irrevocable proxy to a Permitted Mortgagee or a tenant under a lease of a Unit, provided the proxy is expressly stated to be irrevocable.

4.8.7 Duration. Except with respect to the designation of a Permitted Mortgagee to act as the proxy of its mortgagor-Unit Owner, or a tenant of all or a portion of the Commercial Unit to act as the proxy of its lessor, no designation to act as a proxy shall be effective for a period in excess of six (6) months after the date thereof. Photocopies, facsimiles or other mechanical reproductions of proxies shall be valid and counted for all purposes.

4.8.8 Vote Count. Except when otherwise required by Law or otherwise provided in the Declaration or in these By-Laws and subject and subordinate to Sponsor's veto control during only the Sponsor Veto Control Period as provided in subsection 2.5.8 above, the affirmative vote of a majority or other specified number or percentage of those Unit Owners, in number of Units and/or Common Interest (as applicable), or in Common Interest if not otherwise expressly provided, attending a duly constituted meeting of Unit Owners at which a quorum is present shall be binding upon all Unit Owners, for all purposes. An Owner of more than one (1) Unit shall be counted as a separate Owner for each Unit so owned by such Unit Owner. If a Unit is owned by more than one (1) Person, all such Persons shall be regarded as one (1) Unit Owner as to any vote count based on the number of Unit Owners. The Condominium Board or its affiliated designee or nominee shall not have any voting rights with respect to any Unit owned by the Board or its affiliated designee or nominee and all such Units owned by the Board or its affiliated designee or nominee, and all voting rights appurtenant to any Units owned by the Board or its affiliated designee or nominee, shall be excluded from the count of the Unit Owners and the number and Common Interests of Units for quorum and voting purposes.

4.8.9 Record Date for Voting. For purposes of determining the Unit Owners entitled to vote at any meeting of Unit Owners or any adjournment thereof, or to express consent to or dissent from any proposal without a meeting of Unit Owners, or for the purpose of any other action, the record date on the books of the Condominium Association for any such determination of Unit Owners shall be at the close of business on the day next preceding the day of such meeting of Unit Owners or such adjourned meeting of Unit Owners or (if no meeting is held) the day on which consent or dissent on a proposal is expressed, even though a Unit Owner was not the Unit Owner of record on the books of the Condominium Association on the date of service of notice of the meeting. No additional notice of an annual or special meeting of Unit Owners or a proposal without a meeting of Unit Owners need be given to a new Unit Owner who was not the record Owner on the books of the Condominium Association on the date of giving such notice, and the failure of said new Unit Owner to receive such notice shall not be the basis of an objection or otherwise affect the validity, effectiveness or enforceability of the votes cast by Unit Owners.

Section 4.9 **Election of Members of the Condominium Board**

4.9.1 Composition of Members of the Condominium Board. The number of Independent Board Members to be elected each year and the number of Sponsor Board Members to be appointed and designated each year following the First Unit Closing under the Plan, and the rights and restrictions applicable to Sponsor and Unsold Unit Owners to nominate candidates to serve as an Independent Board Member and the unrestricted rights of Sponsor and Unsold Unit Owners to vote for all candidates to serve as Independent Board Members, shall be determined in accordance with Section 2.6 above (see in particular subsections 2.6.2 to 2.6.4).

4.9.2 Vote Count. When voting for Board Members, each Unit Owner (including Sponsor, for so long as Sponsor shall own any Unsold Unit, and other Unsold Unit Owners, if any) shall be entitled to cast for each Independent Board Member to be elected not more or less than one (1) vote for each 0.0001% of Common Interest appurtenant to each and every Unit owned by such Owner (for example, 169,961 votes if the Common Interest is 16.9961%). Accordingly, the number of votes received by each candidate for whom a Unit Owner casts a ballot shall equal the total number of votes such Owner is entitled to cast (or, in the above example, 169,961 votes for each candidate).

4.9.3 No Cumulative Voting. A Unit Owner may not cumulate, split or otherwise transfer the number of votes such Unit Owner is entitled to cast from one candidate to another candidate. In addition, the terms of Sections 2.6 and 4.8 hereof shall apply to all elections of members of the Condominium Board.

4.9.4 Plurality. All elections of the Independent Board Members shall be determined by plurality vote.

4.9.5 Ballots. All elections of the Independent Board Members held from and after the first meeting of Unit Owners following the First Unit Closing under the Plan shall be by written ballot. Each ballot cast shall state: (a) the name of the Unit Owner and, if such ballot is cast by proxy, the name of the proxy; (b) the designation number(s) of the Unit(s), if any, owned by the Unit Owner; (c) the amount of the Common Interest(s) appurtenant to such Owner's

Unit(s), if any; and (d) 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 substantially in conformity with this subsection 4.9.5 shall not be counted. All election ballots shall be retained in the records of the Condominium Association for at least three (3) years, appropriately segregated by election.

4.9.6 Board Member Designations. The Sponsor Board Member(s) shall be appointed and designated exclusively by Sponsor so long as it owns any Unsold and (after Sponsor no longer owns any Unsold Unit) by a majority in Common Interest of the then existing Unsold Unit Owners (if any). Each such appointment and designation shall be in writing delivered at the duly constituted meeting of Unit Owners at which a quorum is present or delivered in advance of such meeting to the Managing Agent or the President, Vice President, a co-Vice President, Secretary or an Assistant Secretary. Such written appointment and designation shall be retained in the records of the Condominium Association for at least three (3) years, appropriately segregated by election.

In the event that Sponsor no longer owns any Unsold Unit and there is more than one (1) Unsold Unit Owner, then the Sponsor Board Member(s) shall be appointed and designated by mutual agreement of the Unsold Unit Owners. If they cannot agree, then the Sponsor Board Member(s) shall be elected by plurality of the votes cast by those Unsold Unit Owners who are present (in person or by proxy) and voting at such meeting.

4.9.7 Voting Rights of Sponsor and Unsold Unit Owners. Sponsor (while it owns an Unsold Unit) and each Unsold Unit Owner shall have the right to vote all of the Common Interests and votes appurtenant to the respective Units owned by each such Owner, except (as to an Unsold Unit Owner) Sponsor shall have exclusive voting rights with respect to the election of the Sponsor Board Member(s) as provided herein and Section 2.6 hereof. At all elections held during only the Sponsor Board Control Period, the Sponsor or (if it no longer owns any Unsold Unit) the Owner(s) of Unsold Units shall have voting control of the election of the Board Members and shall exclusively appoint and designate two (2) Sponsor Board Members, who will constitute a majority of all Board Members, all as provided more fully in subsection 2.6.3 hereof. At all elections held after the end of the Sponsor Board Control Period and for so long as there is at least one (1) Unsold Unit, Sponsor (or if it no longer owns any Unsold Unit, the Owner(s) of Unsold Units) shall exclusively appoint and designate one (1) Sponsor Board Member, as provided more fully in such subsections 2.6.3 and 2.6.4 hereof.

Section 4.10 **Action Without a Meeting**

Any action required or permitted to be taken by the Unit Owners at a duly constituted meeting of Unit Owners at which a quorum is present may be taken without such a meeting if such action is consented to, or approved in writing by, the required number and/or Common Interest (as applicable) of Unit Owners. All written consents or approvals given by such Unit Owners pursuant to this Section 4.10 shall be retained in the records of the Condominium Association for at least three (3) years together with a true copy of the resolutions to which they relate.

Section 4.11 **Title to Units**

Title to any Unit may be taken by any Person or by any two (2) 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 **Joint, Non-recourse and Limited Liability of Unit Owners**

The liability of each Unit Owner to a judgment creditor, solely by reason of being a Unit Owner, for torts relating to the common elements or for contracts entered into, or transactions conducted, by the Condominium Board on behalf of the Unit Owners, and the indemnities contained in Sections 2.19.5 and 3.10.4, shall be limited to that portion of the total liability as the Common Interest appurtenant to such Owner's Unit bears to one hundred percent (100%), and shall be limited further to the interest of the Unit Owner in its Unit and its appurtenant Common Interest in the Common Elements.

In addition, the liability of each Unit Owner with respect to all transactions of, or on behalf of, the Condominium Board, including each and every contract made and other document executed by or on behalf of the Condominium Board:

(a) shall be without recourse for personal liability of the Unit Owner and limited to the Owner's legal and equity interest in the Owner's Unit and its appurtenant Common Interest;

(b) shall be limited to only the applicable Unit Owner(s) on whose behalf the Board is acting or the transaction primarily benefits and (if more than one (1) Unit Owner) each of whom shall be liable jointly but not severally; and

(c) said joint liability of each such Unit Owner shall be further limited to such portion of the total liability as the Common Interest appurtenant to such Owner's Unit bears to the total Common Interests of all such applicable Unit Owners on whose behalf the Board is acting or the transaction primarily benefits (collectively, "**non-recourse, limited and joint liability**").

Each contract made by, or on behalf of, the Condominium Board shall expressly provide for such non-recourse, limited and joint liability in accordance with the foregoing. However, the failure to so expressly provide shall not, and shall not be construed to, in any way affect, change or waive the non-recourse, limited and joint liability of Unit Owners as set forth herein.

The provisions of this Section 4.12 are not applicable to, and shall not excuse, the personal liability of each Unit Owner for the payment of Common Charges (including Special Assessments and other Additional Common Charges) levied or imposed by the Condominium Board.

ARTICLE 5

MAINTENANCE, REPAIRS AND ALTERATIONS OF UNITS AND COMMON ELEMENTS

Section 5.1 **Maintenance and Repairs**

5.1.1 Units and Common Elements. Except as otherwise provided in the Declaration or in these By-Laws, all Decorating, Maintenance and Repairs, whether structural or non-structural, ordinary or extraordinary (collectively, "**All Repair Work**"):

(a) in or to any Unit and all portions of each thereof (excluding structural or extraordinary Repairs expressly stated elsewhere herein or in the Declaration to be performed by the Condominium Board) shall be performed in accordance and compliance with the Building's Maintenance Standard by the Owner of such Unit, at such Unit Owner's sole Cost and Expense, excluding, however, the skylights appurtenant to, and part of, the Roof Terrace Unit, which shall be performed in accordance and compliance with the Building's Maintenance Standard by, and at the sole Cost and Expense of, the Owner of Office Unit 500 until such time as the Roof Terrace Unit Owner revokes the license allowing such skylights to provide light to Office Unit 500; but including the following portions and areas of the Unit (if and to the extent existing in the Unit): (a-1) the interior walls; (a-2) the finishes and coverings of the boundary walls, ceilings and floors; (a-3) the kitchen and bathroom fixtures and appliances in or exclusively serving the Unit; (a-4) all Unit windows, if any (including washing and cleaning the indoor sides of Unit windows) and their frames, interior sills, panes, sashes, muntins, mechanisms and latches; (a-5) all interior and Unit entrance doors and their frames, hardware, glass and saddles; (a-6) all individual Unit plumbing, gas and electric Facilities, Equipment and Installations (whether exposed to view or concealed behind walls or partitions); (a-7) the Unit's individual HVAC units and related individual Unit Equipment, Facilities, Installations and fixtures, and those portions of the HVAC/Mechanical/Utility Building Systems exclusively serving the Unit, in each case whether exposed or concealed behind walls, floors or ceilings (but not the portions of the HVAC/Mechanical/Utility Building Systems serving another Unit or the Common Elements); (a-8) the lighting and electrical fixtures and related Equipment, Facilities and Installations (including switches, outlets and branch lines) serving only the Unit and any Common Elements incorporated therein pursuant to Article 13 of the Declaration, but excluding any other Common Elements contained therein; and (a-9) generally, all matters included as part of a Unit as set forth in Section 6.9 of the Declaration (excluding the skylights of the Roof Terrace Unit, as aforesaid); or

(b) in or to the Common Elements (other than any Common Elements incorporated into one (1) or more Units pursuant to the terms of Article 13 of the Declaration) or the Association's Properties shall be performed in accordance and compliance with the Building's Maintenance Standard by the Condominium Board and the Costs and Expenses thereof shall be charged by the Condominium Board to all Units Pro Rata to their respective Common Interests.

In accordance with the foregoing:

(x) the Costs and Expenses of All Repair Work in or to the Common Elements or the Association's Properties shall be included in the Common Expenses, which shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests;

(y) Intentionally Omitted;

(z) Intentionally Omitted;

(aa) the Costs and Expenses of All Repair Work in or to a Limited Common Element appurtenant to a specified Unit (if established) shall be borne solely by the Owner of such Unit in accordance with the Special Allocation Apportionment Rule and Section 339-m, except structural or extraordinary Repairs to a Limited Common Element not caused by the acts, omissions, negligence, abuse or neglect of said applicable Unit Owner having exclusive or substantially exclusive use thereof shall be performed by the Condominium Board as part of the Common Expenses, which shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests;

(bb) Intentionally Omitted;

(cc) the Costs and Expenses of All Repair Work in or to any Unit acquired, leased, held or Operated by the Condominium Board, or its affiliated nominee or designee, shall be included in the Common Expenses, which shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests; and

(dd) the Costs and Expenses of All Repair Work in or to the Immediately Adjacent Sidewalks to the Property or the Vaults thereunder shall be paid by the Condominium Board as part of the Common Expenses, which shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests.

5.1.2 Vaults. Notwithstanding anything to the contrary contained herein, if The City of New York revokes the right, license or permit to use a Vault, the Work to seal such Vault and to relocate the Equipment, Facilities and Installations located therein shall be performed by the Condominium Board and all Costs and Expenses of such Work shall be included in the Common Expenses, which shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests, except the Costs and Expenses to relocate any Unit Equipment, Facilities and Installations housed therein shall be specially allocated to only the Owner thereof.

5.1.3 Unit Windows, Skylights and Doors. Notwithstanding anything to the contrary provided in subsection 5.1.1 above:

(a) the indoor or interior sides of the glass surfaces of all Unit windows, the indoor or interior sides of the Roof Terrace Unit's skylights, and the Commercial Unit's street entrance are to be washed and cleaned in accordance with applicable Laws and the Building's Maintenance Standard by the Owner of such Unit, at such Owner's sole Cost and Expense, except in the case of only the Roof Terrace Unit's skylights, the Owner of

Unit 500, at such Owner's sole Cost and Expense, shall wash and clean the interior sides of such skylights until such time as the Roof Terrace Unit Owner revokes the license allowing such skylights to provide light to Office Unit 500 (the outdoor or exterior sides of Unit windows and said skylights shall be washed and cleaned by the Condominium Board as a Common Expense and charged to all Unit Owners Pro Rata to their respective Common Interests);

(b) air and water penetration between the Building Walls and the frame of a window or said skylights of a Unit shall be Repaired by the Condominium Board and the Costs and Expenses thereof shall be included in the Common Expenses, which shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests;

(c) each Unit Owner or the Owner of Office Unit 500 (in the case only of the Roof Terrace Unit's skylights) until said license is revoked, at such Owner's sole Cost and Expense, shall Maintain and Repair in accordance with the Building's Maintenance Standard all Unit windows and the Roof Terrace Unit's skylights (including their panes, latches, operating mechanisms, muntins and sashes), and interior windowsills of the Owner's Unit;

(d) Intentionally Omitted;

(e) Intentionally Omitted;

(f) the exterior and interior sides of Unit windows and the Roof Terrace Unit's skylights shall not be painted, colored, covered or otherwise Decorated or Altered in violation of the requirements of Section 10.14 of the Declaration (excluding permitted Signage on the Commercial Unit's windows); and

(g) the Sold Commercial Unit's street entrance doors (including each such door's frame, hardware and saddles), and a Sold Unit's windows shall not be replaced or Altered without obtaining the prior written Discretionary Approvals or Consents of both the Condominium Board and (during only the Sponsor Veto Control Period and until said permanent new or amended Certificate of Occupancy of the Building issues authorizing the use of the Commercial Unit for the purposes set forth in the Declaration and changing the use of the caretaker's apartment on a portion of Office Unit 500 for use as an office) Sponsor.

5.1.4 Major Repairs to Sold Units. Any Repair requiring a work permit or other governmental authorization is a "**Major Repair**". A Sold Unit Owner shall not make any of the following Major Repairs to the Owner's Sold Unit or its Unit Equipment without complying with the "Unit Alteration/Repair Requirements" (as defined and set forth in subsection 5.2.4 below) and obtaining the following prior written approvals or consents:

(a) the case of a Major Repair affecting the Structural Components of the Building, a Sold Unit's street entrance door (if any), windows, skylights or any other portion of a Sold Unit exposed to public view: the written Discretionary Approvals or Consents must first be obtained from both: (a-1) the Condominium Board; and (a-2) Sponsor (during only

the Sponsor Veto Control Period and until the issuance of said permanent new or amended Certificate of Occupancy of the Building with respect to the Commercial Unit and Office Unit 500); or

(b) in the case of a Major Repair affecting the HVAC/Mechanical/Utility Building Systems: the prior written Reasonable Approval or Consent must first be obtained from the Condominium Board and (during the Sponsor Veto Control Period and until said permanent new or amended Certificate of Occupancy of the Building issues) the prior written Discretionary Approval or Consent of Sponsor must also first be obtained.

5.1.5 All Repair Work and Alterations to Unsold Units. Each Unsold Unit Owner (including Sponsor) shall have the right to perform All Repair Work (including all Major Repairs) to, and Alter, such Owner's Unit, and (if established) its appurtenant Limited Common Element, Freely and Without Consent, Payment or Restriction, other than the requirement to perform same in compliance with the applicable Work Requirements set forth in Section 15.2 of the Declaration.

5.1.6 Report of Defects. Promptly upon obtaining knowledge thereof, each Unit Owner shall report to the Condominium Board or to the Managing Agent any defect or need for Repairs for which the Condominium Board is responsible pursuant to the terms hereof.

5.1.7 Performance Standard. All Repair Work performed hereunder or otherwise, whether by or at the behest of a Unit Owner or the Condominium Board, shall be performed in accordance with the Building's Maintenance Standard and in such a manner as shall not unreasonably disturb or interfere with the Use and Enjoyment of any other Unit by its Owner or such Owner's Permitted Tenants/Occupants/Invitees.

5.1.8 General Maintenance Standard of Units and Common Elements. Each Unit (including the Commercial Unit's street entrance doors, a Unit's windows, the Roof Terrace Unit's skylights and all portions thereof exposed to public view) and the Common Elements (including all portions thereof used by the public or exposed to public view) shall be kept and Maintained in accordance with the Building's Maintenance Standard by, respectively, the Owner of such Unit or (in the case only of said skylights) the Owner of Office Unit 500 (until only said license for the existence of said skylights is revoked by the Roof Terrace Unit Owner), and the Condominium Board, respectively. Each Unit Owner or the Condominium Board (as applicable) shall with reasonable diligence and continuity perform All Repair Work necessary to comply with the foregoing.

5.1.9 Neglect. Each Unit Owner shall be responsible for any and all damage to any other Unit or to the Common Elements resulting from such Owner's failure to Maintain and Repair the Owner's Unit (including its Equipment and Installations or (if established) its appurtenant Limited Common Element in accordance with these By-Laws or the Declaration.

5.1.10 Intentionally Omitted.

5.1.11 Intentionally Omitted.

5.1.12 Boundary Walls, Floors and Ceilings. Notwithstanding anything herein contained to the contrary, the Condominium Board shall perform All Repair Work in or to the following:

(a) the Building Walls and the Party Walls enclosing: (a-1) a Unit (but not Repairs to: the Unit's windows, the Roof Terrace Unit's skylights or the Unit side of wall finishes or coverings on said enclosing or boundary walls, such as paint, wallpaper, wood panel or other surface material); or (a-2) the Common Elements or the Association's Properties (if any); and

(b) the Base Floors (but not Repairs to any subflooring or the floor finishes or coverings thereon within the interior of a Unit, including tile, wood, carpet or other surface material) and Base Ceilings (but not Repairs to ceiling finishes or coverings within the interior of a Unit, such as paint, plaster or other decorative material) of: (b-1) Units; or (b-2) the Common Elements or the Association's Properties (if any); and

All Repair Work with respect to the excluded items in the preceding clauses (a) and (b) shall be performed by, and at the sole Cost and Expense of, each applicable Unit Owner or (in the case only of the Roof Terrace Unit's skylights) the Owner of Office Unit 500 (until the license for the existence of said skylights is revoked by the Roof Terrace Unit Owner).

The Costs and Expenses of All Repair Work to the foregoing portions of the Common Elements shall be allocated and assessed by the Condominium Board to all Unit Owners Pro Rata to their respective Common Interests.

5.1.13 General Obligation of Unit Owners. Each Unit Owner, at such Owner's sole Cost and Expense, shall generally be obligated to perform All Repair Work to the Owner's Unit and its Individual Unit Equipment, Facilities and Installations and (if established) appurtenant Limited Common Element in accordance and compliance with the applicable Work Requirements set forth in Section 15.2 of the Declaration, except as may otherwise expressly be provided elsewhere in these By-Laws or the Declaration (such as in the case of the Roof Terrace Unit's skylights, as to which All Repair Work shall be performed by, and at the sole Cost and Expense of, the Owner of Office Unit 500 until the license for the existence of said skylights is revoked by the Roof Terrace Unit Owner).

5.1.14 Common Elements In or Adjacent to Units. The Condominium Board shall be obligated to perform All Repair Work in or to the Common Elements in, or adjacent to, a Unit in accordance and compliance with the applicable Work Requirements set forth in Section 15.2 of the Declaration, unless necessitated by the acts, omissions, negligence, misuse, abuse or neglect of a Unit Owner (in which case same shall be Repaired by the Board at the expense of the applicable Unit Owner as provided elsewhere herein). The Costs and Expenses of All Repair Work thereto shall be allocated and assessed by the Condominium Board to all Unit Owners Pro Rata to their respective Common Interests.

5.1.15 Cooperation of Board. The Condominium Board shall reasonably cooperate with, and at the sole Cost and Expense of, each Unit Owner in connection with any Repair permitted to be made to, or in connection with, the Owner's Unit, its individual Unit

Equipment, Facilities and Installations, and (if established) its appurtenant Limited Common Element. In furtherance of such cooperation, the Condominium Board shall promptly execute and deliver any Government Document required in connection therewith, subject to the Owner's compliance with the following:

(a) such Unit Owner shall pay all required governmental fees and charges;

(b) (in the case only of a Sold Unit) the Owner of such Sold Unit shall be required to pay all reasonable professional fees (including legal, architect, engineering and other professionals and consultants) and disbursements incurred by the Condominium Board to review the Government Document and to review any accompanying drawings and specifications (such fees and disbursements shall not be charged to the Unsold Unit Owners); and

(c) such Unit Owner shall indemnify the Condominium Board, its members, officers, attorneys, agents (including Managing Agent) and employees, and all other Unit Owners, from and against any and all Claims and Liabilities and Expenses arising from the Government Document executed by the Condominium Board and from any related Work performed by, or for, such Unit Owner by the Owner's Agents, Employees and Contractors.

Section 5.2 **Alterations and Major Repairs**

5.2.1 Required Approvals or Consents. A Sold Unit Owner shall not make any of the following Alterations or Repairs to the Owner's Sold Unit or its individual Unit Equipment or Installations without complying with the "Unit Alteration/Repair Requirements" (as defined and set forth in subsection 5.2.4 below) and obtaining the following prior written approvals or consents:

(a) in the case of an Alteration or Major Repair affecting the Structural Components of the Building or any portion of a Sold Unit exposed to public view (including its entrance street doors, and windows, if and as applicable): the prior written Discretionary Approvals or Consents must first be obtained of both the Condominium Board and (during only the Sponsor Veto Control Period and until the issuance of said permanent new or amended Certificate of Occupancy of the Building) Sponsor; or

(b) in the case of an Alteration or Major Repair affecting the HVAC/Mechanical/Utility Building Systems, the prior written Reasonable Approval or Consent of the Condominium Board must first be obtained and (during only the Sponsor Veto Control Period and until the issuance of said permanent new or amended Certificate of Occupancy of the Building) the prior written Discretionary Approval or Consent of Sponsor must also first be obtained.

The foregoing approvals or consents do not apply to, and are not required in connection with, the following:

(x) the furnishing, painting and otherwise Decorating of the indoor portions of a Sold Unit that do not involve its street entrance doors, windows or other portions of such Unit exposed to public view;

(y) any Alterations (structural or nonstructural, extraordinary or ordinary, or otherwise) or Major Repairs: to Unsold Units (including their respective individual Unit Equipment, Facilities and Installations, Unit entrance doors, windows, skylights and any other portions of such Unsold Units exposed to public view); or

(z) any Alterations made by an Authorized First Sold Unit Owner that are first approved or consented to in writing by Sponsor.

5.2.2 Silence Deemed to be Approval. Except as prohibited by Law, in the event that the Condominium Board or Sponsor shall fail to answer any written, reasonably detailed request for approval within thirty (30) calendar days after such request is received, such failure to respond shall constitute the consent or approval of the Condominium Board or Sponsor (as applicable) thereto.

5.2.3 Unit Change. Notwithstanding anything to the contrary contained in subsection 5.2.1 or Section 5.1 above, Sponsor, an Unsold Unit Owner and an Authorized First Sold Unit Owner shall each have the right, from time to time, to make a Unit Change as provided in Section 13.1 of the Declaration, Freely and Without Consent, Payment or Restriction, other than those set forth in Sections 13.2 and 15.2 of the Declaration. If a Sold Unit Owner is permitted to combine all or portions of two (2) or more Units that are horizontally or vertically adjacent to each other, such Owner will have the right to incorporate and remove portions of the Common Elements between or immediately adjacent to such Owner's Units (such as: the wall space between, or the portion of a hallway serving only, such Owner's horizontally adjacent Units; or the floor slab between such Owner's vertically adjacent Units), without paying any license or use fee or rental or other charge by reason thereof (unless the approval or consent of the Board thereto is required and is conditional upon payment of such license or use fee, rental or charge), but subject to such incorporation and removal of portions of the Common Elements:

(a) being performed in compliance with the "Unit Alteration/Repair Requirements" as defined and set forth in subsection 5.2.4 below;

(b) not preventing or unlawfully impairing legal access of other Units to the public stairs, elevator, lobby or street entrance to the Building; and

(c) not diminishing or adversely and unreasonably affecting: (c-1) the proper and efficient performance, function, capacity or utility of the Building's Equipment, Facilities, Installations and Systems serving other Units or the Common Elements; or (c-2) the use of the Common Elements serving other Units for their intended purposes.

5.2.4 Unit Alteration/Repair Requirements. All Unit Alterations (i.e., permitted non-Structural and Structural Alterations) and/or permitted Major Repairs (collectively, "**Unit**

Alterations/Repairs") by a Sold Unit Owner (but not Unit Alterations/Repairs by an Unsold Unit Owner, who shall not be subject to the following) shall and must comply with the following requirements ("**Unit Alteration/Repair Requirements**"):

(a) such Unit Alterations/Repairs Work shall not commence until the Sold Unit Owner causes all required plans, specifications, notices and/or certifications to be filed with all Governmental Authorities having jurisdiction, procures all required approvals, permits and licenses with respect to the same, and delivers copies of all such plans, specifications, notices, certifications, approvals, permits and licenses to the Board or its Managing Agent (as directed by either) and Sponsor (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy);

(b) such Unit Alterations/Repairs Work shall be prosecuted diligently and with continuity to completion in compliance with all plans, specifications, notices and/or certifications and in conformity with all permits, licenses and good construction practices;

(c) such Unit Alterations/Repairs Work shall be performed in accordance and compliance with: (c-1) all applicable Work Requirements set forth in Section 15.2 of the Declaration (but subject and subordinate to Sponsor's Rights, including those set forth in Section 15.2(k) of the Declaration); and (c-2) the Work rules of the Building adopted by the Condominium Board from time to time;

(d) the Condominium Board, its Managing Agent and Sponsor (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy), and their respective employees and representatives, shall be given reasonable access and opportunity, from time to time, to inspect and monitor such Unit Alterations/Repairs Work as it progresses;

(e) all contractors involved in such Unit Alterations/Repairs Work shall be duly licensed to the extent required by applicable Law and, if required under any contract with any union whose members are performing services at the Building directly or indirectly at the behest, for the benefit, or for the account of Sponsor or the Condominium Board, such Unit Alterations/Repairs Work shall be performed solely by union members;

(f) promptly after the completion of such Unit Alterations/Repairs Work, all necessary inspections, approvals and sign-offs of Governmental Authorities having jurisdiction thereof shall be obtained, all necessary notices and/or certifications shall be filed with the appropriate Governmental Authorities and the Condominium Board or its Managing Agent (as directed by either) shall be given copies of all such inspections, approvals, notices and certifications;

(g) the Unit Alterations/Repairs shall comply with all applicable Laws;

(h) before Work commences, the Sold Unit Owner shall give the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy of the Building) Sponsor written notice of the details of the proposed Unit Alterations/Repairs and (if requested) complete drawings

showing all proposed construction changes prepared by an architect, engineer or other appropriate professional;

(i) no Unit Alterations/Repairs (including all furnishing, painting and other Decorations) shall be performed that will affect a Sold Unit's windows or other portions of the Sold Unit and (if established) its appurtenant Limited Common Element exposed to public view, unless the Owner of such Sold Unit shall obtain the prior written Discretionary Approvals or Consents therefor from both the Condominium Board and (during only the Sponsor Veto Control Period and until the issuance of said permanent new or amended Certificate of Occupancy of the Building) Sponsor;

(j) (if required by the Condominium Board) before such Unit Alterations/Repairs Work to a Sold Unit (including its windows and skylights, if any) commences, the Sold Unit Owner shall sign and deliver to the Condominium Board an Alteration agreement, on the standard form adopted by, and in substance satisfactory to, the Condominium Board, setting forth the terms and conditions for performing the Unit Alterations/Repairs (including the Condominium Board's Work rules, insurance, lien waiver and security deposit requirements and an indemnity in favor of the Condominium Board, its members, officer, attorneys, agents (including Managing Agent) and employees, and all other Unit Owners, from and against any and all Claims and Liabilities and Expenses arising out of the Unit Alterations/Repairs); and

(k) the Sold Unit Owner shall pay or reimburse the Board (as directed by the Board) for the Costs and Expenses it incurs in connection with the foregoing, including fees and disbursements of the Board's architect, engineer, attorneys, professionals, consultants and Managing Agent to review the construction drawing and related plans and specifications of the proposed Unit Alterations/Repairs, to review the governmental approvals, permits and licenses, to prepare the standard Unit Alteration agreement, to inspect and monitor the Unit Alterations/Repairs Work and generally to oversee and enforce compliance with the Unit Alteration agreement and the Unit Alteration/Repair Requirements.

If a Sold Unit Owner violates or breaches any such Unit Alteration/Repair Requirements, the Condominium Board and (during only the Sponsor Veto Control Period and until issuance of said permanent new or amended Certificate of Occupancy) Sponsor shall each be entitled, in addition to all other rights and remedies provided in these By-Laws or the Declaration, or available at Law or in equity, to cause such Unit Alterations/Repairs Work by the Sold Unit Owner to be halted, including causing the Managing Agent to deny access to the Building to such Owner's Agents, Employees and Contractors and suppliers (other than to permit them to remove their tools and Equipment, provided they are accompanied by the Building's superintendent or other person designated by the Board) until such Owner complies with the same, and if required to avoid an interruption of any Building services to a Unit or the Common Elements, or to avoid or discharge a violation of Law or to remove a condition which threatens the structural integrity of the Building or any portion thereof or the life, health, safety, security or protection of Owners and occupants of Units, to cause all such Unit Alterations/Repairs Work to be removed and the Unit restored to its prior condition before undertaking such work, at such Owner's sole Cost and Expense.

All references in this subsection 5.2.4 to the Condominium Board shall mean a majority of those Board Members attending a duly constituted meeting of the Condominium Board at which a quorum is present.

The foregoing Unit Alteration/Repair Requirements do not apply to: (a) all furnishing, painting and otherwise Decorating the portions of a Sold Unit that do not involve the street entrance doors to the Sold Unit or permitted Signage of the Commercial Unit, or a Sold Unit's windows, skylights or other portions thereof exposed to public view or otherwise do not affect the exterior appearance of the Building; or (b) Unit Alterations/Repairs to Unsold Units. All permitted furnishing, painting and Decorating by a Sold Unit Owner and all Unit Alterations/Repairs by Sponsor or an Unsold Unit Owner may be made and performed Freely and Without Consent, Payment or Restriction, other than the requirement to comply with the applicable Work Requirements set forth in Section 15.2 of the Declaration. Unit Alterations/Repairs by an Authorized First Sold Unit Owner who is given written authorization for the Unit Alterations/Repairs by Sponsor or an Unsold Unit Owner (as applicable) at or prior to title closing shall not be subject to (and may be made without) Board approval, but shall be subject to compliance with the "Unit Change Requirements" defined and provided in Section 13.2(r) of the Declaration.

5.2.5 Government Documents. The Condominium Board shall execute and return to Sponsor, an Unsold Unit Owner, or a Sold Unit Owner who complies with all of the foregoing Unit Alteration/Repair Requirements, as applicable, any Government Document reasonably required for the Unit Alterations/Repairs by such Party, subject to such Party's compliance with the following:

(a) such Unit Owner shall be required to pay all required governmental fees and charges in connection with such Government Document;

(b) such Sold Unit Owner shall be required to pay all reasonable professional fees (including legal, architect, engineering and other professionals and consultants) and disbursements incurred by the Condominium Board to review the Government Document and to review any accompanying drawings and specifications (the foregoing is not applicable to an Unsold Unit Owner, who is exempt from making any such payments); and

(c) such Unit Owner shall indemnify the Condominium Board, its members, officers, attorneys, agents (including the Managing Agent) and employees and all other Unit Owners from and against any and all Claims and Liabilities and Expenses arising from the Government Document executed by the Condominium Board and from any related Work performed by, or for, such Owner by such Owner's Agents, Employees and Contractors.

5.2.6 Immunity of Board and Other Unit Owners. The Condominium Board and its members, officers, attorneys, agents (including the Managing Agent) and employees, and Unit Owners (other than the applicable Unit Owner undertaking the Unit Alterations/Repairs) shall not be liable for any Claims or Liabilities and Expenses in connection with the preparation, execution or submission of a Government Document or that may be asserted by: (a) any contractor, subcontractor, materialman, architect, engineer or other professional or consultant on

account of any such Unit Alterations/Repairs; or (b) any Person for personal injury or property damage arising therefrom.

5.2.7 Indemnity. The Unit Owner (including Sponsor, an Unsold and a Sold Unit Owner) undertaking such Unit Alterations/Repairs shall indemnify the Condominium Board, its members, officers, attorneys, agents (including the Managing Agent), employees and all other Unit Owners from and against any and all Claims and Liabilities and Expenses arising in connection with such Unit Alterations/Repairs, unless resulting from the acts, omissions or negligence of the indemnified Party.

5.2.8 Consent of Sponsor. In addition to the requirements set forth above in this Section 5.2 and in accordance with Section 15.2(k) of the Declaration, until said permanent new or amended Certificate of Occupancy for the Building is obtained, no Work (including Unit Alterations/Repairs) shall be undertaken by an Owner, tenant or occupant of a Sold Unit or by the Condominium Board (other than ordinary Maintenance and Repairs that do not require the filing of an alteration application with, or the issuance of a building or construction or work permit or similar authorization from the New York City Department of Buildings or other Governmental Authority) without first obtaining Sponsor's written Discretionary Approval or Consent. Sponsor may (at Sponsor's sole and absolute discretion) condition such approval or consent upon said Sold Unit Owner or the Condominium Board (as applicable) strictly complying with Sponsor's requirements with respect to the same. Such requirements may include, among others, that:

(a) such Work shall not require a change to a then existing temporary Certificate of Occupancy of the Building nor delay obtaining an extension of a temporary Certificate of Occupancy or said permanent new or amended Certificate of Occupancy of the Building;

(b) the Sold Unit Owner or the Condominium Board (as applicable) shall post with Sponsor a cash deposit, bond or other similar security that is reasonably acceptable to Sponsor in an amount sufficient (in Sponsor's reasonable judgment) to insure the diligent, lien-free completion of the Work and the filing of any required notices or certificates with respect to such Work and the completion of the same with all Governmental Authorities having jurisdiction;

(c) such Work shall not be commenced until the Sold Unit Owner or the Condominium Board (as applicable) causes all required plans, specifications, notices and/or certifications to be filed with all Governmental Authorities having jurisdiction, procures all required permits and licenses with respect to the same, and delivers copies of all such plans, specifications, notices, certifications, permits and licenses to Sponsor;

(d) such Work shall be prosecuted with commercially reasonable diligence and continuity to completion in compliance with all plans, specifications, notices and/or certifications and in conformity with all permits and licenses;

(e) Sponsor and its representatives shall be given reasonable access and opportunity, from time to time, to inspect and monitor such Work as it progresses;

(f) promptly after the completion of such Work, all necessary governmental inspections, approvals and sign-offs of the same shall be obtained, all necessary notices and/or certifications shall be filed with the appropriate Governmental Authorities and Sponsor shall be given copies of all such inspections, approvals, sign-offs, notices and certifications;

(g) the Sold Unit Owner or the Condominium Board (as applicable) shall indemnify Sponsor from and against any and all Claims and Liabilities and Expenses arising, directly or indirectly, from such Work, including any incurred or suffered by Sponsor due to any violation of Law or due to any delay in obtaining an extension of a temporary Certificate of Occupancy or the issuance of said permanent new or amended Certificate of Occupancy of the Building as a result of such Work or the failure to make all appropriate governmental filings in connection with the same; and

(h) all contractors shall be duly licensed to the extent required by applicable Law and, if required under any contract with any union whose members are performing services at the Building (directly or indirectly at the behest, for the benefit, or for the account of Sponsor), such Work shall be performed solely by union members.

If any Sold Unit Owner or the Condominium Board (as applicable) commences or prosecutes any such Work (including Unit Alterations/Repairs) in violation of the foregoing terms and conditions, or fails to comply with the requirements of Sponsor in connection with the same, Sponsor shall be entitled, in addition to all other rights and remedies provided in these By-Laws or the Declaration, or available at Law or in equity, to cause such Work by the Unit Owner or the Condominium Board (as applicable) to be halted, including to cause the Managing Agent to deny access to the Unit and the Building to the Agents, Employees and Contractors and suppliers of such Owner or the Board (as applicable) (other than to remove their tools and Equipment, provided they are accompanied by the Building's superintendent or other person designated by Sponsor), until the Unit Owner or the Condominium Board (as applicable) complies with the same. During the period until such Unit Owner or the Condominium Board (as applicable) is permitted hereunder to resume its Work, Sponsor shall have the right to perform any and all Work in and to such Owner's Unit or the Common Elements (as applicable) as shall be necessary, in Sponsor's sole and absolute judgment, in order to avoid any delay in obtaining an extension of a temporary Certificate of Occupancy or the issuance of said permanent new or amended Certificate of Occupancy of the Building, whether or not such Work shall be in compliance with the plans and specifications for the Work theretofore performed by, or on behalf of, such Unit Owner or the Condominium Board (as applicable). The Costs and Expenses of any such Work performed by Sponsor shall be borne by such Unit Owner or the Condominium Board (as applicable) and shall be paid to, and received by, Sponsor within fifteen (15) calendar days of Sponsor giving a reasonably detailed written demand therefor, accompanied by copies of applicable bills of contractors and suppliers and/or a written statement from Sponsor or the hourly wages of Sponsor's employees engaged in performing or overseeing such work.

5.2.9 Sponsor's Right to Alter. The foregoing Unit Alteration/Repair Requirements are applicable only to a Sold Unit, but do not apply to any Unsold Unit. Sponsor and Unsold Unit Owners shall each have the right ("**Sponsor's Right to Alter**") to Alter its

Unit(s) and the Common Elements in accordance with the rights and easements reserved to Sponsor and granted to Unsold Unit Owners in the Declaration, these By-Laws and the Plan. Sponsor and each Unsold Unit Owner may exercise Sponsor's Right to Alter Freely and Without Consent, Payment or Restriction, other than the requirement to comply with the applicable Work Requirements set forth in Section 15.2 of the Declaration. Sponsor's Right to Alter includes all Work pursuant to Sponsor's Obligations under the Plan, all changes to Units and Common Elements set forth in Article 13 of the Declaration and in the Plan, and all rights and easements reserved to, and granted by, Sponsor in Articles 10, 11 and 12 of the Declaration, including the following rights and easements of Sponsor and Unsold Unit Owners, and their respective Agents, Employees and Contractors, which may be exercised and performed from time to time, Freely and Without Consent, Payment or Restriction (other than the proviso stated below):

(a) the right and easement to newly install and connect to any Building Equipment, Facilities, Installations and Systems (comprising the Common Elements) any Equipment, Facilities, Installations and Systems now or hereafter serving any Unsold Unit or any portion thereof;

(b) the right and easement to thereafter Maintain, Repair, Alter and otherwise Operate such newly installed and connected Equipment, Facilities, Installations and Systems; and

(c) the right and easement to have reasonable access to the Common Elements to perform Work in connection with the foregoing;

provided only that:

(x) such new Equipment, Facilities, Installations and Systems, and connections, and the subsequent Maintenance, Repair, Alteration and Operation thereof, shall be performed in accordance with the Installation Requirements set forth in Section 10.4.2 of the Declaration and the applicable Work Requirements set forth in Section 15.2 of the Declaration;

(y) the new connections shall not unreasonably and adversely affect any Building Equipment, Facilities, Installations and Systems serving other Units or the Common Elements or otherwise permanently diminish the proper and efficient performance, function, capacity or utility of any Building Equipment, Facilities, Installations and Systems serving other Units or the Common Elements so as to prevent or unreasonably impair the use or Operation of any Unit or Common Element for its intended purpose;

(z) the new connections shall not unreasonably and adversely affect the structural integrity of the Building or any portion thereof or the Operation of the Building or the use of any other Unit for its intended purpose; and

(aa) no new Equipment, Facilities, Installations or Systems (other than replacements of existing Equipment, Facilities, Installations or Systems, or Equipment, Facilities, Installations or Systems to be installed in accordance with Sponsor's plans and specifications for the construction of the Commercial Unit and the alteration of Office Unit 500 or Sponsor's Obligations under the Plan or a Plan Amendment) shall be

installed after the issuance of said permanent new or amended Certificate of Occupancy of the Building that encroaches on any public hallway or the office lobby or any other ground level or above-grade, indoor rentable space within the public areas of the Common Elements (if any).

The Agents, Employees and Contractors of Sponsor and each Unsold Unit Owner shall be given reasonable access to, from, through, across and on the Common Elements (including the 100 Vandam Street Public Areas and elevator) to perform such Alterations to an Unsold Unit or the Common Elements, as well as to Maintain, Repair, Alter and otherwise Operate same. Such access includes the right to transport and store materials, supplies and Equipment, and to cause a temporary interruption in Building services, but shall be exercised in a reasonable manner so as not to unreasonably interfere with the permitted use or Operation of another Owner's Unit in accordance with the Declaration and By-Laws.

5.2.10 Board Alterations. The Condominium Board shall have the substantially exclusive right and responsibility to make all necessary or desirable Alterations to the Common Elements and the Association's Properties, including Units owned, leased or otherwise held or Operated by the Condominium Board or its affiliated nominee or designee (collectively, "**Board Alterations**"). All Board Alterations shall be performed in accordance and compliance with the Declaration and in particular (but not limited to) Sections 14.4 and 14.5 and Article 15 thereof, but subject and subordinate to all easements and rights expressly reserved to Sponsor and granted to the Unsold Unit Owners, the Commercial Unit Owner and the Roof Terrace Unit Owner in the Declaration, these By-Laws or the Plan. The Condominium Board must first obtain all requisite approvals of Sponsor before undertaking any Board Alterations as and to the extent set forth in Section 14.5 of the Declaration.

All Board Alterations to Common Elements or the Association's Properties permitted pursuant to said provisions of the Declaration shall be made and performed by the Condominium Board and the Costs and Expenses thereof shall be part of the Common Expenses, which shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests.

5.2.11 Lot Line Windows. Each of the following Office Units has one (1) or more lot line windows located on the south façade of 100 Vandam Street: Office Unit 200 (one lot line window), Office Unit 400 (three lot line windows) and Office Unit 500 (six lot line windows). Lot line windows must be closed and walled-up when a building on an adjacent lot is constructed or altered within a certain distance from them. The removal of an affected lot line window, the closure and sealing of the opening upon such removal, and the covering of the interior side thereof with only the Building standard wall finishing shall be performed by the Condominium Board as a Common Expense and charged to all Unit Owners Pro Rata to their respective Common Interests. The Condominium Board shall not be required to match the finishing on the walls immediately adjacent to the affected lot line window or any finishing that might have been installed by the Owner of the affected Unit, which may be undertaken by said Unit Owner, at its sole Cost and Expense, if desired.

The existing lot line windows are not fire-rated and do not have wire glass as is currently required by applicable Law. The Owner of the affected Unit, at its sole Cost and Expense, will be responsible to replace its lot line window(s) with a code-compliant fire-rated window(s), if a

violation with respect thereto is issued or noted. In addition, the respective Owners of Units 400 and 500, at each such Owner's sole Cost and Expense, will have the right to install ventilation fans and related Installations on the common area of the main Roof and through the common areas of floors 4 and 5 Reasonably Approved by the Board in order to provide mechanical ventilation to its Unit in the event its lot line windows are closed.

Section 5.3 **Declaration Governs Maintenance, Repairs and Alterations of Units, Common Elements and Association's Properties**

The provisions of the Declaration, and in particular (but not limited to) Articles 13, 14 and 15 thereof, relating to the Maintenance, Repairs and Alterations of the Units, the Common Elements and the Association's Properties, are hereby incorporated herein and are paramount and shall govern the duty, right, terms, restrictions, requirements, approvals and consents, if any, of a Unit Owner or the Condominium Board (as applicable) to perform and pay the Costs and Expenses of Maintenance, Repairs and Alterations of the Units, the Common Elements and the Association's Properties.

Section 5.4 **Acts, Omissions, Negligence, etc.**

The provisions of this Article 5 to the contrary notwithstanding, in accordance with Section 14.7 of the Declaration, in the event that any Maintenance, Repairs, Alterations or other Work is necessitated by the acts, omissions, negligence, misuse, abuse or neglect of:

(a) a Unit Owner or a tenant, licensee or occupant of a Unit, or the Agents, Employees and Contractors of such Unit Owner, licensee or tenant, then the entire Costs and Expenses thereof shall be charged to, and borne by, only such Unit Owner and, if paid by the Board, shall be assessed as an Additional Common Charge against such Owner's Unit and shall be payable solely by such Unit Owner immediately following the giving of a reasonably detailed written demand therefor; or

(b) the Condominium Board or its Agents, Employees and Contractors, then the entire Costs and Expenses thereof shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests.

Nothing contained herein shall be deemed a waiver of any Claims the Board or a Unit Owner may have against an insurer or otherwise. In addition, if the liability of a Unit Owner under the preceding clause (a) is the result of a casualty caused by the acts, omissions, negligence, misuse, abuse or neglect of such Unit Owner (or other party set forth in clause (a) above) and such casualty is insured under a policy maintained by the Condominium Board containing a waiver of subrogation or equivalent provision, then such Unit Owner's liability shall be reduced by the amount of any insurance proceeds received and collected by the Condominium Board in connection therewith.

Section 5.5 **Damages Necessitated by Repairs or Alterations**

5.5.1 Damages to Common Elements or Association's Properties. Any damages to the Common Elements or the Association's Properties resulting from any permitted or necessary Repair, Alteration or other Work undertaken by an Owner, tenant or occupant of a

Unit shall be Repaired by the Condominium Board and the Costs and Expenses thereof shall be paid or reimbursed to the Board (as directed by the Board) by the Owner of such Unit as Additional Common Charges assessed to the Unit. The amount owed is to be paid or reimbursed within ten (10) calendar days after a reasonably detailed written statement or bill therefor is given to such Unit Owner, together with copies of supporting bills or invoices from contractors and/or the Condominium Board for time charges of the Building staff or the Board's agents, architect, engineer or other consultant engaged in the Repair Work (if any), and copies of bills for materials and supplies, for which payment or reimbursement is sought. Nothing herein shall be construed to permit an Owner, tenant or occupant of a Sold Unit to undertake any Repair, Alteration or other Work without obtaining any required prior written Discretionary or Reasonable Approval or Consent of the Condominium Board or Sponsor (if and as applicable) set forth in the Declaration or these By-Laws.

5.5.2 Damages to Unit. In the event any Repairs, Alterations or other Work undertaken by the Condominium Board requires the removal of any floor, wall or ceiling coverings or other Decorations of an Office or Commercial Unit, or necessitates such coverings or Decorations of a Unit to be damaged due to (for example) openings or penetrations of floors, walls or ceilings of a Unit, or otherwise, the Condominium Board shall restore the affected floors, walls and ceilings of the applicable Office or Commercial Unit to only Building standard condition and finish (i.e., as existing at the date of recording the Declaration or (as to only the Commercial Unit and Office Unit 500) the date of issuance of said permanent new or amended Certificate of Occupancy of the Building), without repairing or restoring the additions, improvements, Decorations of the affected Unit made or installed by the Owner, tenant or occupant of the Unit. In the case of Repairs, Alterations or other Work undertaken by the Condominium Board that require the removal or penetration of the decking or other flooring comprising the Roof Terrace Unit, or necessitates such flooring to be damaged in order to access the floor or Roof Structures below or enclosing the Roof Terrace Unit, the Board shall not be responsible or liable to repair or restore said flooring. The Owner of such Unit shall have the sole risk for any damage to said coverings and Decorations of the Office or Unit (as applicable), or said flooring comprising the Roof Terrace Unit, and the sole responsibility, at such Owner's sole Cost and Expense, to re-install, restore, replace and otherwise Repair same (to the extent required by Law), without recourse against the Board or other Unit Owners therefor or for any losses or damages (whether actual, compensatory, consequential, incidental, special, indirect or otherwise) resulting therefrom. The foregoing shall not excuse the Board from liability for any losses or damages to a Unit, or its individual Unit Equipment, Facilities, Installations or Decorations, or to the personal property of the Owner, tenant or occupants of a Unit, resulting from negligence or wrongful acts or omissions by the Condominium Board or its Agents, Employees and Contractors.

ARTICLE 6

INSURANCE

Section 6.1 **Insurance Requirements for the Condominium Board**

At the First Unit Closing under the Plan, Sponsor will provide at the expense of the Condominium Board, the insurance coverage disclosed in a note to the First Year's Budget set forth as SCHEDULE B in Part I of the Plan. Thereafter, the Condominium Board will maintain

such insurance to the extent obtainable regardless of whether same is obtainable at reasonable rates (unless otherwise noted). However, the Condominium Board may change the insurance from time to time, but may not eliminate insurance coverage that is obtainable and is required to be maintained under these By-Laws. In addition, the Condominium Board may not increase decrease, eliminate or otherwise change the amounts or types of insurance coverage in said SCHEDULE B during only the Sponsor Veto Control Period unless the prior written Discretionary Approval or Consent of Sponsor is given as provided in subsection 2.5.8 hereof.

Section 6.2 **Fire and Casualty Insurance**

6.2.1 Coverage and Insured Parties. The Board shall obtain and maintain fire insurance with all risk coverage, vandalism and malicious mischief endorsements, insuring the Common Elements, including the walls separating the Units from the Common Elements and from each other, and covering the interests of the Condominium Board and all Unit Owners and their mortgagees, as their respective interests may appear, in an amount equal to 100% of the full replacement value of the portions of the Property required to be insured against loss or damage pursuant to this clause (exclusive of foundations and footings), without deduction for depreciation.

6.2.2 Amount and Special Provisions. The fire and casualty insurance coverage shall be not less than an amount which shall be sufficient for the insurer to waive any co-insurance requirement or is based on an "Agreed Amount" replacement cost (or comparable term). In addition, such fire and casualty policies shall contain (if obtainable):

(a) waivers of: (a-1) subrogation in favor of Owners and designated tenants of Units, (a-2) any defense based upon co-insurance or other insurance, (a-3) invalidity arising out of the acts of an insured party and (a-4) pro rata reduction of liability;

(b) a provision that any adjustment of loss will be made by the Condominium Board (notwithstanding such provision, an Unsold Unit Owner shall have the right to settle and adjust a claim for loss to such Owner's Unsold Unit on the terms and conditions set forth in subsection 6.9.3 below) and that all proceeds will be paid to the Condominium Board or (at the option of the Board) an Insurance Trustee appointed pursuant to these By-Laws where the Board is to restore the damaged area in accordance with these By-Laws;

(c) a New York Standard Mortgagee provision in favor of each Permitted Mortgagee, subject and subordinate however to the preceding loss payment provisions in favor of the Condominium Board or (at the option of the Board) Insurance Trustee; and

(d) a provision preventing the policy from being canceled or substantially modified unless at least ten (10) calendar days' prior written notice is given to the Condominium Board.

6.2.3 Appraisal. Before obtaining any policy of property casualty insurance or any renewal thereof, the Condominium Board may obtain an appraisal from a property insurance company or otherwise of the full replacement value of the portions of the Property, exclusive of foundations and footings, and without deduction for depreciation, for the purposes of determining the amount of such property casualty insurance to be obtained pursuant to this Section. Any such appraisal of the Building obtained within twelve (12) months preceding the

date of issuance of said property casualty insurance policy or a renewal thereof shall suffice for this purpose.

6.2.4 Proof of Insurance. Duplicate originals of all policies of property casualty insurance and of all renewals thereof, together with proof of payment of the premiums, shall be delivered to Sponsor or its successors and assigns as Owner of an Unsold Unit and a Registered Mortgagee of an Unsold Unit at least thirty (30) calendar days prior to the expiration of the then current policies.

6.2.5 Excluded From Coverage. The property casualty insurance shall not cover the Decorations or finishes of walls, floors or ceilings of the Common Elements (unless otherwise determined by the Condominium Board) or of any Unit not owned, leased, held or Operated by the Board (or its affiliated nominee or designee), or the contents of any such Unit (including its appliances, cabinets and fixtures (electric, plumbing, business, trade and otherwise), furniture, furnishings, equipment, Decorations and other personal property).

Section 6.3 **Liability Insurance**

6.3.1 Coverage. The Condominium Board shall obtain and maintain commercial general liability coverage written on the Insurance Services Office form – 1986 or later (containing the so-called "occurrence clause"), or equivalent comprehensive general liability coverage, with respect to ownership, Operation, Maintenance, use and control, insuring against liability for injury or damage to persons or property in or upon the Common Elements, the Immediately Adjacent Sidewalks to the Property and the Association's Properties (including) all Units or other property (if any) owned, leased, held or Operated by the Condominium Board, or its affiliated nominee or designee). The Condominium Board may, in its discretion, obtain umbrella liability insurance in such amounts in excess of that (if any) provided in the First Year's Budget (SCHEDULE B in Section E of Part I of the Plan) as the Condominium Board may determine from time to time.

6.3.2 Amount. The liability coverage shall be in such amounts as the Condominium Board may determine from time to time, but shall not be reduced below the amount set forth in the First Year's Budget (SCHEDULE B in Section E of Part I of the Plan) without obtaining the prior written Discretionary Approval or Consent of Sponsor during only the Sponsor Veto Control Period (as provided in subsection 2.5.8 above). The Condominium Board shall review the amounts of liability coverage at least once each Budget Year.

6.3.3 Insured Parties. The liability policies shall list as co-insureds: (a) the Condominium Board and each and every member and officer thereof; (b) the Managing Agent or manager (if any); (c) each agent and employee of the Condominium Board; (d) each Unit Owner; and (e) (if required by the terms of a Registered Mortgage of a Unit) the holder of such Registered Mortgage, as their respective interests may appear.

6.3.4 Excluded from Coverage. Such insurance shall not cover liability of a Unit Owner arising from occurrences within or on the Owner's Unit. This exception shall not apply to any Unit owned, leased, held or Operated by the Condominium Board or its affiliated nominee or designee.

6.3.5 Proof of Insurance. Duplicate originals of all policies of liability insurance and of all renewals thereof, together with proof of payment of premiums for such liability coverage shall be given to Sponsor or its successors and assigns, as Owner of an Unsold Unit, within ten (10) calendar days after being requested.

Section 6.4 **Boiler and Machinery Insurance**

The Condominium Board shall obtain and maintain boiler and machinery insurance on Equipment constituting part of the Common Elements or the Association's Properties (including any Unit owned, leased, held or Operated by the Board, or its affiliated nominee or designee), but not any Equipment that is part of any other Unit (which may be separately insured by the Owner of such Unit).

Section 6.5 **Workmen's Compensation**

The Condominium Board shall obtain and maintain workmen's compensation insurance, New York State disability benefits insurance and employer's liability coverage covering any employees hired by the Condominium Board.

Section 6.6 **Other Insurance**

The Condominium Board shall also obtain and maintain the following insurance to the extent available at reasonable rates: (a) business interruption insurance, including loss of rents in an amount equal to the Common Charges for at least 12 months; (b) water damage legal liability insurance; (c) elevator liability and collision insurance; (d) non-owned and hired automobile liability insurance; (e) combination crime insurance, including blanket employee dishonesty, forgery or alteration, covering the members and officers of the Condominium Board, the Managing Agent (if any) and employees (if any) handling funds of the Condominium Board; and (f) officers and directors liability insurance for officers and members of the Condominium Board. The Condominium Board may obtain and maintain such other or additional insurance as the Condominium Board shall determine from time to time.

Section 6.7 **Insurance Covering Work Performed by Board**

In connection with Work performed by or on behalf of the Condominium Board, if not already covered by insurance policies then maintained by the Condominium Board, the Condominium Board shall also obtain and maintain installation floater coverage in an amount equal to the cost of the contract for any Work performed by or on behalf of the Condominium Board on the Property or cause its contractors to maintain equivalent insurance, naming the Condominium Board, all Unit Owners and the Registered Mortgagees as their respective interests may appear, except that such insurance shall not be required if the estimated cost of such Work is less than One Hundred Thousand ($100,000) Dollars.

Section 6.8 **Insurance Amounts and Deductibility**

To the extent not specified above, all such insurance shall be in such amounts and may provide for such deductible amounts as the Condominium Board may determine from time to

time in its sole and absolute discretion, but subject to obtaining Sponsor's prior written Discretionary Approval or Consent during only the Sponsor Veto Control Period.

Section 6.9 **Adjustment and Payments**

6.9.1 Adjustments by Board. All of the above policies shall provide that adjustment of loss shall be made by the Condominium Board and all policies of property casualty insurance shall provide that the proceeds of insurance shall be paid as follows: (a) to the Condominium Board, if $1,000,000.00 or less; or (at the option of the Condominium Board) (b) to the Insurance Trustee, if in excess of $1,000,000.00.

6.9.2 Payments. In either instance, all such insurance proceeds actually received by the Board or Insurance Trustee shall be held in trust for the benefit of all Unit Owners and their respective Permitted Mortgagees and shall be disbursed as provided in Article 7 below.

6.9.3 Unsold Unit. The foregoing notwithstanding, an Unsold Unit Owner shall have the right to settle and adjust any claim for a loss to its Unsold Unit or any portion thereof and/or such Unit's individual Unit Equipment, Facilities and Installations, provided that the insurance proceeds applicable to a loss to any other Unit or the Common Elements shall not be reduced thereby.

6.9.4 Insurance Trustee's Fees and Disbursements. The fees and expenses of any Insurance Trustee shall be paid by the Condominium Board as a Common Expense, which shall be allocated and assessed by the Board to all Unit Owners Pro Rata to their respective Common Interests.

Section 6.10 **Allocation of Insurance Premiums**

Unless otherwise expressly provided elsewhere in the Declaration or these By-Laws, the premiums for insurance maintained by the Condominium Board in accordance with this Article 6 shall be a Common Expense, which shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests, subject to the Commercial Unit Owner paying the amount of the increase in the Property's insurance premium (if any) caused solely by the use of the Commercial Unit for other than permitted office purposes as provided in said Section E of Part I of the Plan, the First Year's Budget (SCHEDULE B) contained therein, these By-Laws and Article 9 of the Declaration.

Section 6.11 **Insurance Requirements for Unit Owners**

6.11.1 General Prohibitions. A Unit Owner shall not:

(a) do or permit or suffer any act or thing to be done in or to such Owner's Unit that will, with reasonable likelihood, invalidate, or invalidates, or be in conflict with, any public liability, property or other policy of insurance at any time carried by the Condominium Board with respect to the Property, except no such policy maintained by the Condominium Board shall conflict with or prohibit any use of a Unit permitted under the Declaration;

(b) keep anything in its Unit that is prohibited by the Fire Department, Board of Fire Underwriters, or a fire insurance rating organization or other authority having jurisdiction;

(c) permit or suffer a Unit to be used in any manner that will, with reasonable likelihood, increase, or increases, the insurance rate for the Property over that in effect as of the First Unit Closing (including uses permitted and intended by the Declaration), unless the Unit Owner responsible for such increase pays the additional cost thereof as provided in the following subsection 6.11.2; or

(d) perform or cause to be performed any Work affecting the Common Elements without first obtaining and continuously maintaining until the Work is completed, at the sole Cost and Expense of such Unit Owner, the insurance required in subsection 6.11.3 below.

6.11.2 Unit Owner Liability for Default or Higher Rate. Any costs, expenses, fines, penalties or damages which shall be imposed upon the Condominium Board by reason of a default by a Unit Owner in performing its obligations under this Section 6.11 or by reason of any increase in the premium charged for insurance carried by the Condominium Board resulting from a higher insurance rate for the Property attributable to a use of an Owner's Unit or a portion thereof, including uses permitted and intended by the Declaration, shall be assessed as an Additional Common Charge against only such Unit and shall be payable solely by the Owner of such Unit. Accordingly, the amount of the increase in the Property's insurance premium (if any) caused solely by the use of the Commercial Unit for other than permitted office purposes shall be specially allocated and assessed to only the Owner of such Commercial Unit pursuant to Section 6.10 above. For all purposes hereunder, a schedule or "make-up" of rate for the Property issued by the New York Fire Insurance Exchange or other body making fire insurance rates applicable to the Property shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rate or rates then applicable to the Property.

6.11.3 Work by Unit Owner. A Unit Owner, at such Owner's sole Cost and Expense, shall maintain or cause to be maintained by its contractor or otherwise the following insurance during its performance of any Work, other than Work exclusively within its Unit that does not affect any of the Common Elements:

(a) Workmen's Compensation and Disability Benefits Insurance as required by the Laws of the State of New York and Employer's Liability Insurance;

(b) Commercial General Liability and Products/Completed Operations Coverage to the extent such insurance coverage is not included in a policy maintained by the Condominium Board, including the Condominium Board, its agents, successors and assigns, and any tenant or tenants of the Unit as additional insureds with a minimum limit of $1,000,000.00 each occurrence and $2,000,000.00 in the aggregate. Additional Commercial General Liability coverage extensions required: This Insurance is Primary Endorsement; Contractual Liability; Per Project Aggregate; and Waiver of Subrogation; and

(c) Installation floater coverage in an amount equal to the cost of the contract for any Work performed in the Common Elements, naming as additional insureds the Unit Owners, the Condominium Board, and any mortgagee of the Unit Owner performing such Work, as their respective interests may appear, except that such insurance shall not be required if the estimated cost of the Work in the Common Elements is less than One Hundred Thousand ($100,000) Dollars and is covered by insurance policies maintained by the Condominium Board.

Section 6.12 **General Insurance Matters**

The policies of insurance required to be maintained under this Article 6 shall meet the following criteria:

(a) The policies of insurance shall be from a company rated in the A.M. Best Key Rating Guide with ratings of at least A- and of at least VI and such company shall be licensed to do business in the State of New York.

(b) The policies shall contain a provision that before any change or cancellation of a policy, at least thirty (30) calendar days' advance written notice by certified mail, return receipt requested, shall be given: (b-1) in the case of insurance maintained by the Condominium Board under Sections 6.2 to 6.7 above, to the Condominium Board and (if and to the extent obtainable at reasonable rates) to all Unit Owners and Registered Mortgagees; and (b-2) in the case of insurance maintained by a Unit Owner under subsections 6.11.1 and 6.11.3, to the Condominium Board. All policies required to be obtained by the Condominium Board pursuant to this Article shall be renewed or replaced at least ten (10) calendar days prior to the expiration of the then current term.

(c) All policies for property insurance maintained by the Condominium Board under Section 6.2 above shall contain (if and to the extent obtainable) waivers of subrogation and generally all policies maintained by the Condominium Board shall also cover (if obtainable) cross-liability claims of one insured against another insured.

(d) All policies shall acknowledge that all Unit Owners are deemed additional insureds for any liability insurance and loss payees for property insurance although not individually named and that the Condominium Board is authorized to sign all checks for payment of proceeds or other instruments required in connection with the processing, payment and settlement of claims on such Unit Owner's behalf (other than the Unit Owner owning the policy under which such proceeds are paid).

(e) Each liability policy shall be endorsed (if obtainable) with a severability of interest endorsement, if not otherwise included, stating that if a claim is brought by one insured against another insured under such policy, or by an employee of one insured against another insured under such policy, each insured shall be considered a separate insured for purposes of the insurance and shall meet the following additional criteria: (e-1) the policies shall be written with a contractual liability endorsement, if not otherwise included, providing coverage for bodily injury or property damage assumed under any type of written contract, except any contract under which the insured assumes liability for

the sole negligence of an indemnitee; and (e-2) the policies shall be written to specifically include coverage for legal liability for damage of any part of the Property by fire.

(f) Any policies required to be furnished by a Unit Owner pursuant to Section 6.11 above may be maintained by the Unit Owner under a blanket policy or policies; provided, however, that the minimum amount of the total insurance afforded by such blanket policy which shall be allocable to the Owner's Unit(s) and the Work to be performed and any sublimits of such policy allocable to the Unit(s) shall be in amounts which shall not be less than the amounts of the insurance required hereunder and the protection afforded under such policy shall be not less than which would have been afforded under a separate policy or policies, and the certificate evidencing such insurance shall contain provisions confirming the foregoing. Certificate(s) evidencing the existence of any policy required to be maintained by a Unit Owner under Section 6.11.3 above shall be delivered to the Condominium Board with evidence of the payment of the premiums therefor not less than fifteen (15) calendar days prior to the commencement of the Work. Within ten (10) calendar days prior to the expiration or termination date of any policy, the Unit Owner shall deliver a renewal or replacement policy, or certificate(s) evidencing the existence thereof, to the Condominium Board together with proof of the payment of the premium therefor.

(g) All of the conditions contained in Section 6.12 (b) above are required only to the extent obtainable from any insurance company meeting the requirements set forth in Section 6.12(a) above.

(h) The requirements set forth in subsection 6.11.3 and this Section 6.12 shall be referred to herein collectively as the "**Insurance Conditions**".

(i) The Condominium Board may amend or waive any of the Insurance Conditions from time to time and/or adopt different or additional requirements in lieu of the Insurance Conditions set forth herein without amending these By-Laws.

(j) Without limiting the remedies of the Condominium Board for a Unit Owner's default, in the event that any Unit Owner fails to provide evidence of insurance required to be provided by such Unit Owner hereunder and does not cure such default within three (3) business days after request therefor is given by the Condominium Board, the Condominium Board shall be authorized (but not required) to procure such coverage in the amounts stated with all costs thereof to be assessed against such Unit Owner's Unit as an Additional Common Charge payable entirely by such Unit Owner.

(k) Neither the issuance of any insurance policy hereunder, nor the minimum limits specified herein with respect to a Unit Owner's insurance coverage, shall be deemed to limit or restrict in any way such Unit Owner's liability in connection with or arising out of such Owner's Work and the indemnification obligations set forth in the Declaration and these By-Laws.

(l) Each Unit Owner may carry for such Owner's own benefit insurance which is in addition or supplemental to that required herein, provided that the insurance coverage for the

Condominium Board and other Unit Owners pursuant to this Article 6 shall not be diminished or otherwise adversely affected by reason of any such supplemental or additional insurance carried by such Unit Owner.

ARTICLE 7

DESTRUCTION OR DAMAGE OF BUILDING

Section 7.1 **Destruction or Damage**

7.1.1 Insubstantial Destruction or Damage. If less than three-fourths of the Building is destroyed or damaged, the Condominium Board shall promptly arrange to repair and restore the affected Common Elements and any affected Association's Properties, but not the appliances, fixtures (electric, plumbing or otherwise), Equipment, contents or Decorations of Units not owned by the Board or its affiliated nominee or designee, which are the sole responsibility of Unit Owners to repair and restore at their expense.

7.1.2 Substantial Destruction or Damage. If three-fourths or more of the Building (including the Units, the Base Floors, the Building Walls, the Roofs and other Common Elements) is destroyed or substantially damaged (i.e., so as to require re-construction) ("**Substantial Casualty**") and 75% or more in number of Unit Owners do not duly resolve to proceed with the repairs or restoration (herein collectively called "**Repairs**" or derivations thereof) within sixty (60) calendar days after the Condominium Board gives notice to all Unit Owners stating whether the net amount of any insurance proceeds payable on account of the loss will be sufficient to pay the estimated cost of the Repairs, then the Repairs shall not be made and the Property or so much thereof as shall remain shall be subject to an action for partition at the suit of any Unit Owner or lienor as if owned in common. The Condominium Board and its affiliated nominee or designee shall have no voting rights with respect to any Units owned by each of them and such Parties and Units shall be excluded from the base number of Owners and Units for quorum and voting purposes in determining whether such 75% threshold is met. In the event of a partition action, the net proceeds of sale, together with the net proceeds of insurance policies maintained by the Condominium Board, if any, shall be considered as one fund and shall be divided among all Unit Owners Pro Rata to their respective Common Interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of such Unit Owner's share of such fund all unpaid liens or such Owner's Unit in the order of priority of such liens (including liens of mortgages and liens of the Condominium Board). The failure of 75% or more in number of all Unit Owners to promptly resolve to proceed with the Repairs shall not result in the termination of condominium ownership of the Property, which may only terminate upon authorization of 95% in number and Common Interest of all Unit Owners to withdraw the Property from the Condominium Act as provided in Article 19, Section 19.1 of the Declaration. Unless said withdrawal from the Condominium Act is so authorized, in any action for partition, each Unit Owner shall have the right to retain fee title ownership of its Unit in exchange for said Owner's share of the net proceeds of the partition sale and the net proceeds of insurance maintained by the Condominium Board. An Owner who exercises such right, shall be responsible, at its sole Cost and Expense, to Repair said Owner's Unit and all Common Elements serving and providing a means of ingress to and egress from such Unit. If two (2) or more Unit Owners similarly elect to Repair their Units, the

Condominium Board will make all determinations with respect to the Repair of said Common Elements, except the Sponsor Board Member(s) or (at the exclusive option of the Sponsor or Unsold Unit Owner who exclusively appointed and designated the Sponsor Board Member(s), as applicable) said Sponsor or Unsold Unit Owner, in lieu of the Sponsor Board Member(s), will make all such determinations with respect to those Common Elements serving exclusively or primarily an Unsold Unit.

Section 7.2 **Insurance Trust Funds**

7.2.1 Trust Funds. The proceeds of insurance policies receivable by reason of such casualty shall be payable to the Condominium Board, if the same shall be $1,000,000 or less in the aggregate, or to either the Condominium Board or (at the option of the Condominium Board) an Insurance Trustee, appointed by the Condominium Board, if the same shall exceed $1,000,000 in the aggregate. In either instance, all such monies actually received (hereinafter referred to as the "**Insurance 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 Article 7.

7.2.2 Unsold Unit. Notwithstanding anything to the contrary contained either in the foregoing subsection 7.2.1 or elsewhere in this Article 7, an Unsold Unit Owner may settle or adjust any insurance Claim for a casualty affecting its Unsold Unit (including its individual Unit Equipment and Installations), provided that the insurance proceeds received by any other Unit Owner or the Condominium Board is not reduced thereby.

Section 7.3 **Repairs**

7.3.1 Repair of Common Elements. If the requisite number of Unit Owners resolve to proceed with the Repairs following a Substantial Casualty or if less than three-fourths of the Building is destroyed or substantially damaged by casualty, the Condominium Board shall arrange for Repairs to be made promptly to the Common Elements, including: (a) the perimeter walls enclosing Units (consisting of: the Building Walls; the furring on the indoor side thereof, such as studs, gypsum wallboard or sheetrock and/or plaster; and the Party Walls separating a Unit from another Unit or a portion of the Common Elements); (b) all Equipment, Installations and other Facilities serving Units that are part of the Common Elements and not expressly stated to be part of a Unit; and (c) any other parts of the Property for which the Condominium Board carries insurance covering such destruction or damage (such as: painting, coverings, finishes, treatments or Decorations on walls, floor and ceiling comprising the Common Elements).

7.3.2 Order of Priority of Payments. The Condominium Board or the Insurance Trustee (if any), as the case may be, shall disburse the Insurance Trust Funds as follows: first, to pay the Costs and Expenses incurred by the Condominium Board to recover the award; and second, the balance ("**Net Insurance Trust Funds**") to pay to the contractors engaged in making such Repairs in appropriate progress payments.

7.3.3 Order of Priority of Repairs. If Repairs are to be performed in or to Common Elements that serve or enclose Units and other Common Elements or any combination of the foregoing, Repairs shall be performed, to the extent practicable and economical: first, in

or to the Common Elements that enclose, serve or provide access to Units and are required to legally use and occupy the Units for the purposes set forth in the Declaration; and second, in or to the other Common Elements.

7.3.4 Board Authority for Repairs. The Condominium Board shall promptly arrange the Repairs to the affected Units and Common Elements indicated and shall make all decisions relating to, and shall supervise, the Repair of the affected areas to be Repaired.

7.3.5 Unit Owners. Each Unit Owner whose Unit, or any portion thereof, shall be the subject of all or part of any Repairs to be performed by the Board shall be kept reasonably informed as to the scheduling and progress of Repairs to the Owner's Unit (but may not supervise or otherwise interfere with the performance of such Repairs, unless otherwise expressly provided). Each Unit Owner shall be responsible to arrange, directly pay and perform all Repairs to the interior of such Owner's Unit, excluding any Repairs to be made by the Board, but including: all coverings, finishes, treatments and other Decorations of walls, floors and ceilings; all countertops, cabinets and fixtures (electric, plumbing, business, trade or otherwise), appliances; and all other Equipment and Installations forming a part of the Unit, to the extent such Repairs are required to be made by applicable Law.

Section 7.4 **Allocation of Net Insurance Trust Funds**

In the event of a casualty to the Common Elements that is to be included in the Repairs (and is not subject to an action for partition under Section 7.1 above), the Net Insurance Trust Funds shall be allocated to the affected Common Elements and Limited Common Elements (if established), Pro Rata to the Costs and Expenses to Repair same. An Unsold Unit Owner may dispute the allocation to its Unsold Unit and submit the controversy to arbitration in accordance with Article 19 below. The amount so allocated shall then be applied for the account of the following Unit Owners: (a) in the case of the Common Elements: all Unit Owners; or (b) in the case of an Unsold Unit: the Owner of such Unsold Unit only. The share of each Unit Owner in the portion of the Net Insurance Trust Funds allocated to the Common Elements shall be Pro Rata to the Owner's Common Interest.

Section 7.5 **Insufficient Trust Funds**

If the Net Insurance Trust Funds shall be less than sufficient for the Condominium Board to discharge the Costs and Expenses of performing the Repairs, the Condominium Board shall levy a Special Assessment (as provided in the following sentence) for the amount of such deficiency and the proceeds of such Special Assessment shall become part of the Net Insurance Trust Funds. Such Special Assessment shall be levied on all Unit Owners Pro Rata to their respective Common Interests.

Section 7.6 **Surplus Trust Funds**

If, conversely, the Net Insurance Trust Funds shall prove to be more than sufficient to discharge the Costs and Expenses of performing the Repairs, such surplus shall be distributed to all Unit Owners Pro Rata to their respective Common Interests.

Section 7.7 **Lien Priority**

No payment of any insurance proceeds or surplus Net Insurance Trust Funds shall be made to a Unit Owner until there has first been paid out of such Unit Owner's share thereof, such amounts as may be necessary to pay off all unpaid liens on the Unit Owner's Unit (including the liens of mortgages and the liens of the Condominium Board) in the order of priority of such liens. Notwithstanding the foregoing, however, in the event a Special Assessment is levied pursuant to the terms of Section 7.5 above for any projected deficiency in the amount of the Net Insurance Trust Funds available to the Condominium Board and, after the payment of all Costs and Expenses incurred in connection with the Repairs, any portion of the Net Insurance Trust Funds remains unspent, such surplus Net Insurance Trust Funds shall, to the extent of such Special Assessment, be deemed to be, and shall constitute, an unspent Special Assessment and shall be refunded to the Unit Owners Pro Rata to the amount each had paid pursuant to such Special Assessment, free of any claim of any lien or (including any mortgagee) other than the lien of the Condominium Board.

Section 7.8 **Abatement in Common Charges**

7.8.1 Abatement. Except as otherwise provided in the following sentence and subsection 7.8.2 below, if, as a result of a destruction or damage, a Unit is rendered wholly or partially unusable for the purposes permitted in the Declaration, or the means of reasonable access thereto is prevented, as a result of a destruction or damage, the Common Charges otherwise payable by the Owner thereof shall proportionately abate until such Unit shall again be rendered useable for the purposes permitted in the Declaration and/or until the means of reasonable access thereto shall be restored, as the case may be.

7.8.2 Exception. The foregoing notwithstanding, if the destruction or damage shall be caused by an act, omission, negligence, abuse or neglect of the Owner, occupant, visitor or tenant of the affected Unit or their respective Agents, Employees and Contractors, the Common Charges otherwise payable by such Owner shall abate to the extent only of any proceeds of business interruption or similar insurance actually collected by the Condominium Board with respect to such affected Unit.

ARTICLE 8

COMMON CHARGES

Section 8.1 **Determination of Common Charges**

8.1.1 Declaration Governs. The Common Expenses generally shall be allocated, apportioned and assessed to all Units Pro Rata to their respective Common Interests. However, the amount of a projected Condominium Association expense item that is fairly and properly attributable to a Unit due to its "Usage" (defined below) shall be specially allocated, apportioned and assessed to such Unit in accordance with Section 339-m, the Declaration and these By-Laws. The special use of a Unit or the special use of the Common Elements by a Unit is herein called "**Usage**". For example, until the Commercial Unit is separately metered or submetered for electricity, the estimated cost of electricity provided to the Commercial Unit shall

be specially allocated and assessed to the Commercial Unit based on an electrical consumption survey prepared by a qualified licensed consulting or electrical engineer chosen by the Condominium Board and the applicable utility rates paid by the Board, including sales tax, in accordance with the Special Allocation and Apportionment Rule and RPL Section 339-m. For the first year of Condominium operation, the projection of electricity consumption by the Commercial Unit prepared by Mottola Rini Engineers P.C. in SCHEDULE B-1 in Section E of Part I of the Plan shall be followed. The Commercial Unit Owner shall have the right, at any time, at its sole Cost and Expense, to separately meter or submeter the consumption of electricity by the Commercial Unit. From and after the date the Commercial Unit is separately metered and the meter is operational, the Commercial Unit Owner shall pay for the cost of electricity consumed by the Commercial Unit directly to the utility provider as measured by its separate meter and shall no longer be billed therefor by the Condominium Board. If submetered, the Board will bill the Commercial Unit for the cost of electricity consumed by the Commercial Unit as measured by said submeter and the applicable utility rates and sales tax paid by the Board. In addition, the First Year's Budget assumes that the use of the Commercial Unit will not increase the projected insurance premiums for the Property. If the actual use of the Commercial Unit increases the cost of insurance for the Property, the Condominium Board shall specially allocate and assess the amount of such increase to the Commercial Unit in accordance with the Special Allocation and Apportionment Rule.

The Roof Terrace Unit will pay its share of all Common Expenses Pro Rata to its Common Interest. Since the Roof Terrace Unit does not use any HVAC/Mechanical/Utility Building Systems or any other Building services, the Common Interest of the Roof Terrace Unit reflects its lack of Usage of the Common Elements in accordance with Section 339-i(1)(iv) of the Condominium Act.

The provisions of the Declaration, including in particular (but not limited to) Article 9 thereof, are hereby incorporated herein and are paramount and shall govern the principles, rules, requirements and procedures applicable to the determination, allocation, apportionment and assessment of the Common Expenses, and the resulting Common Charges payable by each Unit Owner. In the event of any inconsistency between the Declaration and these By-Laws, the Declaration shall govern and prevail.

8.1.2 Determination by Board.

The Condominium Board shall determine the Common Expenses each Budget Year in accordance and compliance with the requirements of Sections 9.2 and 9.3 of the Declaration and the procedure set forth in Section 9.4 of the Declaration. In accordance therewith, the annual Budget of Condominium Operation (as provided in Article 9 of the Declaration) shall be determined by majority of those Board Members attending a duly constituted meeting of the Condominium Board at which a quorum is present.

8.1.3 Intentionally Omitted.

8.1.4 Distribution of Budget. At least ten (10) calendar days before the start of each Budget Year, the Condominium Board shall distribute to all Unit Owners a copy of the Budget of Condominium Operation for the ensuing Budget Year adopted by the Condominium

Board, which shall set forth the allocation and apportionment of each item of Common Expense to all or certain Unit Owners (as appropriate). In the event of any special allocation of a Condominium Association expense item to a Unit based on its Usage pursuant to the Special Allocation and Apportionment Rule, a reasonably detailed explanation for such special allocation shall be included in the notes to such Budget. Nevertheless, the failure to timely receive a Budget shall not excuse a Unit Owner from the obligation to timely pay the full amount of such increase in Common Charges (see Section 9.4(g) of the Declaration).

Section 8.2 **Budget Revisions**

The Condominium Board may revise a Budget one (1) or more times during a Budget Year in accordance with the same requirements and procedure to adopt such Budget as set forth in Article 9 of the Declaration; provided, however, that after the adoption and implementation of a Budget, a Budget may not be revised retroactively to increase the amount of Common Charges previously billed and a Budget may not be revised after the Budget Year has expired. Nevertheless, a Budget may be adopted or revised to include a deficiency for a prior period that is payable prospectively in one (1) lump sum or installments, as determined by the Condominium Board.

Section 8.3 **Failure to Adopt**

The failure of the Condominium Board to adopt a new Budget for any Budget Year will not be regarded as a waiver of Common Charges or in any way excuse a Unit Owner from paying the Common Charges. Rather, Common Charges will continue to be paid on the basis of the last adopted Budget until a new Budget is adopted.

Section 8.4 **Special Assessments**

8.4.1 Authority. The Condominium Board may levy a Special Assessment to pay the Common Expenses. A Special Assessment is subject to the same principles, rules, requirements and procedures applicable to Common Charges, including those set forth in Article 9 of the Declaration.

8.4.2 Method of Payment. The Condominium Board may require a Special Assessment to be paid in one (1) lump sum or in periodic installments with or without interest. If the applicable Unit Owners are allowed to pay a Special Assessment in installments, the Board may require that each such Unit Owner evidence the Owner's obligation for the Special Assessment by signing and delivering a promissory note in favor of the Condominium Board. The note will be prepared by an attorney selected by the Condominium Board and will be in form and substance (including interest rate, if any) satisfactory to the Condominium Board. The Condominium Board may pledge, sell or make any other Disposition of all Unit Owners' notes as it sees fit. Each applicable Unit Owner will be given written notice of the amount and purpose of a Special Assessment and (if applicable) the terms of a promissory note, at least fifteen (15) calendar days before a payment is due or the promissory note is to be signed and delivered. If a Unit Owner refuses or fails to timely sign and deliver said promissory note, such Unit Owner shall be obligated to pay the full amount of the Special Assessment on the date set by the Condominium Board.

8.4.3 Remedies for Non-Payment. Special Assessments are Additional Common Charges. As a result, the Condominium Board shall have all of the same rights and remedies for collection of Special Assessments and promissory notes of Unit Owners as are applicable for the collection of Common Charges.

8.4.4 Real Estate Taxes. Until such time as each Unit is separately assessed and billed for real estate taxes, the real estate taxes assessed against the Property shall be included in the Common Expenses and levied on all Unit Owners as a Special Assessment or (at the option and discretion of the Condominium Board) as part of the monthly Common Charges for forwarding same to the appropriate taxing authority on behalf of the Unit Owners (in accordance with Section 9.1.3 of the Declaration and Article 9 of these By-Laws).

Section 8.5 **Application of Net Receipts**

The net receipts (after deducting expenses) derived from Operation of the Common Elements or the Association's Properties, or payments from Unit Owners, shall be applied to pay the Common Expenses.

Section 8.6 **Budget Surplus and Budget Reconciliation**

8.6.1 Budget Surplus. In the event in any completed Budget Year in which the Common Charges shall exceed the actual Common Expenses, the Condominium Board shall determine how to apply the surplus in accordance with Section 9.8 of the Declaration, which allows the Condominium Board the choice of applying all or a portion of the surplus to defray the Common Expenses of the next immediately succeeding Budget Year and/or distributing the surplus to all then existing Unit Owners and apportioning such distribution among them Pro Rata to the Common Charges assessed to the Unit Owners for said completed Budget Year, or any combination of the foregoing. In the event the Condominium Board fails to make such determination within four (4) months after the end of such Budget Year, the surplus shall be applied to defray the projected Common Expenses of the next immediately succeeding Budget Year.

8.6.2 Intentionally Omitted.

Section 8.7 **Separate Fees and Charges**

The Condominium Board shall not impose upon any Unit Owner or a Permitted Tenant/Occupant/Invitee of a Unit Owner any separate fee, charge or imposition (i.e., apart from regular Common Charges, including Special Assessments levied on all Unit Owners) for the mere use in common of the lobby, public halls, Base Floors and similar portions of the Common Elements. The foregoing provisions shall not prohibit or prevent:

(a) the Condominium Board from assessing and collecting the regular Common Charges, including the following, which constitute Additional Common Charges: (a-1) Special Assessments imposed in accordance with the provisions of these By-Laws; (a-2) real estate taxes (until the Units are separately assessed and billed); and (a-3) water charges and sewer rents for the Building, unless separately metered or billed to individual Units;

(b) the Condominium Board from assessing or charging and collecting from Owners of Sold Units (but not assessing or charging Owners of Unsold Units): (b-1) reasonable fees upon the sale, conveyance, transfer or lease of a Sold Unit which is not exempt from the Match Offer Right (i.e., Right of First Refusal) as provided in Section 16.11 below, or in connection with the mortgage financing or refinancing of a Sold Unit if any Board action is requested in connection therewith (such fees include the reasonable fees payable to a Managing Agent and an attorney retained by the Condominium Board in connection with such transaction); (b-2) license fees or rental for the exclusive right to use a portion of the Common Elements by a Sold Unit Owner (but no such fees or rental, apart from regular Common Charges, shall be charged to an Authorized First Sold Unit Owner in connection with a Unit Change pursuant to Article 13 of the Declaration); and (b-3) all such other fees and charges whenever so provided elsewhere in these By-Laws (e.g., in connection with Unit Alterations/Repairs as provided in subsection 5.2.4(k) above or violations of the Condominium Documents as provided in subsection 2.4.2(q) above) or the Declaration (e.g., in connection with any Government Documents signed by the Condominium Board as provided in Section 10.20 of the Declaration or cooperating with a Unit Owner as provided in Section 20.3 of the Declaration); or

(c) the Condominium Board from leasing or licensing portions of the Common Elements, or from imposing and collecting charges for the use of the vending equipment and the like.

All such fees and charges shall constitute Additional Common Charges allocated and assessed to the applicable Unit Owner.

Section 8.8 **Payment of Common Charges**

All Unit Owners shall be obligated to pay the Common Charges, Special Assessments and all other Additional Common Charges assessed by the Condominium Board pursuant to the terms of Article 9 of the Declaration and this Article 8 at such time or times (but not less than annually) as the Condominium Board shall determine. Unless otherwise determined by the Condominium Board, the Common Charges shall be payable in equal monthly installments in advance on the first day of every month.

Section 8.9 **Lien**

The Condominium Board, on behalf and as agent of Unit Owners, shall have a lien on each Unit and its appurtenant Common Interest for unpaid Common Charges, Special Assessments and all other Additional Common Charges assessed against such Unit, together with the interest earned thereon at the rate set forth in subsection 8.13.2 below. Such lien, however, shall be subordinate to any liens for unpaid real estate taxes assessed against such Unit (to the extent required by Law) and to any lien of a prior recorded Permitted First Mortgage pursuant to subsection 16.14.1 below.

Section 8.10 **Liability**

8.10.1 Personal Liability. Each Unit Owner shall be personally liable for the payment of the Common Charges, Special Assessments and all other Additional Common

Charges assessed against the Owner's Unit that are due and payable to and including (but not after) the date of conveyance or transfer of title to the Unit together with its appurtenant Common Interest in compliance with the terms of Article 16 hereof. Accordingly, a Unit Owner shall not be liable for any Common Charges, including any installments of a Special Assessment, due and payable subsequent to such permitted conveyance or transfer of the Owner's Unit and its appurtenant Common Interest.

8.10.2 No Exemption for Waiver. No Unit Owner shall be exempted from liability for the payment of Common Charges (including Special Assessments or other Additional Common Charges) by waiving the Use and Enjoyment of any or all of the Common Elements or by abandoning such Owner's Unit (except with respect to a conveyance of a Unit to the Condominium Board, without compensation, pursuant to the terms of Section 8.11 below).

8.10.3 No Abatement for Service Failure. Except as expressly provided to the contrary in Section 3.8 above, no Unit Owner shall be entitled to a reduction or abatement in, or to delay payment of, the Common Charges, Special Assessments or other Additional Common Charges for any inconvenience or discomfort arising from: (a) the failure, interruption or diminution of any utility, Building or other services; (b) the construction, equipping, outfitting, Repair or Alteration of the Common Elements or any Unit (including such Owner's Unit) pursuant to the terms of the Declaration or these By-Laws; (c) any action taken or omitted by the Condominium Board or the officers of the Condominium Association to comply with the Law; or (d) any action taken by Sponsor pursuant to the Declaration, these By-Laws or the Plan.

8.10.4 Promissory Note. Each Unit Owner shall be personally liable under such Owner's promissory note given to the Condominium Board in payment of a Special Assessment pursuant to subsections 2.4.2(f) and 8.4.2 above, but shall not be liable with respect to any installment payment thereof due after title to the Unit together with its appurtenant Common Interest is conveyed or otherwise transferred in compliance with the terms of Article 16 hereof, provided that at title closing the succeeding Owner of the Unit shall execute and deliver to the Condominium Board, and the Condominium Board or its Managing Agent or attorney shall receive, a written agreement of such succeeding Owner assuming unconditionally the obligation to pay the then unpaid installments under such promissory note. Such assumption agreement shall be in the form prepared by an attorney retained by the Condominium Board, at the sole Cost and Expense of the Owner of the Unit being conveyed or transferred, and is to be in the form and content satisfactory solely to the Condominium Board.

8.10.5 Liability of Succeeding Owner. Each succeeding Owner of a Unit (howsoever title to the Unit is acquired) shall be liable for the payment of all unpaid Common Charges and Additional Common Charges (including all unpaid installments of a Special Assessment or of said promissory note and any other indebtedness owing under promissory notes given by a predecessor Owner of the Unit to the Condominium Board) and any other unpaid indebtedness owing to the Condominium Board with respect to such Unit prior to such new Owner's acquisition thereof; except that a Permitted First Mortgagee or its affiliate or designee who acquires title to a Unit at a foreclosure sale of such Permitted First Mortgage or by deed in lieu of such foreclosure, or a purchaser who acquires title to the Unit at such foreclosure sale or by deed in lieu of such foreclosure, shall not be liable, and such Unit shall not be subject to a lien, for past due Common Charges and Additional Common Charges (including past due

installments of a Special Assessment or past due payments or indebtedness under a promissory note) which were assessed, levied or arose subsequent to the recording of such Permitted First Mortgage and before acquisition of title to such Unit by said Permitted First Mortgagee, or its affiliate or designee, or by such purchaser (as applicable).

8.10.6 Continuing Liability After Mortgage or Other Lien Foreclosure. In the event of a foreclosure of a Permitted First Mortgage or a tax lien (whether by a lien foreclosure sale, or a deed in lieu of such foreclosure or otherwise), the defaulting or delinquent Unit Owner shall remain fully liable for the payment of all unpaid Common Charges and Additional Common Charges, including Special Assessments and any other indebtedness owing to the Condominium Board with respect to such Unit, that accrued prior to the consummation of such foreclosure or conveyance in lieu thereof.

8.10.7 Default. In case of a default by a Unit Owner, any deficit resulting from unpaid Common Charges (including Special Assessments or other Additional Common Charges) that are not collected from such defaulting or delinquent Unit Owner shall be deemed a Common Expense collectible from all other Unit Owners Pro Rata to their respective Common Interests. Nothing contained herein shall excuse a defaulting Unit Owner from liability for non-payment of Common Charges or Additional Common Charges, or waive or discharge the Board's lien against the Unit of said defaulting Unit Owner for non-payment of Common Charges or Additional Common Charges.

Section 8.11 **Conveyance to Condominium Board**

Any Unit Owner may convey the Owner's Unit, together with its appurtenant Common Interest, to the Condominium Board or (at the exclusive option of the Board) to its affiliated nominee or designee, corporate or otherwise, on behalf and as agent of Unit Owners, without being compensated therefor, and, in such event, be exempt from the payment of Common Charges and Special Assessments (including all installments to become due pursuant to promissory notes, if any, given to the Condominium Board in payment of a Special Assessment) or other Additional Common Charges thereafter accruing; provided, however, that:

(a) all Common Charges, any Special Assessments (including all unpaid installments and any other indebtedness owing under said promissory notes) and any other Additional Common Charges then due and payable with respect to such Unit have been paid in full and collected;

(b) (unless waived by the Condominium Board in its sole and absolute discretion) such Unit is free and clear of all liens, encumbrances, leases and occupancies, other than the statutory lien for unpaid Common Charges and Special Assessments (provided no monies are then owing under such statutory lien); and

(c) no violation of any provision of the Condominium Documents then exists with respect to such Unit.

Section 8.12 **Statement of Common Charges**

The Condominium Board shall with reasonable promptness provide a written statement of the amount of all unpaid Common Charges (including Special Assessments and any other Additional Common Charges) and any other indebtedness due from any Unit Owner upon its receipt of a written request therefor from such Unit Owner. Such statement shall be conclusive upon the Condominium Board and the Unit Owners in favor of all Persons who rely thereupon in good faith.

Section 8.13 **Collection and Remedies on Non-Payment of Common Charges**

8.13.1 Lien and Remedies. The Condominium Board shall take prompt action to collect any Common Charges (including Special Assessments and any other Additional Common Charges) due to the Condominium Board that remains unpaid for more than thirty (30) calendar days after the due date for the payment thereof. In connection therewith, the Condominium Board shall have the right and obligation: (a) to cause a lien for all sums due and owing to the Condominium Board to be filed against the applicable Unit with reasonable diligence in the County Clerk's Office pursuant to the terms of Section 339-z of the Condominium Act; and (b) to cause such lien to be foreclosed in the manner provided in Section 339-aa of the Condominium Act. So long as the Sponsor Board Members constitute a majority of the Condominium Board, Sponsor (or other applicable Unsold Unit Owner) shall cause the Condominium to file such lien under the Condominium Act on those Unsold Units owned by Sponsor (or other applicable Unsold Unit Owner) in which Sponsor (or other applicable Unsold Unit Owner) is more than thirty (30) calendar days in arrears in payment of Common Charges, including Special Assessments and any other Additional Common Charges. In addition, the Condominium Board may (in its sole and absolute discretion) purchase or acquire directly or through its nominee or designee (whether affiliated or non-affiliated with the Board) the applicable Unit by deed in lieu of foreclosure and/or bring a suit to recover a money judgment for unpaid Common Charges without foreclosing or waiving the lien securing such charges and/or institute any and all other proceedings and actions 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 this Section 8.13.

8.13.2 Interest and Late Charge. In the event that any Sold Unit Owner (but not Sponsor or Unsold Unit Owners, all of whom shall be exempt from the following interest, late charge and collection payments) shall fail to make payment of Common Charges (including any Special Assessments and any other Additional Common Charges) within ten (10) calendar days from the due date, such Sold Unit Owner shall be obligated to pay the Condominium Board, promptly following written demand:

(a) per diem interest thereon at a rate equal to the lower of 16% a year or the maximum legal rate; such interest to be computed from the due date thereof until full payment is received by the Board; and/or

(b) a late charge in an amount determined by the Condominium Board (but not to exceed $0.05 on each overdue dollar); together with

(c) all Costs and Expenses paid or incurred by the Condominium Board, the Managing Agent or the manager (if any) in connection with said non-payment of Common Charges (including Special Assessments and any other Additional Common Charges), any default notices given in connection therewith, and all reasonable attorney's fees and disbursements, court costs and other litigation expenses (collectively, "**Legal Expenses**") paid or incurred by the Board to enforce, uphold, protect and defend the Board's rights and remedies hereunder, and to collect such unpaid monies.

All sums owing under the preceding clause (c) shall be paid by the defaulting Sold Unit Owner to the Board, together with per diem interest thereon at a rate equal to the lower of 16% a year or the maximum legal rate; such per diem interest to be computed from the date each item of Legal Expenses and other Costs and Expenses is paid or incurred until full payment thereof is received by the Board.

Nothing herein shall excuse the obligation, or extend the time period, to pay the Common Charges (including a Special Assessment and any other Additional Common Charges) or other indebtedness.

A Sold Unit Owner shall not have the right to submit any dispute or controversy arising under this subsection 18.13.2 to arbitration.

8.13.3 Receiver. In addition, if the Condominium Board brings an action to foreclose the aforementioned lien, the defaulting Unit Owner will be required to pay a reasonable rental for the use of such Owner's Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same.

8.13.4 Additional Common Charges. All such interest, late charge and Costs and Expenses provided in subsection 18.13.2 above, and such rental provided in the preceding subsection 18.13.3, shall be added to, and shall constitute, Additional Common Charges payable by such Unit Owner.

8.13.5 Purchase by Board. In any Lawsuit brought by the Condominium Board to foreclose a lien on a Unit because of unpaid Common Charges, the Condominium Board shall have the power, on behalf and as agent of the Unit Owners, in its own name or in the name of its nominee or designee (whether affiliated or non-affiliated with the Board), to purchase such Unit at the foreclosure sale thereof and to acquire, hold, lease, Operate, mortgage, convey and make any other Disposition of such Unit (but not to vote the votes appurtenant to any Unit acquired by the Board or its affiliated nominee or designee), subject to compliance with subsections 2.4.2(g) and (o) above, if applicable.

8.13.6 Deficiency or Surplus. In the event that the net proceeds received on such foreclosure (after deduction of all legal fees and disbursements, advertising costs, brokerage commissions, receiver's fees and expenses, 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 Board, such Unit Owner shall remain personally liable for the deficiency. Any surplus on such foreclosure sale shall be paid to the defaulting Unit Owner after first paying all liens on such Owner's Unit in the order of priority of such liens.

8.13.7 Part of Association's Properties. Each Unit acquired by the Condominium Board or its affiliated nominee or designee in connection with the enforcement of its lien for unpaid Common Charges or otherwise shall constitute part of the Association's Properties and shall be held by the Condominium Board or its affiliated nominee or designee on behalf and as agent of the Unit Owners. Accordingly and as an example, the purchase price and all Costs and Expenses incurred in connection with the acquisition, Operation and Disposition of a Unit by the Condominium Board or its affiliated nominee or designee shall be included in the Common Expenses, which shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests.

8.13.8 No Partition or Occupancy. While a Unit is owned, leased, held or otherwise Operated by the Condominium Board or its affiliated nominee or designee, no Unit Owner shall have the right: (a) to bring an action for partition or (b) to use or occupy any said Unit acquired, leased, held or otherwise Operated by the Condominium Board or its affiliated nominee or designee.

Section 8.14 **Sales, Use or Occupancy Tax Exemptions**

The Condominium Board will adopt and follow such procedures as may be available, without additional cost to the Condominium Board (unless the applicable Unit Owner pays same), to enable any Unit Owner eligible for exemption from New York State and/or New York City sales, use and/or occupancy taxes to enjoy such exemption with respect to such Unit Owner's share of Common Expenses. Any benefits obtained by the Condominium Board as a result thereof shall be passed through to and shall belong exclusively to the Unit Owner entitled to any such exemption and if more than one (1) Unit Owner is entitled to such exemption, such benefits shall be apportioned among all Unit Owners entitled to such exemption Pro Rata to the Common Expenses allocable to the Units of such Unit Owners entitled to such exemption.

ARTICLE 9

PROPERTY TAXES AND CHARGES

Section 9.1 **Real Estate Taxes**

9.1.1 Included in Common Expenses. Until such time as each Unit is separately assessed and billed for real estate taxes, the real estate taxes, business improvement district assessments (if any) or charges and other assessments levied with respect to the Property (collectively, "**Real Estate Taxes**" or "**Real Estate Tax**") shall be included in the Common Expenses and collected by the Condominium Board in addition to, and as part of, the Common Charges, as provided herein, and forwarded to the appropriate taxing authority on behalf of the Unit Owners when due and payable before the imposition of interest or penalties for late payment.

9.1.2 Allocation and Assessment. Such Common Expense item of Real Estate Taxes shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests (i.e., in the proportion that the Common Interest of each Unit bears to the total Common Interests of all Units). The resulting amount so allocated and apportioned to each Unit is the

share ("**Tax Share**") of this item of Common Expense payable by each Unit Owner as part of the Owner's Common Charges.

9.1.3 Payment and Application. Each Unit Owner shall pay to the Condominium Board, within ten (10) calendar days of written demand therefor, an amount equal to such Owner's Tax Share of Real Estate Taxes. At the exclusive option of the Condominium Board, such amount of the respective Owners' Tax Share may be payable in one (1) lump sum or in monthly installments, each installment to be in a sum sufficient to pay the Real Estate Taxes one (1) month prior to the date same become due and payable without the imposition of interest or penalties for late payment. All amounts collected by the Board from Unit Owners as their Tax Shares shall be segregated from other monies of the Condominium and used solely to pay the Real Estate Taxes with reference to which such Tax Shares were determined. In lieu of the foregoing, Sponsor, as Owner of Unsold Units, may (at its exclusive option) timely deliver to the Board (on or prior to the morning of the date due before the imposition of interest or penalties for late payment) a check payable to the New York City Department of Finance (or other applicable taxing authority) in an amount equal to its Tax Share of Real Estate Taxes applicable to its Unsold Units, which check the Board shall remit to the taxing authority along with other payments by the Board of such Real Estate Taxes.

9.1.4 Real Estate Tax Exemption or Abatement. If a Unit Owner receives a Real Estate Tax exemption or abatement for its Unit that is reflected in the tax bill for the Property, then from and after, and for so long as, such Real Estate Tax exemption or abatement is in effect and reflected in the bill for Real Estate Taxes, such Unit Owner shall be entitled to an adjustment in the Tax Share allocated and assessed to its Unit and payable by it on account of its Unit, based on the amount of such Real Estate Tax exemption or abatement; provided, however, that such Unit Owner gives the Board reasonably satisfactory documentation of such exemption or abatement. A Unit Owner receiving a Real Estate Tax exemption or abatement for its Unit shall have the sole right and responsibility to collect from the collecting Governmental Authority any refund or rebate of Real Estate Taxes to which such Owner is entitled as a result of such exemption or abatement, and such Unit Owner shall not be entitled to any adjustment in the Common Charges. The Board (without incurring any Costs or Expenses, unless paid by such Unit Owner) shall cooperate with such Unit Owner in obtaining such refund or rebate.

9.1.5 Separate Assessment. Once the Units are separately assessed and each Owner is billed directly by the taxing authority for the Real Estate Taxes assessed against the Owner's Unit, each Unit Owner shall be required to pay the Real Estate Taxes directly to said taxing authority.

9.1.6 Application for Remission, Refund, Exemption and/or Abatement. Any Unit Owner shall have the right to apply for a tax remission, tax refund, tax exemption and/or tax abatement with respect to such Owner's Unit without the consent of the Board and/or any other Unit Owners.

9.1.7 Adjustment. The Condominium Board and each Unit Owner shall have the right, for only sixty (60) calendar days after the Units are separately assessed and billed for Real Estate Taxes ("TIME BEING OF THE ESSENCE"), to adjust any overpayment or underpayment of Real Estate Taxes included in the Common Expenses and paid by such Owner

as part of the Common Charges during the interim period before the Unit is separately assessed and billed by the taxing authority for real estate taxes ("**Interim Tax Period**"). Such adjustment shall be based on the difference between the Tax Share paid by said Unit Owner and the product of:

(a) the taxable assessed valuation of the Property at closing of title to such Owner's Unit (inclusive of any real estate tax exemption or abatement, if applicable pursuant to subsection 9.1.4 above);

multiplied by

(b) the ratio that the initial actual separate assessed valuation of such Unit bears to the aggregate initial actual separate assessed valuations of all Units (in each case inclusive of any real estate tax exemption or abatement, if applicable pursuant to subsection 9.1.4 above);

multiplied by

(c) the tax rates applicable to such Unit during the Interim Tax Period.

The amount of the overpayment or underpayment is required to be paid within ten (10) calendar days after written notice is sent by the Board or a Unit Owner (including Sponsor), as applicable, detailing the calculation of the amount owed, provided such notice is sent within such sixty (60) calendar day deadline period. The notice shall be accompanied by suitable proof of the initial separate assessed valuation of the Unit and the aggregate initial separate assessed valuations of all Units (such as a real estate tax bill(s) and/or a title report). If the amount due is not paid within the ten (10) calendar day period ("TIME BEING OF THE ESSENCE"), then the Party owed payment shall be reimbursed: (a) per diem interest on the unpaid amount at the yearly rate set forth in subsection 8.13.2 above, computed from the end of the ten (10) calendar day period until payment is received (to compensate for lost opportunity of earnings on the amount past due); and (b) the Legal Expenses and other Costs and Expenses of collection, including per diem interest thereon as provided in said subsection 8.13.2 above. Any amounts payable to Condominium Board pursuant to this Section 9.1 shall constitute Additional Common Charges of the applicable Unit.

Section 9.2 **Real Estate Tax Benefits**

9.2.1 Right to Apply. Each Unit Owner, without the approval or consent of the Condominium Board and/or any other Unit Owners, shall have the right to apply for Real Estate Tax exemption and/or abatement with respect to such Owner's Unit or Units. The approval, consent and signatures of the other Unit Owners and/or the Board shall not be required in connection with any such application or other document necessary or convenient to the exercise by a Unit Owner of any of its rights or powers under this Section 9.2, including any application or document required by the Department of Buildings and/or the Real Property Assessment Bureau of The City of New York. Nonetheless, at the request of such Unit Owner, the Board on behalf of all other Unit Owners shall promptly execute and return any such

applications or other documents, subject to and in compliance and accordance with Article 20 of the Declaration (and in particular, but not limited to, Section 20.3 thereof).

9.2.2 Limited Power of Attorney. With the intention to constitute a durable limited power of attorney, each and every Unit Owner, by accepting or recording a deed to a Unit or otherwise succeeding to title to a Unit (whether through operation of Law or by conveyance, transfer, merger, consolidation, liquidation, dissolution or otherwise) shall thereupon automatically have, and be deemed to have, irrevocably authorized, appointed and designated Sponsor, as Owner of Unsold Units, as agent and attorney-in-fact, "coupled with an interest" and granted for valuable consideration, and with full power of substitution of such Unit Owner, to act on behalf and as agent of such Unit Owner, and in the name, place and stead of such Unit Owner in any way such Unit Owner would do if personally present, to the full extent that such Unit Owner is permitted to act through an agent, with respect only to the execution, delivery and filing of any such application or document referred to in this Section 9.2 applicable to one (1) or more of Sponsor's Unsold Units.

Section 9.3 **Water Charges and Sewer Rent**

Water and sewer services are provided to the Common Elements for cold water, a staff lavatory and sanitary sewerage. The Common Elements and Units also use water service in connection with the Building's fire protection systems, which do not consume water, except in cases of testing an emergency. For the first twelve (12) months of Condominium operation, it is assumed that the use of water by the Commercial Unit will be substantially similar to the Office Units. Thereafter, if the actual consumption of water by the Commercial Unit is significantly higher due to its use as a restaurant or otherwise, the cost of such increased water consumption, based on a Usage consumption survey conducted by a qualified mechanical or consulting engineer selected by the Board and the then applicable water and sewer rates of the taxing authority, shall be specially allocated and assessed to the Commercial Unit in accordance with the Special Allocation and Apportionment Rule.

In the event the Commercial Unit is assessed by the Condominium Board for water and sewer services based on said water consumption or Usage survey, the amount assessed to the Commercial Unit in subsequent years shall continue to be based on said water consumption or Usage survey until the Commercial Unit is metered or sub-metered for water consumption, or the Condominium Board or the Commercial Unit Owner elect (from time-to-time) to conduct a new water consumption or Usage survey by a qualified, licensed mechanical or consulting engineer chosen by the Board (or the Commercial Unit Owner if the Board fails to make a choice within thirty (30) calendar days after written notice is given by the Commercial Unit Owner to so do). The cost of said water consumption or Usage survey, whether conducted at the election of the Condominium Board or the Commercial Unit Owner, shall be included in the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests. In the event the Commercial Unit is separately metered for water service, then from and after the date such meter becomes operational, the Commercial Unit shall no longer be assessed or charged by the Board for water and sewer services. If sub-metered, then from and after the date said sub-meter becomes operational, the costs of water and sewer services to the Commercial Unit shall be based on its consumption or Usage as measured by such sub-meter and the then applicable water and sewer rates of the taxing authority.

The Condominium Board shall read, Maintain, Repair and Alter the Building's common water meter and the Costs and Expenses thereof shall be specially allocated to all Office Unit Owners and to the Commercial Unit Owner Pro Rata to the costs of water and sewer services assessed to such Unit Owners in accordance with the Special Allocation and Apportionment Rule and Section 339-m. Any dispute under this Section 9.3 shall be resolved by arbitration pursuant to Article 19 of these By-Laws.

Section 9.4 **Board Certificate**

In connection with any proposed conveyance, lease or mortgage of all or part of a Unit, for so long as the Condominium Board is paying Real Estate Taxes for all Units and/or Water and Sewer Charges for the Commercial Unit and Office Units, the Condominium Board or an officer of the Board shall sign on behalf of the Board and deliver to a Unit Owner, within ten (10) calendar days after written request therefor is given by such Unit Owner, a certification as to the obligation and agreement of the Board to pay the Real Estate Taxes for the Property and/or Water and Sewer Charges for the Commercial Unit and the Office Units. Such certification shall be addressed to such Unit Owner and/or the proposed purchaser (grantee), tenant or mortgagee, and any title insurer, as directed by such Unit Owner, and shall be conclusive upon the Condominium Board and Unit Owners in favor of all Persons who rely thereupon in good faith.

Section 9.5 **Vault Charges**

All governmental license fees, taxes and charges (collectively, "**Vault Tax**") for the Vaults shall be paid by the Condominium Board as part of the Common Expenses, which shall be allocated and assessed to all Unit Owners Pro Rata to their respective Common Interests.

ARTICLE 10

UTILITIES

Section 10.1 **Gas Service to Common Elements and Units**

There are two (2) gas meters in the Building. One (1) meter measures gas consumption to heat the Common Elements and the Office Units, which is a Common Expense and charged to all Units Pro Rata to their respective Common Interests. The other meter measures gas consumption for cooking to Office Unit 500, which shall be paid by the Owner of Office Unit 500 directly to the utility provider as measured by said separate meter.

The Commercial Unit is provided with heat from three (3) ceiling mounted heaters, which use hot water and electricity for fans from the Building Systems. The costs to heat the Commercial Unit also is a Common Expense and charged to all Units Pro Rata to their respective Common Interests.

No hot water is provided to the Common Elements or to the Units from Building Equipment.

Section 10.2 **Electricity**

Electric service to the Office Units is individually billed to each Office Unit based on its separate meter. Electric service to the Commercial Unit and the Common Elements is commonly metered. The cost to provide electric service to the Commercial Unit shall be based on an electric consumption survey conducted by a qualified consulting or electrical engineer chosen by the Condominium Board, the then applicable utility rates of the utility provider and sales tax paid by the Board.

For the first twelve (12) months of Condominium operation, the projected costs of electricity provided to the Commercial Unit shall be based on the projections contained in SCHEDULE B-1 in Section E of Part I of the Plan. Thereafter, the Condominium Board (as a Common Expense charged to all Units Pro Rata to their respective Common Interests) and the Commercial Unit Owner (at its sole Cost and Expense) shall each have the right, from time to time: (a) to obtain a new electric consumption survey conducted by a qualified consulting or electrical engineer chosen by the party requiring the new consumption survey; or (b) to separately meter or submeter the Commercial Unit.

In the case of a new consumption survey, future billings of electricity costs to the Commercial Unit shall be based on the new consumption survey (whether obtained by the Condominium Board or the Commercial Unit Owner) and the applicable rate of the utility provider and sales tax paid by the Condominium Board. If the Commercial Unit is separately metered, the Commercial Unit shall no longer be charged for electricity by the Condominium Board from and after the date the meter is operational. In the event the Commercial Unit is submetered, future billings of the Commercial Unit by the Board for electricity will be based on the Commercial Unit's consumption as measured by said submeter and the applicable rate of the utility provider and sales tax paid by the Condominium Board.

Any dispute with respect to this Section 10.2 shall be submitted to arbitration in New York City pursuant to Article 19 of these By-Laws.

Section 10.3 **Hot Water**

No hot water is provided to the Common Elements or the Units from Building equipment comprising part of the Common Elements. Each Unit Owner, at its sole Cost and Expense, shall provide for hot water service from its individual Unit Equipment, if desired.

Section 10.4 **Air Conditioning**

No air conditioning is provided to the Common Elements or the Units from Building equipment comprising part of the Common Elements. Each Unit Owner, at its sole Cost and Expense, shall provide for air conditioning service from its individual Unit Equipment, if desired. The air-conditioning Equipment and related Installations serving, and part of, each of Office Units 400 and 500 are located on portions of the main Roof reserved for the installation of the Roof Terrace Unit. The existence of said air-conditioning Equipment and related Installations in their current locations are permitted under a revocable license from the Roof Terrace Unit Owner, who shall have the right, at its sole Cost and Expense, at any time and from

time to time, Freely and Without Consent, Payment or Restriction (except as expressly provided in Section 11.15.3 of the Declaration) to remove and relocate said air-conditioning Equipment and related Installations to another area of the Roof Terrace Unit or the common area of the main Roof chosen by the Roof Terrace Unit Owner, all as provided more fully in said Section 11.5.3 of the Declaration. Until revoked or relocated, the respective Owners of Office Units 400 and 500 shall have a revocable license from the Roof Terrace Unit Owner for the existence of its air-conditioning Equipment and related Installations in their present locations on the Roof Terrace Unit and a right of reasonable access to, from, over, across and on the Roof Terrace Unit to Maintain, Repair Alter or otherwise Operate said air-conditioning Equipment and related Installations on and subject to compliance with certain Access Requirements, all as provided more fully in Sections 11.5.3 and 11.5.4 of the Declaration.

Section 10.5 **Ventilation**

Any ventilation provided to Units from Building Equipment at the date of this Declaration shall continue to be provided to such Units as a Common Expense charged to all Units Pro Rata to their respective Common Interests.

Section 10.6 **Utility Installations**

Each electric, gas and water meter or submeter (as applicable) and its related Installations (collectively, "**Utility Installations**") shall be read, Maintained, Repaired and Altered by, and at the sole Cost and Expense of, the following:

(a) in the case of the Utility Installations serving exclusively the Common Elements: all such Work shall be performed by the Condominium Board and the Costs and Expenses thereof shall be included in the Common Expenses and charged to all Units Pro Rata to their respective Common Interests;

(b) in the case of Utility Installations serving the Common Elements and one or more Units: all such Work shall be performed by the Condominium Board and the Costs and Expenses thereof shall be allocated, apportioned and assessed to the Units Pro Rata to the respective amounts assessed to the Units for electric, gas and water service (as applicable) provided to the Common Elements and the Unit or Units served by such Utility Installations; and

(c) in the case of the Utility Installations serving exclusively an Office or Commercial Unit: all such Work shall be performed by, and at the sole Cost and Expense of, the Owner of such Office or Commercial Unit, as applicable.

Any dispute under this Section 10 shall be resolved by arbitration pursuant to Article 19 of these By-Laws.

ARTICLE 11

USES AND OCCUPANCY OF PROPERTY, IMMEDIATELY ADJACENT SIDEWALKS AND VAULTS

Section 11.1 **Declaration Governs**

The Property, including the Common Elements and the Units, the Immediately Adjacent Sidewalks to the Property and the Vaults thereunder shall be used, Operated, rented and occupied in accordance with the provisions of the Declaration, including in particular (but not limited to) Articles 10 through 15 thereof, which are hereby incorporated herein and are paramount and shall govern any provision of these By-Laws inconsistent therewith.

Section 11.2 **Common Elements**

11.2.1 Common Elements. Generally, the Common Elements are for the Use and Enjoyment in common by all Unit Owners and their respective Permitted Tenants/Occupants/Invitees for all purposes for which they are reasonably intended, suited and capable in connection with the permitted Use and Enjoyment of the Property as a whole or for both one (1) or more Office Units and the Commercial Unit in accordance and compliance with, and subject and subordinate to the rights and easements provided in, these By-Laws and the Declaration.

11.2.2 Intentionally Omitted.

11.2.3 Use Determined by Board. The Condominium Board shall have the right to determine, and to amend from time to time, the Rules and Regulations, including the adoption of new and additional Rules and Regulations, governing the use and changes in use of the areas, Equipment and Installations comprising the Common Elements, including (if established) the Limited Common Elements, provided all such uses shall be in accordance and compliance with, and subject and subordinate to the rights and easements provided in, these By-Laws and the Declaration.

11.2.4 Rights and Easements. The foregoing rights of Unit Owners to Use and Enjoy the Common Elements (including the Common Elements and (if established) the Limited Common Elements), and the foregoing right of the Condominium Board to determine the uses of the Common Elements, shall be subject and subordinate to: (a) the various rights and easements set forth in the Declaration, including in particular (but not limited to) Articles 10, 11, 12 and 13 thereof; and (b) Sponsor's Rights set forth in the Plan, the Declaration and these By-Laws, all of which easements and rights under clauses (a) and (b) hereof being superior, paramount and take preference over the rights of: (b-1) Unit Owners and their Permitted Tenants/Occupants/Invitees; and (b-2) the Condominium Board.

Section 11.3 **Units**

11.3.1 Use of Units. Each Unit shall be used and occupied in compliance with Article 10 of the Declaration, including in particular (but not limited to) Section 10.2 thereof, and

only for the purposes permitted in Article 10 of the Declaration, including in particular (but not limited to):

(a) Section 10.13 thereof, which provides (among other things) that each Sold Office Unit shall be used and occupied only for standard office uses similar to other Manhattan office Buildings and those uses permitted under existing leases for so long as they remain in effect, and for no other purpose, and in compliance with the requirements and restrictions set forth therein (including restricting against Prohibited Use and applicable Offensive Office Uses);

(b) Intentionally Omitted;

(c) Section 10.15 thereof, which provides (among other things) that:

(c-1) Unsold Units, the Commercial Unit and the Roof Terrace Unit shall not be subject to the requirements and restrictions on use set forth in the Condominium Documents with respect to Sold Units;

(c-2) any one (1) or more of such Unsold Units, may be used and changed to be used as models, offices for the sale, Promotion, rental, Operation and management of Unsold Units and for any lawful purpose other than applicable Prohibited Uses;

(c-3) the Commercial Unit may be used and changed to be used as a restaurant, bar, tavern, food store, clothing store, art gallery, bank, office or any other lawful purpose, whether or not similar to the foregoing, other than applicable Prohibited Uses and applicable Offensive Office Uses;

(c-4) the Roof Terrace Unit may be used for any lawful purpose other than applicable Prohibited Uses and applicable Offensive Office Uses;

(c-5) such permitted uses of Unsold Units, the Commercial Unit and the Roof Terrace Unit may be noisy, emit odors, involve heavy traffic and cause other effects that need not necessarily be compatible with the primary use of the Building for office purposes; and

(c-6) the Condominium Board and other Unit Owners shall not have the right to approve the use or any changes in use, or the tenants, occupants or Operation of, or the business conducted in, Unsold Units, the Commercial Unit or the Roof Terrace Unit, or any portion of each thereof; provided such use, occupancy and business are not applicable Prohibited Uses or applicable Offensive Office Uses.

11.3.2 Intentionally Omitted.

11.3.3 Subordination. Any lease or occupancy agreement of a Sold Unit entered into after the recording of the Declaration shall be subject and subordinate to the provisions of these By-Laws and the Declaration.

11.3.4 Remedies. If a Sold Unit Owner permits or suffers such Owner's Sold Unit to be used or occupied in violation of these By-Laws or the Declaration, such violation shall constitute a material breach and default of such Unit Owner's obligations and shall entitle the Condominium Board to all rights and remedies available at Law and in equity against: (a) such Sold Unit Owner, including to enjoin the violation pursuant to Section 17.2 below; or (b) the offending tenant or occupant of such Sold Unit, including suits and proceedings at Law and in equity, in the name of such Sold Unit Owner, as attorney in fact, and for the account of said Sold Unit Owner, to terminate the offending lease or occupancy and to eject or remove said offending tenant or occupant from such Sold Unit by summary dispossess proceedings or by any other suitable action or proceedings at Law or in equity, and to repossess said Sold Unit so leased or occupied by such offending tenant or occupant (as applicable). The said Sold Unit Owner shall reimburse the Condominium Board for all Legal Expenses and other Costs and Expenses paid or incurred in connection with such violation and to enforce, uphold, protect and defend the foregoing rights and remedies, as well as the Legal Expenses and other Costs and Expenses of collection thereof, including per diem interest thereon as provided in subsection 8.13.2 above. All such Legal Expenses and other Costs and Expenses shall be paid by said Sold Unit Owner, and received by the Condominium Board, together with per diem interest thereon, within seven (7) business days after written demand therefor is given to said Sold Unit Owner, which shall be accompanied by a reasonably detailed statement of the Costs and Expenses to be reimbursed and copies of any supporting or relevant bills. All sums payable by such Sold Unit Owner to the Condominium Board pursuant to the foregoing shall for all purposes constitute Additional Common Charges payable by said Sold Unit Owner. The offending Sold Unit Owner shall not have the right to submit any dispute or controversy arising under this subsection to arbitration.

11.3.5 Limited Power of Attorney. With the intention to constitute a limited, durable power of attorney, each Sold Unit Owner, by accepting or recording a deed to a Sold Unit or otherwise succeeding to title to such Unit (whether through operation of Law or by merger, consolidation, liquidation, distribution, gift, devise, intestacy or otherwise) shall thereupon automatically have, and be deemed to have, irrevocably authorized and designated the individuals who shall from time to time constitute the Condominium Board, collectively in their capacity as Board Members, as agent and attorney in fact of said Sold Unit Owner, "coupled with an interest" and for valuable consideration, and with full power of substitution, to act on behalf and as agent of said Sold Unit Owner and in the name, place and stead of said Sold Unit Owner in any way in which such Owner could do if personally present, to the full extent such Owner is permitted by Law to act through an agent, having the right, power and authority with respect only to the following: (a) to institute and prosecute through completion a Lawsuit and all appeals therefrom to terminate an offending lease or occupancy agreement and to eject, evict, dispossess or otherwise remove an offending tenant or occupant of such Owner's Sold Unit, whether by summary dispossess proceedings or otherwise, and to repossess the Sold Unit so leased or occupied by such offending tenant or occupant (as applicable) in accordance with subsection 11.3.4 above. This durable, limited power of attorney shall not be affected by the subsequent disability or incompetence of a Sold Unit Owner.

Section 11.4 **Building Walls and Immediately Adjacent Sidewalks**

11.4.1 General Prohibition. The Building Walls and the Immediately Adjacent Sidewalks to the Property shall be used in accordance and compliance with the Declaration, including the general prohibitions set forth in Section 10.2 thereof.

11.4.2 Sponsor's Promotional Rights. Sponsor and each Unsold Unit Owner (if any) and the permitted tenants so expressly authorized in writing by Sponsor or an Unsold Unit Owner (as applicable) shall have the right, Freely and Without Consent, Payment or Restriction (but subject to compliance with Section 10.2 of the Declaration), to use the Building Walls and the Immediately Adjacent Sidewalks to the Property for all purposes related to the Use and Enjoyment (including Promotion) of its Unsold Units in accordance with Article 10 (including in particular, but not limited to, Sections 10.9, 10.10, 10.11 and 10.18) and Article 12 (including in particular, but not limited to, Section 12.7) of the Declaration. The right of Sponsor, an Unsold Unit Owner and said authorized tenant of an Unsold Unit to use the Building Walls and said Immediately Adjacent Sidewalks are superior, paramount and take preference over: (a) the rights of the Condominium Board to determine the uses thereof; and (b) the rights of Sold Unit Owners as to any use thereof approved or consented to by the Board.

11.4.3 Commercial Unit Owner's Promotional Rights. The Commercial Unit Owner and the tenants and occupants of its Commercial Unit who are so expressly authorized in writing by said Owner of the Commercial Unit, shall have the right, Freely and Without Consent, Payment or Restriction (other than compliance with Section 10.2 of the Declaration), to use the indoor sides of the Commercial Unit's windows and Unit entrances and the Commercial Signage Easement Area (as defined in Section 10.4.1(b) of the Declaration) for all lawful purposes in connection with the Use and Enjoyment (including all manner of Signage and other Promotional uses) of said Commercial Unit in accordance with Article 10 of the Declaration (including in particular, but not limited to, Sections 10.10, 10.11 and 10.18 thereof).

11.4.4 Other Uses Determined by Board. All other uses of the Building Walls and the Immediately Adjacent Sidewalks to the Property by the Owners, tenants and occupants of Sold Units shall be determined by the Condominium Board and shall not be used by a Sold Unit Owner, or any permitted tenant or occupant of a Sold Unit, without first obtaining the written Discretionary Approvals or Consents of the Condominium Board and (during only the Sponsor Veto Control Period) Sponsor. The foregoing requirement to obtain the approval or consent of the Condominium Board shall not apply to Sponsor or Unsold Unit Owners, or their respective authorized tenants as aforesaid.

Section 11.5 **Vaults**

Each Vault shall be used for any one (1) or more lawful purposes (including the installation and housing of existing Equipment, Facilities and Installations as well as new, additional, substitute and other Equipment, Facilities and Installations) for the Use and Enjoyment of all Unit Owners, as shall be determined from time to time by, and in the sole discretion of, the Condominium Board.

Section 11.6 **General Prohibitions**

The Property shall be used in accordance and compliance with the requirements of Article 10 of the Declaration and the following:

(a) no nuisance shall be allowed on any part of the Sold Units, the Common Elements, the Immediately Adjacent Sidewalks to the Property or the Vaults thereunder, nor shall any use or practice be allowed or suffered thereon that is an unreasonable interference with the peaceful possession or proper use of any Unit by its Owner or such Owner's Permitted Tenants/Occupants/Invitees;

(b) all valid Laws relating to any portion of the Property shall be complied with at the sole Cost and Expense of the applicable Unit Owner or the Condominium Board, whoever shall have the obligation to Maintain and Repair such part of the Property;

(c) nothing shall be done or kept, or suffered to be done or kept, in any Unit or in any of the Common Elements that increases or would, with reasonable likelihood, increase the rate of insurance for the Property, unless the Unit Owner responsible for such increase pays the additional premium therefor as provided in Section 6.11 above;

(d) no Unit Owner shall permit or suffer anything to be done or kept in the Owner's Unit or in the Common Elements that results in, or would with reasonable likelihood result in, the issuance of a notice of cancellation or the cancellation of insurance on the Property or the contents thereof, or that would, with reasonable likelihood, be in violation of any Law;

(e) no waste shall be committed or suffered in the Common Elements;

(f) nothing shall be done in any Unit or in, on or to the Common Elements that would, with reasonable likelihood, impair or threaten the structural integrity of the Building or the life, health, safety, security or protection of the Owners or Permitted Tenants/Occupants/Invitees of Units; and

(g) in no event shall load bearing walls contributing to the support of any Unit or the Common Elements be Altered or removed, except as expressly permitted in, and performed in accordance and compliance with, Articles 14 and 15 of the Declaration.

ARTICLE 12

ROOFS

Section 12.1 **Roofs**

All Roofs and their respective related Roof Structures are part of the Common Elements, excluding the Roof Terrace Unit to be installed on a specified portion of the main Roof. These include: (a) the main Roof above the top floor of the Building); and (b) the Roofs of the bulkheads enclosing a public stair and elevator Equipment.

The Condominium Board shall make all determinations concerning the use of the Roofs and related Roof Structures; provided, however, that such determinations shall be subject and subordinate to the following: (a) the easements and rights set forth in the Declaration and these By-Laws, including Sponsor's Rights under Articles 7, 10, 11, 12 and 13 of the Declaration; and (b) the easements and rights of the Roof Terrace Unit Owner to erect and install the Roof Terrace Unit pursuant to Section 11.15.1 of the Declaration and to relocate the air-conditioning Equipment serving Office Units 400 and 500 to the common area of the main Roof as provided in Section 10.4 of these By-Laws, all of which easements and rights under clauses (a), (b) and (c) hereof being superior, paramount and take preference over the easement and rights of the Condominium Board and other Unit Owners.

Section 12.2 **Maintenance, Repair and Alteration**

All Roofs and appurtenant Roof Structures (excluding the Roof Terrace Unit, if and when erected and installed on the main Roof) shall be Maintained, Repaired and Altered in accordance and compliance with the Building's Maintenance Standard by the Condominium Board and the Costs and Expenses thereof shall be included in the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests.

ARTICLE 13

FIRE SAFETY SYSTEMS

Section 13.1 **Maintenance, Repairs and Alterations**

The Building's "**Fire Safety Systems**" comprise the following three Systems (if and to the extent existing at the date of recording the Declaration): (a) the sprinkler System (which includes the sprinkler reserve tank, pumps, pressure tank (if any), sprinkler and drain risers, sectional valves, tamper switches, waterflow alarms, sprinkler alarm, drain/test connections, distribution pipes, sprinkler heads and all other related Installations); (b) the standpipe System (which includes the standpipe water tank (if any), pumps, pipes, hoses, nozzles and all other related Installations); and (c) the siamese connection.

The portions of the Building's Fire Safety Systems serving exclusively the Common Elements or more than one (1) Unit are part of the Common Elements and shall be Maintained, Repaired, Altered and otherwise Operated by the Condominium Board as part of the Common Expenses and charged to only all Unit Owners Pro Rata to their respective Common Interests. The portions of the Building Fire Safety Systems serving exclusively one (1) Unit (e.g., sprinklers heads and branch or distribution piping) are part of such Unit and shall be Maintained, Repaired and Altered by, and at the sole Cost and Expense of the Owner of such Unit. All Work on the Building's Fire Safety Systems by whomsoever shall be performed in accordance with the Building's Maintenance Standard and Articles 14 and 15 of the Declaration.

Section 13.2 **Changes**

The Condominium Board shall have the right to Alter, change and relocate elsewhere within the Common Elements those portions the Fire Safety Systems that protect the Common

Elements or more than one (1) Unit, provided and on condition that all applicable Laws and the requirements (including Work Requirements) and other provisions set forth in Article 15 of the Declaration are met.

ARTICLE 14

GENERAL OPERATING MATTERS

Section 14.1 **Compliance with Laws**

14.1.1 Responsible Party. The Party obligated to Maintain and Repair a portion of the Property or its Immediately Adjacent Sidewalks, the Vaults or the Equipment or Installations therein or thereon (i.e., the Condominium Board with respect to the Common Elements, including the Equipment, Facilities and Installations comprising the Common Elements, the Immediately Adjacent Sidewalks to the Property and the Vaults thereunder; and a Unit Owner with respect to such Owner's Unit, including the individual Unit Equipment, Facilities and Installations comprising such Unit, each being herein called the "**Responsible Party**") shall also have the duty to comply with all Laws applicable thereto, including the existence, use, Maintenance, Repair, Alteration and Operation thereof, and to correct with reasonable diligence all conditions for which violations are noted or issued by Governmental Authorities and to thereafter endeavor in good faith to cause same to be removed of record.

14.1.2 Costs and Expenses. The Costs and Expenses of such compliance shall be included in the Costs and Expenses to Maintain, Repair, Alter and Operate such affected portion of the Property (including such Equipment, Facilities and Installations) or its Immediately Adjacent Sidewalks or the Vaults thereunder, as applicable, and shall be allocated and assessed to all Unit Owners (in the case of the Common Elements, said Immediately Adjacent Sidewalks to the Property or the Vaults thereunder) or shall be borne by the applicable Unit Owner (in the case of such Owner's individual Unit Equipment, Facilities and Installations).

14.1.3 Compliance With Declaration. All Work in connection with such compliance with Laws (including correction of said violations) shall be performed in accordance with the provisions (including Work Requirements) set forth in Article 15 of the Declaration.

14.1.4 Reasonable Diligence. The Responsible Party shall effect compliance with applicable Laws (including correction of said violations) with reasonable diligence and, if non-compliance has or would with reasonable likelihood, have a material adverse affect on any other Party, the Responsible Party shall promptly commence and diligently prosecute compliance therewith to completion.

14.1.5 Contest by Board. The Condominium Board shall have the right, on behalf of all Unit Owners (if involving the Common Elements), to contest any requirement of applicable Law (including correction of said violations) with which the Board is obligated to comply and which relates to the Maintenance, Repair, Alteration or Operation of the Common Elements, said Immediately Adjacent Sidewalks to the Property or the Vaults thereunder or the affairs of the Condominium Association. During such contest, the Condominium Board shall have the right to defer compliance with such requirements of applicable Law, provided:

(a) the Board prosecutes such contest diligently and in good faith by appropriate proceedings unless compliance with such requirement shall have been excused or exempted by a valid nonconforming use permit, waiver, extension or forbearance exempting the Condominium Board from such requirement; and

(b) such contest or noncompliance does not involve any threat or danger of: (b-1) foreclosure, forfeiture or loss of any part of the Property; or (b-2) civil or criminal liability being imposed on the Condominium Board or any officer or member of the Board, any Unit Owner or any mortgagee or tenant of a Unit; or (b-3) the creation of any lien, encumbrance or other charge against any part of the Property; or (b-4) impairment of any insurance under Article 6 above.

14.1.6 Contest by Sponsor or an Unsold Unit Owner. Sponsor (as Owner of any Unsold Unit) and each Unsold Unit Owner (if any) shall each have the right to contest any requirement of applicable Law (including correction of said violations) with which Sponsor or such Unsold Unit Owner, respectively, is obligated to comply under the Plan, Declaration or these By-Laws or which relates to the Maintenance, Repair, Alteration or Operation of a Sponsor Unit or such Owner's Unsold Unit, respectively. During such contest, the failure of Sponsor or said Unsold Unit Owner (as applicable) to comply with such requirement shall not constitute a default or violation hereunder or the Declaration, provided:

(a) Sponsor or said Unsold Unit Owner (as applicable) is contesting such requirement with reasonable diligence and in good faith by appropriate proceedings and shall have furnished such security, if any, as may be required in the proceedings, unless compliance with such requirement shall have been excused or exempted by a valid nonconforming use permit, waiver, extension or forbearance exempting Sponsor or the said Unsold Unit Owner (as applicable) from such requirement; and

(b) such contest or noncompliance does not involve any threat or danger of: (b-1) foreclosure, forfeiture or loss of any part of the Property, other than said Sponsor Unit or said Unsold Unit (as applicable); or (b-2) civil or criminal liability being imposed on the Condominium Board, any other Unit Owner or any mortgagee or tenant of any other Unit; or (b-3) the creation of any lien, encumbrance or other charge against any part of the Property, other than against said Sponsor Unit or said Unsold Unit (as applicable); or (b-4) the impairment of any insurance under Article 6 above.

Sponsor or said Unsold Unit Owner (as the case may be) shall provide the Condominium Board with notice of any contest of the type described above in detail sufficient to enable the Board to ascertain whether the foregoing provisions have been complied with by Sponsor or said Commercial Unit Owner (as applicable).

Section 14.2 **Indemnification**

14.2.1 Indemnity by a Unit Owner. Each Unit Owner shall indemnify all other Unit Owners and the Condominium Board, and the members, officers, employees, agents (including Managing Agent) and attorneys of the Board or the Condominium Association, from and against any and all Claims and Liabilities and Expenses that may be imposed upon or

incurred by any of the foregoing by reason of: (a) any Work performed or required to be performed by such Unit Owner in, on or about the Property; (b) any acts, omissions or negligence on the part of such Unit Owner or the Permitted Tenants/Occupants/Invitees of such Unit Owner, or the respective Agents, Employees and Contractors of each of the foregoing; or (c) any failure on the part of such Unit Owner to perform or comply with any of the terms or conditions contained in the Declaration or these By-Laws on its part to be performed or complied with.

14.2.2 Indemnity by Condominium Board. The Condominium Board shall indemnify each and every Unit Owner from and against any and all Claims and Liabilities and Expenses that may be imposed upon or incurred by such Unit Owner by reason of: (a) any Work performed by the Condominium Board in, on or about the Property; or (b) any acts, omissions or negligence on the part of the Board or its members, officers, or Agents, Employees and Contractors. All amounts payable under or with respect to the foregoing indemnity by the Condominium Board shall be included in the Costs and Expenses to Maintain and Repair the affected portions of the Property, and shall be allocated and assessed to the appropriate Unit Owners required to pay such Costs and Expenses for Maintenance and Repairs as provided in the Declaration or these By-Laws.

Section 14.3 **Building Employees, Agents and Contractors**

14.3.1 Authority of Board. Subject and subordinate to Sponsor's veto control during only the Sponsor Veto Control Period as provided in Section 2.5.8 above, the Condominium Board shall have the authority: (a) to hire or engage such employees, agents and contractors as may be necessary or appropriate in the judgment of the Board to perform its obligations set forth in the Declaration or these By-Laws; and (b) to make all decisions concerning the employment, compensation and dismissal of employees, agents and contractors, to service the Common Elements and the Owners, tenants and occupants of Units.

14.3.2 Building Staff. At or prior to the First Unit Closing under the Plan, the Condominium Board shall hire the number and type of employees (collectively, "**Building Employees**" and individually, "**Building Employee**") in accordance with the First Year's Budget (SCHEDULE B in Section E of Part I of the Plan), and thereafter shall always maintain a sufficient number and type of Building staff (either as the direct employer and/or under a service contract) in order to provide to all Owners, tenants and occupants of Units all services and Facilities required by Law, the Plan, the Declaration or these By-Laws. The Building Employees shall Maintain, keep free and clear of snow, ice, water accumulation and debris, and (to the extent competent and capable) Repair and Alter the Common Elements, the Immediately Adjacent Sidewalks to the Property and the Vaults thereunder.

14.3.3 Common Expense. The wages and related benefits and payroll costs of the Building Employees (collectively, "**Labor Costs**") shall be included in the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests.

14.3.4 Managing Agent. The fees and disbursements of the Managing Agent shall be included in the Common Expenses and charged to all Units Pro Rata to their respective Common Interests.

The fees and amounts payable to other agents and to contractors, if any, engaged by the Condominium Board in connection with the Common Elements shall be included in the Common Expenses and charged to all Units Pro Rata to their respective Common Interests.

Section 14.4 **Refuse Disposal System**

Each Unit Owner, at such Owner's sole Cost and Expense, shall be responsible to arrange and pay for private cartage and disposal of all garbage, trash and refuse generated by such Owner or the operator, tenants or occupants of such Owner's Unit in accordance and compliance with: (a) all applicable Laws in effect from time to time, including environmental Laws (if any) requiring separation, and separate disposal or recycling, of paper, bottles, cans, plastics or other items; and (b) the Rules and Regulations, and Amendments thereto, in effect or adopted or amended from time to time by the Condominium Board. If private trash cartage is arranged by the Condominium Board for one (1) or more Units, the Costs and Expenses thereof shall be specially allocated and assessed to such Unit or Units (as applicable) in accordance with the Special Allocation and Apportionment Rule and Section 339-m.

Section 14.5 **Rules and Regulations**

Certain requirements as to the Operation of the Property are set forth in the "**Rules and Regulations**" annexed to, and forming a part of, these By-Laws. The Condominium Board shall have the right and power from time to time to promulgate new and additional Rules and Regulations applicable to the Operation of the Common Elements. The Condominium Board shall also have the right and power from time to time to amend all such Rules and Regulations and, unless otherwise required by the Condominium Act, need not record an Amendment to the Declaration to so promulgate additional Rules and Regulations or to so amend such Rules and Regulations. However, any additional the Rules and Regulations and any Amendments to the then current Rules and Regulations:

(a) may be overruled by vote of a majority in number and Common Interest of the Unit Owners attending a meeting (duly called and held for such purpose) at which a quorum is present; and

(b) shall not be effective or binding on Sponsor or Unsold Unit Owners if and to the extent they adversely affect any of Sponsor's Rights set forth in the Plan, the Declaration or these By-Laws, unless and until the Discretionary Approval or Consent of such adverse Rules and Regulations and Amendments are first obtained in writing from Sponsor and each Unsold Unit Owner in each instance.

In addition, any new and additional Rules and Regulations or Amendments to the Rules and Regulations shall not become effective or operational for at least thirty (30) calendar days after a copy of the complete text thereof shall be given to each and every Unit Owner then of record at such Unit Owner's address for notices or (if none is specified) at the Building and delivered or sent in the same manner as provided in Article 20 below for the giving of notices. A violation or failure to comply with the Rules and Regulations, as duly added to or amended from time to time, shall constitute a violation of these By-Laws.

Section 14.6 **Interruption or Reduction in Services**

14.6.1 Right to Interrupt or Reduce. The Condominium Board and (while there is any Unsold Unit) Unsold Unit Owners (including Sponsor) shall have the right to interrupt or reduce all or certain utility services and other services to the Common Elements or Units, for the purposes of: (a) dealing with accidents, strikes, the performance of Work and the like; or (b) (in the case of Sponsor and an Unsold Unit Owner) the performance of Work in accordance with the rights and easements reserved to Sponsor and granted to the Unsold Unit Owners in the Plan, the Declaration or these By-Laws, including in particular (but not limited to) Plan Obligations (which include Sponsor's undertaking to obtain such permanent new or amended C of O with respect to the Commercial Unit and the caretaker's apartment on a portion of Office Unit 500, and any work undertaken by Sponsor pursuant to the Plan, a Plan Amendment or a Purchase and Sale Agreement) and Tenant Obligations (see Section 12.7 of Declaration).

14.6.2 No Liability or Abatement. The Condominium Board (including its members and officers), Sponsor and Unsold Unit Owners, and their respective Related Parties, employees, agents and attorneys, shall not be liable for any Claims or Liabilities and Expenses to any Owner or permitted tenant or occupant of a Unit for any such interruption or reduction of services, or for any failure to furnish services (including heat, hot and cold water, electricity, steam, air conditioning, elevator and sewer service) caused by a public utility or Governmental Authority supplying same, or Work performed pursuant to Sponsor's Plan Obligations or Tenant Obligations, or Work performed by an Unsold Unit Owner in accordance with the Declaration or these By-Laws, or otherwise. In addition, any such permitted interruption or reduction of services, or such failure of service, shall not entitle any Unit Owner to any abatement or diminution of Common Charges. However, the Party causing such interruption or reduction of services (i.e., the Condominium Board, Sponsor or Unsold Unit Owner, as the case may be) shall use reasonable efforts to give all affected Unit Owners reasonable prior notice of any such contemplated interruption, reduction or failure, except in the event of an emergency, and to the extent economically reasonable and practical shall endeavor to minimize any such interruption, reduction or failure.

Section 14.7 **Records and Audits**

14.7.1 Records Kept by Treasurer. The Treasurer of the Condominium, or the Managing Agent (if any) 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 Association and the Condominium Board, which records and books of account shall include: (a) a chronological listing of all receipts of, and expenditures by, the Condominium Board and the Managing Agent (if any), together with cancelled checks, check register, statements, bills and invoices; and (b) a separate listing for each Unit, setting forth, among other things, the amount of each assessment of Common Charges, real estate taxes, if applicable, Special Assessments levied against such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid and a copy of any Permitted Mortgage encumbering such Unit, if applicable.

14.7.2 Records Kept by Secretary. The Secretary of the Condominium, or the Managing Agent (if any) under the supervision of the Secretary, shall keep detailed records of the actions of the Condominium Board, committees of the Board and relevant actions of Unit

Owners with respect to matters governed by the Declaration or these By-Laws. Such records include: (a) minutes of meetings of the Condominium Board and any resolutions adopted thereat; (b) minutes of meetings of committees of the Board; and (c) minutes of meetings of Unit Owners and the outcome of any matters voted upon thereat.

14.7.3 Examination. Each Unit Owner and Permitted Mortgagees of the Owner's Unit, and their respective representatives, shall be permitted to examine (without charge) and to copy (at a reasonable charge):

(a) the minutes of meetings of Unit Owners;

(b) a list of Unit Owners and their addresses for notices; and

(c) such other information, documents and records as may be in the possession or under the control of the Condominium Board that the Board may determine, in its sole discretion, to make available to Unit Owners and their representatives for inspection and copying, other than the personal financial files of a Unit Owner, a prospective purchaser or tenant of a Unit, or Building Employee files, which shall not be made available to Unit Owners and shall remain confidential.

All such examinations shall be conducted at the office of Managing Agent or other location reasonably convenient to the Property specified by the Board and in a manner that shall not unreasonably interfere with the Operation or business of the Condominium Association, the Condominium Board or the Managing Agent (if any). The examinations shall be permitted during business hours, on business days and upon reasonable advance written notice, but not more frequently than once a month (such examination shall not extend over more than three (3) business days in any calendar month) as to each Unit Owner, the Owner's Permitted Mortgagees, and their respective representatives. The Board shall retain all books and records for at least three (3) years.

14.7.4 Tax Returns and Financial Statements. The Condominium Board shall cause to be prepared and filed on a timely basis and before the imposition of interest, charges or penalties for late filing or late payment, all requisite federal, state and city income tax or franchise tax or unincorporated business tax and any other tax returns relating to the Condominium Association or the Common Charges or the Operation of the Common Elements. Any income taxes shall be allocated each Budget Year to the projected Common Expenses and charged to all Units Pro Rata to their respective Common Interests. The Costs and Expenses to prepare and file such tax returns and to attend or defend any audit or Litigation in connection therewith, shall similarly be included in the Common Expenses and charged to all Units Pro Rata to their respective Common Interests.

In addition, within four (4) months after the end of each fiscal year of the Condominium Association, the Condominium Board shall submit to each Unit Owner and, if so requested by a Unit Owner or a Permitted Mortgagee of a Unit, to any tenant or Permitted Mortgagee of a Unit, an annual report of assets and liabilities and the Operation of the Condominium Association, Common Elements, the Association's Properties and the Property generally, including the receipts and expenditures of the Condominium Board with appropriate line items and notes

distinguishing the Common Expenses and any specially allocated expenses to a Unit in accordance with the Special Allocation and Apportionment Rule for such fiscal year. Each such annual report shall be prepared and certified by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied or (at the Board's exclusive option) AICPA standards consistently applied.

The Costs and Expenses to prepare and distribute such annual report shall be included in the Common Expenses and charged to all Units Pro Rata to their respective Common Interests.

Section 14.8 **Tenants and Occupants of Units Entitled to Receive Building Services**

14.8.1 Provision of Service. The Condominium Board shall provide to each tenant and occupant of all or a portion of a Unit, and such tenant and occupant shall receive, without discrimination, all of the same services and amenities as are required to be provided to the Owner of such Unit pursuant to the Declaration, these By-Laws or applicable Law. Apart from regular Common Charges and Special Assessments levied on all Unit Owners, no separate fee, charge, imposition or Costs and Expenses for such services and amenities shall be assessed by the Condominium Board against said tenant or occupant, or the Owner of said Unit, except to the extent same are assessed to all other Unit Owners pursuant to the Condominium Documents. The aforesaid services and amenities include all Building Systems and amenities comprising the Common Elements and the services to be provided by the Building's staff.

14.8.2 Removal of Violations. The Condominium Board, with reasonable diligence and in good faith, shall remove any violation noted or issued with respect to the Common Elements or the Immediately Adjacent Sidewalks to the Property or the Vaults thereunder. Any condition in the Common Elements or the Immediately Adjacent Sidewalks to the Property or the Vaults thereunder constituting a violation (even though not noted or issued) that the Condominium Board is required to correct pursuant to Law or the Declaration or these By-Laws shall be corrected by the Board if failure to do so is grounds for a tenant of a Unit to reduce or withhold the rent or would constitute a violation of the tenant's lease or applicable Law. All Costs and Expenses paid or incurred by the Condominium Board in connection with the foregoing shall be charged to all Unit Owners Pro Rata to their respective Common Interests. The foregoing shall not prevent or impair the right of a Unit Owner to require the Board to correct and remove violations in accordance with its obligations under the Declaration or these By-Laws, irrespective of whether the Owner's Unit is leased or rented.

14.8.3 Tenant Violation. The Condominium Board will have no recourse of any kind against a Unit Owner for a violation of the Condominium Documents by a tenant or occupant of such Owner's Unit if (and during the period) such Unit Owner endeavors in good faith and with reasonable diligence and continuity to abate, enjoin or remedy the violation by appropriate action against such tenant or occupant. However, the foregoing shall not excuse the Unit Owner from the obligation to pay for Repairs caused by the said tenant's or occupant's acts, omissions, negligence, misuse or neglect as provided in Section 5.4 above and Section 14.7 of the Declaration.

14.8.4 Intentionally Omitted.

Section 14.9 **Building Services Required to be Provided to Unit Owners**

In accordance with Article 11, Section 11.9 of the Declaration, the Condominium Board shall have the responsibility and duty to provide all Building services, facilities and amenities (collectively, "**Building Services**"), including (if and to the extent applicable) HVAC/Mechanical/Utility Building Systems, comprising the Common Elements to all Units, as well as all Building Services contemplated in the Declaration, these By-Laws or the Plan to be provided to all or certain Units, as applicable. The manner of operation and provision of said Building Services shall be governed by said Section 11.9, including the requirement to provide all said Building Services to be provided to the Commercial Unit on a twenty-four (24) hour, seven (7) day a week basis.

ARTICLE 15

EXISTING LEASES

Section 15.1 **Subordination**

Each lease, operating agreement or license entered into for all or a portion of a Unit prior to the recordation of the Declaration is, and for all purposes shall be regarded as, an "**Existing Lease**" to which the Declaration and these By-Laws shall be subject and subordinate, regardless of whether or not such lease, operating agreement or license, or a memorandum thereof, is recorded.

Section 15.2 **Provision of Services**

With respect only to an Existing Lease of a Unit as to which the Declaration is subordinate, if the terms of such Existing Lease require services be provided to the Existing Tenant thereunder which under the terms of the Declaration and By-Laws may only be provided by the Condominium Board or are under the exclusive control of the Condominium Board, then the Condominium Board shall provide such services to said Existing Tenant in accordance with such Existing Lease until it expires (including all renewals or extensions thereof pursuant to an option to renew or extend, but excluding any other extensions or renewals thereof and all Amendments thereto made after the recording of the Declaration in the Register's Office) or sooner terminates. The Owner of such Unit shall not be required to pay any Special Assessment or other Additional Common Charge, imposition or other charge, apart from regular Common Charges and Additional Common Charges (including Special Assessments) levied on all Unit Owners Pro Rata to their respective Common Interests, for any additional Costs and Expenses incurred by the Board in connection with providing such services to said Existing Tenant of such Owner's Unit.

ARTICLE 16

UNIT CONVEYANCES, SALES, LEASES AND MORTGAGES

Section 16.1 **General**

16.1.1 Compliance with By-Laws. Subject and subordinate to the terms of Section 16.5 hereof, a Sold Unit Owner shall not sell, transfer, convey or lease such Owner's

Sold Unit, except in compliance with the applicable provisions of this Article 16. Any purported sale, transfer, conveyance or lease consummated in violation of the applicable terms hereof shall be voidable at the sole election and discretion of the Condominium Board.

16.1.2 Ejectment or Eviction. With the intention to constitute a limited, durable power of attorney, each Sold Unit Owner, by accepting or recording a deed to such Owner's Sold Unit or otherwise succeeding to title to a Sold Unit (whether through operation of Law or by merger, consolidation, liquidation, distribution, gift, devise, intestacy or otherwise) shall thereupon automatically have, and be deemed to have, irrevocably authorized and designated the individuals who shall from time to time constitute the Condominium Board, collectively in their capacity as Board Members, as agent and attorney in fact of such Sold Unit Owner, "coupled with an interest" and for valuable consideration, and with full power of substitution, to act on behalf and as agent of such Sold Unit Owner and in the name, place and stead of such Sold Unit Owner in any way in which such Owner could do if personally present, to the full extent such Owner is permitted by Law to act through an agent, having the right, power and authority with respect only to the following, upon determination of the Condominium Board: (a) in the case of a sale, transfer or conveyance in violation of this Article 16: to institute and prosecute through completion a Lawsuit and all appeals therefrom to eject a purported successor Owner from the Sold Unit owned by such Sold Unit Owner; or (b) in the case of a lease or occupancy agreement in violation of this Article 16: to evict or remove by summary dispossess proceedings or otherwise a tenant of such Sold Unit. This durable, limited power of attorney shall not be affected by the subsequent disability or incompetence of such Sold Unit Owner. The Condominium Board shall have the right and option (but not the obligation) to institute such Lawsuit, which is in addition to all other rights and remedies available to the Board at Law or in equity. The exercise and enforcement of the provisions of this subsection 16.1.2 and all disputes and controversies which give rise to the exercise and enforcement hereof, at the exclusive option and absolute discretion of the Condominium Board, shall not be subject to arbitration under Article 19 below by the offending Sold Unit Owner, who shall have no right to submit the matter or the underlying disputes or controversies to arbitration.

16.1.3 Reimbursement. If the Condominium Board elects to bring this or any other Claim or Lawsuit with respect to such violation of this Article 16, the applicable Sold Unit Owner shall pay and reimburse the Condominium Board, promptly following written demand, for all Legal Expenses and other Costs and Expenses (together with per diem interest thereon) incurred by or on behalf of the Board in connection with such Claim or Lawsuit and for the legal Expenses and other Costs and Expenses of collection thereof (together with per diem interest thereon), all as provided in subsection 8.13.2 above. All such Legal Expenses, other Costs and Expenses and per diem interest shall be regarded as Additional Common Charges payable by such Sold Unit Owner.

16.1.4 Deed Provision. Each and every deed to a Unit, including transactions subject to, or exempted from, the Match Offer Right or Right of First Refusal referred to in subsection 16.2.8 below, shall expressly provide that the acceptance thereof by the grantee shall constitute an acceptance, ratification and 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. The failure to include such provision in a deed shall not affect the

validity or the enforceability of the deemed acceptance, ratification and assumption of the terms of the Condominium Documents.

16.1.5 Lease Provisions Applicable to Only Sold Units

Each lease or occupancy agreement (collectively, "**Lease**" or "**Lease Agreement**") of a Sold Unit to any tenant in a transaction subject to the Match Offer Right (or Right of First Refusal) pursuant to Section 16.2 below or exempted therefrom pursuant to Section 16.5 below shall expressly state or provide (and shall be deemed to state and provide) as follows:

> This Lease is subject and subordinate to the "Condominium Documents" and that in the event of any inconsistency between the Lease and the Condominium Documents, the inconsistency shall be resolved in accordance with the Condominium Documents, which are paramount and shall govern; and
>
> The "Condominium Board" shall have the right, power and authority to terminate or cancel this Lease and to bring summary proceedings to evict or remove the tenant hereunder in the name of the landlord-Owner in the event of: (a) a violation by tenant of any of the provisions of the "Declaration" or the "By-Laws" (including the "Rules and Regulations"), as each may be amended from time to time, unless remedied within the applicable grace period; (b) a foreclosure of said landlord-Owner's Unit in which the demised premises forms a part by the Condominium Board pursuant to the lien granted by Section 339-z of the Condominium Act; or (c) the purchase or acquisition of said Unit by the Condominium Board or its nominee or designee, whether pursuant to Article 16 of the Declaration or otherwise.
>
> All quoted terms shall have the meanings given to them in that certain declaration of condominium establishing 100 Vandam pursuant to which the building in which the demised premises is located has been submitted to condominium ownership under Article 9-B of the New York Real Property Law.

The failure to include the foregoing provisions in a Lease shall not affect the validity, force or effect of same, which shall be fully enforceable with the same force and effect as though set forth at length in said Lease.

16.1.6 Other Lease Requirements Applicable to Sold Units Only. Each Lease of a Sold Unit only (but not a Lease of an Unsold Unit), in a transaction which is subject to said Match Offer Right (or Right of First Refusal) or exempted therefrom (other than an exemption based on the Unit being an Unsold Unit shall expressly state or provide (and shall be deemed to expressly state or provide), in addition to the mandatory provision set forth in Section 16.2.3 below, that:

(a) the Lease is for a term of not less than one (1) year (unless the Condominium Board consents in writing to a shorter term);

(b) the Lease shall not be amended or extended without obtaining the prior written Discretionary Approval or Consent of the Condominium Board in each instance;

(c) the tenant thereunder shall not assign tenant's interest in such Lease or sublet the Unit demised thereunder or any part thereof without obtaining the prior written Discretionary Approval or Consent of the Condominium Board in each instance; and

(d) (in the case of only a Sold Office Unit) the Unit shall be used and occupied only for standard office uses similar to other Manhattan office buildings in the vicinity of the Building and those uses permitted under existing leases for so long as they remain in effect and for no other purpose, in accordance and compliance with the use and occupancy requirements set forth in Article 10, Section 10.13 of the Declaration and subsection 11.3.1 above; or (in the case of a Sold Commercial Unit or Sold Roof Terrace Unit) the Unit shall be used for (in the case of the Sold Commercial Unit) permitted retail and office purposes or (in the case of the Sold Roof Terrace Unit) any lawful purpose in accordance with the existing zoning Law applicable to the Property, and for other lawful purposes, excluding applicable Prohibited Uses and applicable Offensive Office Uses, in accordance and compliance with Sections 10.13 and 10.15 of the Declaration and Section 11.3.1 above.

16.1.7 Sale Requirement. Each sale or conveyance of a Unit shall be for the entire Unit and its appurtenant Common Interest. Nothing herein shall prohibit an Owner from subdividing the Owner's Unit in accordance and compliance with the Declaration and these By-Laws.

Section 16.2 **Match Offer Right (or Right of First Refusal)**

16.2.1 Exempt Transactions. The provisions of this Section 16.2 are subject and subordinate to Sections 16.5 hereof and do not apply to any of the transactions exempted under said Section 16.5 from the Match Offer Right or Right of First Refusal in favor of the Condominium Board set forth in this Section 16.2 (each, an "**Exempt Transaction**").

16.2.2 Definition. A contract to sell a Sold Unit (i.e., a Sold Office Unit or a Sold Commercial Unit or a Sold Roof Terrace Unit), together with its appurtenant Common Interest is hereinafter collectively referred to as a "**Sale Agreement**" and any Sale Agreement or Lease Agreement of a Sold Unit is each hereafter included in the collective term "**Sale or Lease Agreement**".

16.2.3 Mandatory Provision in Sale or Lease Agreement. Each Sale or Lease Agreement of a Sold Unit in a transaction that is subject to the Board's Match Offer Right (or Right of First Refusal) shall contain the following language:

> THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER ARE HEREBY MADE EXPRESSLY SUBJECT TO THE MATCH OFFER RIGHT OR RIGHT OF FIRST REFUSAL IN FAVOR OF THE BOARD OF MANAGERS OF THE CONDOMINIUM KNOWN AS 100 VANDAM WITH RESPECT TO THE TRANSACTION EMBODIED HEREIN, PURSUANT TO THE TERMS OF SECTIONS 16.2 AND 16.3 OF THE BY-LAWS OF THE SAID CONDOMINIUM, AS THE SAME MAY HAVE BEEN AMENDED.

16.2.4 Procedure. Promptly after any such Sale or Lease Agreement shall be fully executed, the Sold Unit Owner executing the same (hereafter referred to as the "**Offeree Unit Owner**") shall send written notice thereof (**"Sale or Lease Notice"**) to the Condominium Board by certified or registered mail, return receipt requested, which Sale or Lease Notice shall be accompanied by a fully executed, original counterpart of the Sale or Lease Agreement, 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**"). The Sold Unit owned by the Offeree Unit Owner is hereafter sometimes called "**Offeree's Unit**."

16.2.5 Offer to Sell or Lease. The sending of the Sale or Lease Notice shall constitute an irrevocable offer by the Offeree Unit Owner to sell the Offeree's Unit, together with its appurtenant Common Interest, or to lease the Offeree's Unit, as the case may be, to the Condominium Board or to its nominee or designee (whether affiliated or non-affiliated with the Board), corporate or otherwise, on behalf and as agent of all Unit Owners upon the same terms and conditions as are contained in such Sale or Lease Agreement, subject, however, to the modifications and variances therefrom provided in Section 16.3 hereof.

16.2.6 Representations and Warranty. The giving of such Sale or Lease Notice shall further constitute a representation and warranty by the Offeree Unit Owner to the Condominium Board, on behalf and as agent of all Unit Owners, that such Offeree Unit Owner believes the Sale or Lease Agreement to be bona fide in all respects.

16.2.7 Submission of Documents. The Sale or Lease Notice shall be accompanied by such documents as the Board may determine from time to time to be part of the Board's "Standard Document Package" (defined below) in connection with the consideration of a Sale or Lease Agreement, together with such fee and charges as the Condominium Board may require from time to time in accordance with subsection 16.11.1 below. The **"Standard Document Package"** are all documents required by the Board relating to the rental, credit, litigation, financial and business history of the Outside Offeror and (if the Outside Offeror is an Entity) the members, partners, officers, directors, stockholders or principals of the Outside Offeror, including a Building standard form of sale or lease application, income tax returns, credit reports, net worth statement, personal references, employer verification statement (if applicable) and current landlord good standing letter. The Offeree Unit Owner shall also submit to the Condominium Board or its Managing Agent (as directed), promptly following written request therefor, such additional documents and/or information as the Condominium Board may reasonably request with respect to the Outside Offeror or the transaction.

16.2.8 Match Offer Right or Right of First Refusal. Except for an Exempt Transaction, the Condominium Board shall have the right to purchase an Offeree's Unit together with its appurtenant Common Interest (or to cause the same to be purchased by its nominee or designee (whether affiliated or non-affiliated with the Board), corporate or otherwise), or to lease an Offeree's Unit (or to cause the same to be leased by its nominee or designee (whether affiliated or non-affiliated with the Board), corporate or otherwise), as the case may be, on behalf and as agent of all Unit Owners, upon the same terms and conditions as are contained in the Sale or Lease Agreement for Offeree's Unit and stated in the response(s) by the Offeree Unit Owner to any requests for additional documents and/or information pursuant to the terms of the preceding subsection 16.2.7, subject (however) to such modifications and variances thereto as

are required in the following Section 16.3 (herein called a "**Match Offer Right**" or "**Right of First Refusal**"). If the Board wishes to exercise the Match Offer Right (or Right of First Refusal), the Board shall do so in a written notice ("**Acceptance Notice**") given to the Offeree Unit Owner within twenty (20) business days after the Board or its Managing Agent receives the Sale or Lease Notice together with the Sale or Lease Agreement, the Standard Document Package and such further documents and/or information as may have been requested pursuant to the preceding subsection 16.2.7 ("**Option Period**").

16.2.9 Required Unit Owners' Approval. Notwithstanding anything to the contrary contained herein, the Condominium Board shall not exercise its Match Offer Right (or Right of First Refusal) to purchase or lease an Offeree's Unit set forth in this Section 16.2 without the prior approval thereof by vote of a majority in Common Interest of those Sold and Unsold Unit Owners attending a duly constituted meeting of Unit Owners called for such purpose and at which a quorum is present.

16.2.10 Compliance with Civil Rights Laws. In determining whether to elect to purchase or lease Offeree's Unit, the Condominium Board shall not discriminate against an Outside Offeror on the basis of race, creed, color, national origin, sex, sexual orientation, age, disability, marital status or other grounds prohibited by Law. This prohibition also applies to the sale, lease, sublease or other Disposition of Offeree's Unit by the Condominium Board or its nominee or designee as the Owner or tenant (as applicable) thereof.

Section 16.3 **Acceptance of Offer**

16.3.1 Sale or Lease Agreement with Board. In the event that the Condominium Board shall elect, within the Option Period and in the manner provided in Section 16.2.8 hereof, to purchase an Offeree's Unit together with its appurtenant Common Interest (or to cause the same to be purchased by its nominee or designee, whether affiliated or non-affiliated with the Board), or to lease Offeree's Unit (or to cause the same to be leased by its nominee or designee, whether affiliated or non-affiliated with the Board), as applicable and as directed by the Board, the Offeree Unit Owner shall send to the Condominium Board for execution the Sale or Lease Agreement, as modified: (a) to reflect the Board or its nominee or designee (as directed by the Board) as the purchaser or tenant (as applicable); and (b) to conform to the requirements set forth in subsection 16.3.2 or 16.3.3 below (as applicable). Within ten (10) calendar days after receipt thereof, the Condominium Board or its affiliated or non-affiliated nominee or designee (as applicable) shall execute and return to the Offeree Unit Owner the Sale or Lease Agreement (as applicable), as so modified, together with a check for the requisite contract deposit (in the case of a Sale Agreement).

16.3.2 Modified Terms of Sale Agreement. In the event such Offeree's Unit is to be sold to the Condominium Board or its affiliated or non-affiliated nominee or designee, the Sale Agreement shall be modified to provide and conform to the following to the extent any provision of the original Sale Agreement is contrary, inconsistent or silent with respect thereto (except as otherwise provided in clauses (d) and (e) below):

(a) the contract deposit shall equal the lower of 10% of the purchase price of the Offeree's Unit or the contract deposit stated in the original Sale Agreement;

(b) such contract deposit shall be held in escrow and disposed of in accordance with the terms of the Sale Agreement (as modified by this Section 16.3) by the attorney for the Offeree Unit Owner, or if the Offeree Unit Owner does not have an attorney, by an attorney selected by the Condominium Board;

(c) the time and location of title closing shall be set by the Condominium Board and the date of title closing shall be determined by mutual agreement of the Condominium Board and Offeree Unit Owner or (if they are unable to agree) in no event later than sixty (60) business days after the Condominium Board gives the Offeree Unit Owner its Acceptance Notice electing to purchase Offeree's Unit;

(d) the Offeree Unit Owner shall convey Offeree's Unit and its appurtenant Common Interest to the Condominium Board or its affiliated or non-affiliated nominee or designee (as directed by the Board) by bargain and sale deed with covenant against grantor's acts and in the form required by Section 339-o of the Condominium Act, and (unless otherwise expressly provided in the original Sale Agreement) with all documentary stamps affixed at the expense of the Offeree Unit Owner, who shall also pay all other City and State transfer taxes arising out of the sale that are at the time imposed by Law on a seller (but not the portion of such transfer taxes that may be imposed by Law on a purchaser, if any);

(e) (unless otherwise expressly provided in the original Sales Agreement) the Offeree Unit Owner and Condominium Board or its affiliated or non-affiliated nominee or designee (as applicable) shall apportion as of 11:59 p.m. of the day preceding the closing of title based on the actual number of days in the month of closing: (e-1) real estate taxes (if Offeree's Unit is not separately assessed at closing, the apportionment shall be based on the amount of real estate taxes for the Property which is attributable to Offeree's Unit as determined in accordance with Section 9.1 above); (e-2) Common Charges, including the then current installment of any Condominium Special Assessment for the month or period in which title closes (such Special Assessment shall be apportioned based on the actual number of days in such month or other period); (e-3) mortgage interest (if applicable); (e-4) gas and electricity (if separately metered or submetered); and (e-5) rent paid or payable under any existing lease or tenancy; and

(f) in the event of a default by the Board or its affiliated or non-affiliated nominee or designee (as applicable) under the Sale Agreement, the Offeree Unit Owner shall have no recourse of any kind against the Board or (if applicable) its nominee or designee, or the respective members, officers, agents, attorneys or employees of the Board or (if applicable) its affiliated or non-affiliated nominee or designee, or Unit Owners, and the sole right and remedy of the Offeree Unit Owner shall be limited to canceling the Sale Agreement in a written notice to the Board or its nominee or designee (as applicable) and receiving the contract deposit and any interest earned thereon as and for liquidated damages and in full settlement, satisfaction, release and discharge of all Claims and Costs and Expenses of the Offeree Unit Owner, such cancellation to become effective upon the giving of the cancellation notice and the expiration of any applicable grace period stated in the Sale Agreement or allowed by Law, unless the default is cured within such grace period (if any).

16.3.3 Modified Terms of Lease Agreement. In the event Offeree's Unit is to be leased to the Condominium Board or its affiliated or non-affiliated nominee or designee, the Lease Agreement shall be modified to provide and conform to the following to the extent any term in the original Lease Agreement is contrary, inconsistent or silent with respect thereto:

(a) Intentionally omitted;

(b) Intentionally omitted;

(c) notwithstanding any prohibition or restriction against subletting in the proposed Lease Agreement with the Outside Offeror, the Condominium Board (or its affiliated or non-affiliated nominee or designee, as applicable) shall have the right and discretion to sublease the Unit one (1) or more times Freely and Without Consent, Payment or Restriction and without the Offeree Unit Owner participating in, or sharing, the rent under such sublease;

(d) the terms of the Lease Agreement (and the obligation to pay rent) shall begin on a date mutually agreeable to the Condominium Board and Offeree Unit Owner, or (if they are unable to agree) on the later of: (d-1) the date of commencement of the term stated on the original Lease; or (d-2) the date that falls sixty (60) business days after the Condominium Board gives the Offeree Unit Owner its Acceptance Notice electing to lease Offeree's Unit; and

(e) in the event of a default by the Board (or its affiliated or non-affiliated nominee or designee, as applicable) in the payment, performance or observance of any provision of the Lease, the Offeree Unit Owner shall have no recourse against the Board or its affiliated or non-affiliated nominee or designee (as applicable), or the respective members, officers, agents, attorneys or employees of the Board or (if applicable) its nominee or designee, or the Unit Owners, and the sole right and remedy of the Offeree Unit Owner shall be limited to canceling the Lease Agreement in a written notice to the Board or its nominee or designee (as applicable), which cancellation shall become effective upon the giving of such cancellation notice and the expiration of any applicable grace period stated in the Lease Agreement or allowed by Law, unless the default is cured within such grace period (if any).

16.3.4 Common Expenses. All payments made by the Condominium Board or its affiliated nominee or designee to purchase, own, lease, Maintain, Repair, Alter and otherwise Operate and make any other Disposition of Offeree's Unit purchased or leased by the Condominium Board or its affiliated nominee or designee (as applicable) in accordance with this Article 16 will be included in the Common Expenses and charged to all Unit Owners Pro Rata to their respective Common Interests.

16.3.5 Revenues. Similarly, any revenues derived from owning, selling, leasing, subleasing, mortgaging, Operating or making any other Disposition of Offeree's Unit owned or leased by the Condominium Board or its affiliated nominee or designee (as applicable) shall be applied to defray the Common Expenses.

16.3.6 Source of Funds to Purchase. In connection with a purchase of Offeree's Unit, Condominium Board may levy a Special Assessment against all Unit Owners (other than the Offeree Unit Owner) in accordance with the terms of Section 8.4 hereof and/or the Condominium Board may, in its discretion, finance the acquisition of Offeree's Unit; provided and on condition that:

(a) any such financing shall not be secured by an encumbrance on, or a hypothecation of, any portion of the Property other than the Offeree's Unit together with its appurtenant Common Interest;

(b) if the proposed borrowing (regardless of amount) is to occur during only the Sponsor Veto Control Period, the affirmative Discretionary Approval or Consent of Sponsor must first be obtained as provided in subsections 2.4.2(o) and 2.5.8 above; and

(c) the loan documents shall expressly provide that the Unit Owners shall have non-recourse, limited and joint liability for the loan in accordance with Section 4.12 above.

16.3.7 Existing Mortgage. In addition, if (in the case of a sale) the Outside Offeror was to assume or to take title to Offeree's Unit subject to the Offeree Unit Owner's existing mortgage or mortgages, the Condominium Board (or its affiliated or non-affiliated nominee or designee, if and as applicable) may purchase Offeree's Unit and assume or take title thereto subject to such mortgage or mortgages, as the case may be, provided and on condition that:

(a) the requisite Discretionary Approval or Consent of Sponsor is first obtained pursuant to said subsections 2.4.2(o) and 2.5.8 above (if and as applicable); and

(b) such mortgage or mortgages shall expressly provide or include substantially equivalent provisions to the effect that Unit Owners shall have non-recourse, limited and joint liability in accordance with said Section 4.12 above.

16.3.8 Waiver of Partition, Use and Occupancy. While an Offeree's Unit is owned or leased by the Condominium Board or its affiliated nominee or designee, on behalf and as agent of all Unit Owners, such Offeree's Unit shall be part of the Association's Properties and all Office and Commercial Unit Owners shall be deemed to have waived all rights of partition, use and occupancy with respect to such Offeree's Unit to the same effect as herein provided with respect to the Common Elements, all as set forth more fully in Section 16.20 below.

16.3.9 Board Decisions. The Condominium Board shall make all decisions concerning an Offeree's Unit, including whether or not to exercise the Match Offer Right (or Right of First Refusal) pursuant to Section 16.2 above and this Section 16.3 and all decisions relating to the Disposition of Offeree's Unit while owned or leased by the Condominium Board (or its affiliated nominee or designee, if and as applicable), except the Board (or its affiliated nominee or designee, if and as applicable) shall not have the right to cast the votes appurtenant to such Unit. These decisions include:

(a) the use of an Offeree's Unit (provided such use shall be in accordance with the Declaration and these By-Laws);

(b) the occupancy of an Offeree's Unit (provided such occupancy shall be in accordance and compliance with the occupancy requirements of the Declaration and these By-Laws);

(c) the sale, lease, Operation, mortgage (subject to obtaining the requisite Discretionary Approval or Consent of Sponsor pursuant to subsections 2.4.2(o) and 2.5.8 above, if and as applicable) or other Disposition of an Offeree's Unit (if owned by the Condominium Board or its affiliated nominee or designee) or the Operation and sublease of an Offeree's Unit (if leased by the Condominium Board or its affiliated nominee or designee); and

(d) the Maintenance, Repair, Alteration and other Operation, and all other Dispositions of, an Offeree's Unit.

Section 16.4 **Failure to Accept Offer**

16.4.1 90 Days to Consummate. In the event that the Condominium Board shall decline or fail to accept an offer made pursuant to the terms of Section 16.2 hereof within the twenty (20) business days Option Period set forth in subsection 16.2.8 above, the Offeree Unit Owner shall be free to consummate the transaction embodied in the Sale or Lease Agreement and stated in any responses to requests by the Board for additional documents and/or information, within a deadline of ninety (90) calendar days ("TIME BEING OF THE ESSENCE") after the date ("**Commencement Date**"): (a) notice of declination is sent to the Offeree Unit Owner by the Condominium Board; or (b) (if no such declination notice is sent during the Option Period) the expiration of the Option Period within which the Condominium Board or its affiliated or non-affiliated nominee or designee might have accepted such offer, as the case may be. If the Offeree Unit Owner shall fail to consummate the transaction embodied in the Sale or Lease Agreement and stated in any said responses within such ninety (90) calendar day deadline period ("TIME BEING OF THE ESSENCE"), then the transaction shall be voidable at the sole option of the Condominium Board and (if the Board elects to void same) the Board will again have the Match Offer Right (or Right of First Refusal) to purchase or lease (as applicable) the Offeree's Unit and the Offeree Unit Owner shall be required again to comply with all of the terms and provisions of Sections 16.2, 16.3 and 16.4 hereof with respect to the original or any subsequent Outside Offeror. The issuance of the "Certificate of Waiver or Exemption" (as such quoted term is defined, and as provided in, Section 16.6.1 below) after the expiration of the Option Period shall not extend the foregoing ninety (90) calendar day period from said Commencement Date to consummate the transaction embodied in the Sale or Lease Agreement and stated in any said responses.

Section 16.5 **Transactions Exempt from Match Offer Right**

16.5.1 Exempt Transactions. The following sales, transfers, conveyances and Leases are Exempt Transactions and not subject to the Condominium Board's Match Offer Right (or Right of First Refusal) under Section 16.2 hereof:

(a) (if Offeree Unit Owner is an individual) a sale, transfer, conveyance or Lease of any Offeree's Unit from its Owner to an adult member of such Owner's immediate family or to a trust for the benefit of such Owner or a member of such Owner's immediate family;

(b) (if Offeree Unit Owner is an Entity) a sale, transfer, conveyance or Lease of any Offeree's Unit from its Owner to: (b-1) any Entity in which such Owner owns more than

50% of the legal and beneficial interests; or (b-2) any Person who owns more than 50% of all legal and beneficial interests in such Owner;

(c) a transfer, conveyance or Lease of any Unit from its Owner to any Person who acquires title to or a Lease of such Owner's Unit as a gift or as an heir or distributee under the Owner's will or by intestacy;

(d) a transfer or conveyance to the shareholders, partners, members or other equity Owners of the offeree Unit Owner in an partial or full liquidation or dissolution of such Owner;

(e) a sale, transfer or conveyance of any Unit, or a Lease or sublease of all or part of any Unit to Sponsor or an Unsold Unit Owner, or any such transaction of any Unsold Unit from Sponsor or an Unsold Unit Owner to any Person;

(f) Intentionally Omitted;

(g) a sale, transfer, conveyance, Lease or sublease of any Unit to the Condominium Board (or its affiliated or non-affiliated nominee or designee) or from the Condominium Board (or its affiliated nominee or designee) to any Person;

(h) a sale, transfer or conveyance of any Unit from an officer or other Person conducting a foreclosure sale of a mortgage, or the lien of the Condominium Board under Section 339-z of the Condominium Act and Section 8.9 above, or other lien foreclosure sale to any Person;

(i) a transfer or conveyance of any Unit by deed in lieu of foreclosure from a Unit Owner to a lien holder (e.g., a Permitted Mortgagee, the Condominium Board or other lienor) or to any Person designated by a lien holder; and

(j) a sale, transfer, conveyance or lease of any Unit acquired by a lien holder or its designee pursuant to clause (h) or (i) above or otherwise to any Person.

16.5.2 Application to Succeeding Owner. Each succeeding Owner of a Unit shall be bound by, and such Owner's Unit shall continue to be subject to, all of the terms and conditions of this Article 16.

16.5.3 Proceeds of Sale or Rental. Apart from the charges and fees applicable in certain transactions as provided in Section 16.11 below, all proceeds realized on the sale or leasing of a Unit shall be retained by the Owner of such Unit, without participation by the Condominium Board or other Unit Owners.

Section 16.6 **Certificate of Waiver or Exemption as to Match Offer Right**

16.6.1 Requirement to Give Certificate. In the event the Condominium Board declines or fails to exercise or waives its Match Offer Right (or Right of First Refusal) or the proposed sale, transfer, conveyance or Lease is an Exempt Transaction pursuant to Section 16.5 above, the Condominium Board shall furnish, or cause the Managing Agent to furnish, to the applicable Offeree Unit Owner or the Owner whose Unit is exempt from the Match Offer Right pursuant to Section 16.5.1 above ("**Exempt Unit Owner**"), as applicable, and such Unit Owner shall receive, a written certification to such effect ("**Certificate**" or "**Certificate of Waiver or Exemption**") within the following ten (10) calendar day period: (a) in the case of an Offeree Unit Owner: within ten (10) calendar days after expiration of the twenty (20) business days

Option Period set forth in subsection 16.2.8 above; or (b) in the case of an Exempt Unit Owner: within ten (10) calendar days after a reasonably detailed written request for such Certificate (setting forth the grounds for the Exempt Transaction) is given to the Condominium Board or its Managing Agent. The giving of such Certificate after the end of the Option Period shall not extend the ninety (90)-day calendar deadline period within which the Offeree Unit Owner is required to consummate the transaction embodied in the Sale or Lease Agreement and stated in responses to the Board as provided in subsection 16.4.1 above.

16.6.2 Execution and Contents of Certificate. The Certificate shall be executed and acknowledged by the following: (a) in the case of a Sold Unit: any Board Member or any officer elected by the Condominium Board or the Managing Agent; or (b) in the case of an Unsold Unit: any Sponsor or Independent Board Member or any officer elected by the Sponsor Board Member(s) or by the Condominium Board, or the Managing Agent.

The Certificate of the Condominium Board shall state in effect that: (a) the provisions of Section 16.2 hereof have been met by the Offeree Unit Owner and that the Match Offer Right (or Right of First Refusal) provided for therein has been duly released or waived by the Condominium Board or that the transaction is exempt from the provisions of Section 16.2 pursuant to Section 16.5 hereof (as applicable); and (b) as a result thereof, the rights of the Condominium Board under such Section 16.2 have terminated or are not applicable (as the case may be).

16.6.3 Effect of Certificate. Such Certificate 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 Certificate, the Offeree's Unit to which the same relates, together with its appurtenant Common Interest, may be conveyed or leased (as applicable) free and clear of the terms and conditions contained in Section 16.2 hereof, subject to consummation of the transaction within the ninety (90)-day calendar deadline period set forth in subsection 16.4.1 above.

16.6.4 Pre-requisite for Giving Certificate. The Condominium Board shall have the right (without liability for any Claims or Liabilities and Expenses or other recourse of the Offeree Unit Owner or the Exempt Unit Owner or the Outside Offeror) to refuse to issue such Certificate if: (a) the Offeree Unit Owner or Exempt Unit Owner (as applicable) is in default in the payment of Common Charges or Additional Common Charges (including Special Assessments), if any, or in the payment or performance of a substantial or material obligation under the Condominium Documents; or (b) the Offeree Unit or the Unit owned by an Exempt Unit Owner (as applicable) is subject to an unpaid lien (other than a Permitted Mortgage). Upon the curing of such default or the satisfaction (or appropriate provision acceptable to the Board is made for the satisfaction) of such unpaid lien (as applicable), the Condominium Board shall cease to refuse to issue the appropriate Certificate.

16.6.5 Failure of Board to Exercise or Consummate. The Match Offer Right (or Right of First Refusal) described in Section 16.2 hereof shall be deemed terminated, released or waived by the Condominium Board (as opposed to satisfied pursuant to the express terms of Sections 16.2 and 16.4 hereof) even though the Condominium Board shall fail to furnish or cause the Managing Agent to furnish said Certificate of Waiver or Exemption within ten (10) calendar

days after the expiration of the twenty (20) business days Option Period set forth in subsection 16.2.8 above within which the Condominium Board is to make its election; provided, however, that: (a) the Condominium Board shall fail to timely and properly exercise the Match Offer Right (or Right of First Refusal) or (if exercised) shall fail to consummate the Sale or Lease Agreement as provided in the Article 16; and (b) the Offeree Unit Owner shall have faithfully complied with the provisions of this Article 16.

16.6.6 Validity Unaffected. An Exempt Transaction pursuant to Section 16.5 hereof or a non-Exempt Transaction that meets the requirements of the preceding subsection 16.6.5 may be consummated without a Certificate and the failure to issue a Certificate for such transaction shall not affect the validity or enforceability of said transaction.

Section 16.7 **No Severance of Ownership**

A Unit Owner shall not execute any deed, mortgage or other instrument conveying or securitizing title to the Owner's Unit without including therein its appurtenant Common Interest, it being the intention to prevent any severance of such combined ownership. Any deed, mortgage or other instrument purporting to affect one (1) 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 Common Interest appurtenant to any Unit may be sold, conveyed, mortgaged or otherwise securitized, except as part of a sale, conveyance, mortgage or other securitization of the Unit to which such Common Interest is appurtenant or as part of a sale, conveyance or other securitization of such part of the Common Interests appurtenant to all Units. Nothing contained in this Section 16.7 however, shall prohibit the Lease of any Unit without the simultaneous Lease of its appurtenant Common Interest.

Section 16.8 **Payment of Common Charges**

A Sold Unit Owner shall not be permitted to convey or Lease such Owner's Sold Unit unless such Owner shall have paid in full to the Condominium Board all unpaid Common Charges and unpaid Additional Common Charges theretofore assessed against such Unit, including past due installments of Special Assessments (but not installments not yet due and payable), and shall have satisfied all unpaid liens, other than that of Permitted Mortgages, on such Sold Unit (the foregoing shall not apply to Unsold Unit). A letter from the Condominium Board or its Managing Agent stating the amount of Common Charges and Additional Common Charges (including Special Assessments, if any) with respect to such Sold Unit shall be conclusive evidence of such fact upon the Condominium Board and all Unit Owners in favor of all Persons who rely thereupon in good faith.

Section 16.9 **Unit Owner's Power of Attorney**

At the time of acquiring title to a Unit and as a condition thereof, the new Unit Owner, at such Owner's sole Cost and Expense, shall duly execute, acknowledge and deliver to the representative of such new Owner's title insurance company (or, if no such representative is present, to the Condominium Board) for recording in the Register's Office, and shall cause to be so recorded therein and shall pay all governmental charges and title company or agent service charges for recording, the Unit Owner's Power of Attorney required in Article 17 of the

Declaration, in the form set forth as EXHIBIT E to the Declaration or then in use by the Condominium Board.

Section 16.10 **Gifts and Devises, Etc.**

In accordance with Section 16.5(c) above, any Unit Owner shall be free to convey or transfer the Owner's Unit, together with its appurtenant Common Interest, by gift, or to devise the same by will or to have the same pass by intestacy, without restriction and without compliance with Section 16.2 hereof, provided, however, that each succeeding Unit Owner shall be bound by, and such Owner's Unit shall be subject to, the provisions of this Article 16.

Section 16.11 **Charges Imposed on Non-Exempt Transactions**

16.11.1 Charges. If not expressly prohibited by Law, the Condominium Board shall have the power to fix by resolution (without amending the Declaration or By-Laws) and collect, before the consummation of any sale, transfer, conveyance, Lease or sublease of a Sold Unit in any transaction that is not an Exempt Transaction under Section 16.5 hereof, a reasonable charge to cover the reasonable fees and expenses of the Condominium Board and/or the Managing Agent and/or any attorney retained by the Condominium Board in connection therewith. The Condominium Board may also fix by resolution (without amending the Declaration or By-Laws) and collect a reasonable charge to cover said reasonable fees and expenses in connection with a mortgage financing or mortgage refinancing of a Sold Unit if any Board action is requested in connection therewith (but not for any mortgage financing or refinancing of an Unsold Unit, for which no charge shall be imposed or levied). In addition, the Condominium Board shall have the power to fix by resolution (without amending the Declaration or By-Laws) and collect a refundable, unapplied security deposit in an amount fixed by the Board for potential damage to the Common Elements on moving into or out of a Sold Unit in connection with a sale, conveyance, Lease or sublease of such Unit (whether or not such transaction is an Exempt Transaction, other an exemption based on the Unit being an Unsold Unit, for which no such security deposit may be imposed or collected). The proposed fees payable by such Sold Unit Owner to the Managing Agent, and said proposed security deposit, set forth in the Plan shall conclusively be deemed to be reasonable. If such charge is adopted, it shall be added to and constitute Additional Common Charges payable by the Offeree Unit Owner. Any security deposit collected by the Board shall be refunded to the party making the deposit with reasonable promptness following the move, after deducting therefrom the Costs and Expenses to repair any damage to the Common Elements caused on the move and restore as near as economically practical the affected Common Elements to the condition existing immediately prior to the move. The security deposit shall not limit the amount recoverable in the event it is insufficient to fully pay the Costs and Expenses to repair and restore the Common Elements.

16.11.2 No Charges on Exempt Transaction. In no event shall any charge, fee, security deposit, cost, expense or other imposition be fixed or collected for any sale, transfer, conveyance or Lease (or sublease) that is an Exempt Transaction under Sections 16.5 hereof, including in particular (but not limited to): any Unsold Unit sold, transferred, conveyed or Leased (or subleased) to or by Sponsor or an Unsold Unit Owner (or a tenant of Sponsor or an Unsold Unit Owner), except that a refundable, unapplied security deposit may be collected in connection with a move into or out of a Sold Unit (but not a move into or out of an Unsold Unit,

for which no security deposit may be imposed or collected) as provided in subsection 16.11.1 above.

16.11.3 Flip Tax Authorization. The Condominium Board shall have the power to adopt by resolution (without amending the Declaration or By-Laws) a so-called "transfer fee", or "entrance fee" or "exit fee" (collectively, "**flip tax**") on the sale, transfer or conveyance of a Sold Unit in connection only with a transaction that is subject to the Match Offer Right (or Right of First Refusal) in Section 16.2 hereof (but not in an Exempt Transaction under Section 16.5 hereof, for which no flip tax may be imposed or collected), provided and on condition that: (a) such flip tax shall be approved in writing or by vote at duly constituted meeting of Unit Owners called for such purpose; (b) Owners of not less than two-thirds (2/3rds) in number and Common Interest of all Sold and Unsold Units (excluding for quorum and voting purposes any Unit owned by the Condominium Board, or its affiliated nominee or designee), shall affirmatively approve the flip tax and the amount thereof; and (c) the flip tax is not expressly prohibited by Law. If such flip tax is adopted, it shall be added to and constitute Additional Common Charges payable by the Offeree Unit Owner. Apart from the charges and fees authorized in this Section 16.11, the Offeree Unit Owner shall retain all proceeds realized from the sale or leasing of the Offeree's Unit, without participation by the Condominium Board or Unit Owners.

Section 16.12 **Estoppel Certificate**

If requested in writing by a Unit Owner, the Condominium Board shall deliver to the requesting Unit Owner from time to time, and such Unit Owner shall receive within ten (10) calendar days after each written request is given, a written statement ("**Estoppel Certificate**"): (a) certifying the date to which Common Charges and any Additional Common Charges (including Special Assessments) have been paid and the amount thereof and of any other unpaid indebtedness owed under the Condominium Documents; and (b) acknowledging that there are not, to the best knowledge of the Condominium Board, any uncured defaults or violations on the part of the Unit Owner under the Condominium Documents, as same may then be amended, or specifying any defaults or violations if any are claimed.

The Estoppel Certificate shall be executed and delivered by the following:

(a) in the case of a Sold Unit: any Board Member or any officer elected by the Condominium Board, or the Managing Agent, may execute and deliver such Estoppel Certificate; or

(b) in the case of an Unsold Unit: any Sponsor Board Member or Independent Board Member, or any officer elected by the Sponsor Board Member(s) or by the Condominium Board, or the Managing Agent, may execute and deliver such Estoppel Certificate.

Such Estoppel Certificate may be included in a Certificate of Waiver or Exemption and shall be conclusive upon the Condominium Board and all Unit Owners in favor any prospective purchaser or any prospective or existing holder of a mortgage on, or any prospective or existing tenant of, the Owner's Unit who relies thereon in good faith. The failure of such Unit Owner to receive such Estoppel Certificate within said ten (10) calendar day period shall be conclusive

upon the Condominium Board and all Unit Owners that: (a) the Unit Owner is current in the payment of Common Charges and any Additional Common Charges (including Special Assessments); and (b) there is no other unpaid indebtedness owed, nor any uncured defaults or violations on the part of such Unit Owner, under the Condominium Documents, as same may be amended. The Condominium Board shall be required to deliver an Estoppel Certificate to a Unit Owner not more often than twice in any twelve (12) months period.

Section 16.13 **Registration of Mortgages**

A Unit Owner who mortgages the Owner's Unit or the holder of such mortgage, shall register such mortgage ("**Registered Mortgage**") with the Condominium Board by supplying the Condominium Board with the name and address of the mortgagee ("**Registered Mortgagee**") and filing a conformed copy of the mortgage and the note secured thereby with the Condominium Board. The failure to comply with the foregoing shall not affect the validity or enforceability of the mortgage. Any mortgage on a Sponsor Unit at the date of First Unit Closing under the Plan that is not satisfied at such First Unit Closing shall be considered a Registered Mortgage regardless of compliance with the foregoing. A Unit Owner who satisfies a mortgage covering the Owner's Unit shall so notify the Condominium Board in writing and shall also file a conformed copy of the satisfaction of the mortgage with the Condominium Board. The Secretary of the Condominium shall maintain all such mortgage information and documents in a book entitled Mortgages of Units.

Section 16.14 **Prohibition and Restriction on Mortgaging**

16.14.1 Prohibition. No Sold Unit Owner shall be permitted to mortgage, pledge or hypothecate such Sold Owner's Unit unless and until such Owner shall have paid in full to the Condominium Board all unpaid Common Charges and Additional Common Charges (including Special Assessments) theretofore assessed against such Sold Unit and shall have satisfied or bonded all unpaid liens against such Sold Unit, except the liens of mortgages made in compliance with these By-Laws (collectively, "**Permitted Mortgages**" and individually, "**Permitted Mortgage**") (the foregoing shall not apply to Unsold Units). Notwithstanding the foregoing, any mortgage, pledge or hypothecation of a Sold Unit given without complying with the provisions of this subsection 16.14.1 shall not affect the validity or enforceability of such mortgage, pledge or hypothecation, but shall affect the priority of its lien, which shall be subject and subordinate to all then existing unpaid Common Charges (including any Special Assessments or other Additional Common Charges) theretofore assessed against such Unit. Any mortgage on a Sponsor Unit or the Commercial Unit at the date of First Unit Closing under the Plan is a Permitted Mortgage.

16.14.2 Restriction. No Unit Owner shall execute any mortgage or other document mortgaging, pledging or hypothecating title to such Owner's Unit without including therein its appurtenant Common Interest, 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.

Section 16.15 **Notice of Unpaid Common Charges and Default**

Whenever requested in writing by a Registered Mortgagee who is the holder of a Permitted Mortgage ("**Permitted Mortgagee**"): (a) the Condominium Board shall with reasonable promptness notify such Permitted Mortgagee of any default or violation by its mortgagor-Unit Owner in the payment of Common Charges for more than one (1) calendar month or in the observance or performance of any of the provisions of the Condominium Documents as to which the Condominium Board has actual knowledge then exists; and (b) when giving notice of any default or violation to such mortgagor-Unit Owner, the Condominium Board shall also send a copy of such notice to such Owner's Permitted Mortgagee.

In no event, however, shall the Condominium Board (including its members, officers, agents, attorneys and employees) and Unit Owners be liable for any Claims or Liabilities and Expenses for any failure, through oversight or negligence, in notifying a Permitted Mortgagee of such default by such mortgagor-Unit Owner or in failing to send a copy of such default notice to the Permitted Mortgagee. Nonetheless: (a) the Condominium Board shall advise such Permitted Mortgagee of the default or violation with reasonable promptness after discovering such failure; and (b) if the Condominium Board shall foreclose its lien on such mortgagor's Unit pursuant to the terms of Section 8.13 hereof by reason of such default or violation, the Condominium Board shall pay to such Permitted Mortgagee the extent of any undistributed net proceeds of said foreclosure sale of such Unit then held by the Board (subject to and in accordance with the lien priority set forth in Article 8 above), but not more than the sum as shall be due and owing to such Permitted Mortgagee.

Section 16.16 **Performance by Permitted Mortgagees**

Any sum of money to be paid and any act to be performed by a Unit Owner pursuant to the terms of the Condominium Documents may be paid and performed by such Owner's Permitted Mortgagee. The Condominium Board shall accept such Permitted Mortgagee's payment and performance with the same force and effect as if the same were paid and performed by such Unit Owner.

Section 16.17 **Examination of Minutes**

Each Permitted Mortgagee and its authorized representative shall be permitted to examine the minutes of meetings of Unit Owners during business hours, on business days, and on reasonable advance written notice, but not more frequently than once a month, all as provided more particularly in Section 14.7.3 above.

Section 16.18 **Consent of Mortgagees; Designation of Mortgage Representatives**

16.18.1 When Consent Required. Except as otherwise expressly provided in the Declaration or these By-Laws, 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 the mortgagor-Unit Owner under the mortgage held by such mortgagee. 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" (as defined in, and if any are designated pursuant to the terms of, the following subsection 16.18.2) shall be deemed binding upon the holders of all mortgages encumbering Units.

16.18.2 Mortgage Representative(s). The holders of Institutional Mortgages constituting a majority in principal amount of all Institutional Mortgages may, if they so elect, designate not more than three (3) representatives ("**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 one (1) or more Mortgage Representatives pursuant to the terms of this subsection 16.18.2 shall be effective until any successor Mortgage Representatives is (are) 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.

Section 16.19 **Subordination**

The lien of any mortgage of a Unit shall automatically be subordinate to the terms and provisions of the Declaration and these By-Laws, and any such mortgage that fails to provide for such subordination shall nonetheless be deemed to provide for such subordination. Although no further instrument shall be required to effectuate such subordination, each mortgagee of a Unit, by accepting such mortgage, agrees to execute and deliver any instruments and documents required to be executed and delivered by the Condominium Board in connection with the confirmation of such subordination. In the event such mortgagee fails to execute and deliver any such instruments or documents, its acceptance of such mortgage shall be deemed to constitute its appointment of the Condominium Board as its true and lawful attorney-in-fact in its name, place and stead to execute and deliver any such instruments and documents, such power being "coupled with an interest" and for valuable consideration, and with full power of substitution.

Section 16.20 **Waiver of Rights of Partition, Use and Occupancy of Units Acquired By Board**

In the event that any Unit shall be acquired or leased by the Condominium Board, or its affiliated nominee or designee, on behalf of Unit Owners, such Unit shall be part of the Association's Properties and the ownership or lease of such Unit shall be deemed held on behalf of the Unit Owners, as tenants-in-common, and all Unit Owners shall be deemed to have waived all rights of partition, use and occupancy with respect to such Unit. All Costs and Expenses incurred in connection with the acquisition and ownership, or the lease and any sublease, of such Unit, as well as the Maintenance, Repair, Alteration and Operation and Disposition of such Unit shall be part of the Common Expenses, which shall be charged to all Unit Owners Pro Rata to their respective Common Interests. Similarly, all revenues derived from the rental, Operation,

sale, permitted mortgaging or other Disposition of such Unit shall be used to defray the Common Expenses or for such other appropriate purposes as shall be determined by the Board.

Section 16.21 **Registration of Tenants**

The tenant under any lease demising space in all or a portion of any Unit who is authorized in writing by the Unit Owner to have the benefits and protection of Sections 16.22 and 16.23 below, may register with the Condominium Board by furnishing to the Condominium Board a written statement of its name and address, the date of its lease, a description of the premises demised to it, and the last date on which such lease is scheduled to expire. Any tenant having so registered is herein called a "**Registered Tenant**".

Section 16.22 **Notices to Registered Tenants**

Whenever requested in writing by a Registered Tenant of a Unit: (a) the Condominium Board shall with reasonable promptness notify such Registered Tenant of any default or violation by the Owner of such Unit in the Owner's payment of Common Charges and any Additional Common Charges (including Special Assessments) for more than one (1) calendar month; and (b) when giving notice of any default, violation or failure to comply with the Condominium Documents to the Owner of such Unit, the Condominium Board shall also send a copy of such notice to each Registered Tenant of such Owner's Unit.

In no event, however, shall the Condominium Board and Unit Owners be liable for any Claims or Liabilities and Expenses for any failure, through oversight or negligence, in notifying a Registered Tenant of such default, violation or failure, by such Unit Owner or in failing to send a copy of notice thereof to said Registered Tenant. Nonetheless, with reasonable promptness after the Board discovers its failure, the Condominium Board shall advise such Registered Tenant of the Unit Owner's default, violation or failure.

Section 16.23 **Performance by Registered Tenants**

Any sum of money to be paid and any act to be performed by a Unit Owner pursuant to the provisions of the Declaration or these By-Laws may be paid and performed by such Owner's Registered Tenant, and the Board shall accept such Registered Tenant's payment and performance with the same force and effect as though same were paid and performed by such Unit Owner.

Section 16.24 **Subordination, Non-Disturbance and Attornment Agreement**

At the written request of a Unit Owner, the Board, without the approval or consent of other Unit Owners, shall duly sign, acknowledge and deliver to a Registered Tenant of such Owner a so-called subordination, non-disturbance and attornment agreement ("**SNDAA**") with such Registered Tenant pursuant to which the lease of such Registered Tenant shall not be terminated and such Registered Tenant's tenancy shall not be disturbed based solely on a foreclosure of the Board's lien on said Owner's Unit leased or occupied by such Registered Tenant. The SNDAA shall be on such terms and conditions as shall be required by an Unsold Unit Owner (in the case of a Registered Tenant of an Unsold Unit), or as shall be reasonably

required by the applicable Sold Unit Owner and reasonably approved by the Board (in the case of a Registered Tenant of a Sold Unit).

ARTICLE 17

CERTAIN REMEDIES

Section 17.1 **Self-Help**

17.1.1 Notice of Violation. If a Unit Owner shall violate or breach or default under any of the provisions of the Condominium Documents on such Owner's part to be observed or performed (hereinafter collectively, "**violations**" or derivations thereof), including any violations of Owner's obligation to Maintain and Repair the Owner's Unit pursuant to the terms of Article 14 of the Declaration or these By-Laws, and shall fail to cure such violation within thirty (30) calendar days after being given written notice of the same from the Condominium Board or the Managing Agent (if any), or with respect to any violation not reasonably susceptible to cure within such period, shall fail to diligently to commence such cure and, thereafter, to prosecute such cure with due diligence and continuity to completion (but in no event longer than ninety (90) calendar days from the giving of such notice), the Condominium Board or (if the Condominium Board fails to act) Sponsor (during only the Sponsor Veto Control Period and until issuance of the said permanent new or amended Certificate of Occupancy of the Building) shall each have the right to enter such Owner's Unit and/or its appurtenant Limited Common Element (if any) and, at the sole Cost and Expense of the offending Unit Owner, to summarily abate, remove or cure such violation without thereby being deemed guilty or liable in any manner of trespass or otherwise ("**Right of Self-Help**"). The offending Unit Owner shall reimburse the Condominium Board or Sponsor (as applicable) for such Costs and Expenses incurred to remedy such violation within ten (10) calendar days after being given written demand therefor accompanied by a reasonably detailed bill itemizing same, together with the reasonable Legal Expenses and all other Costs and Expenses of collection thereof, together with per diem interest on all said reasonable Legal Expenses and other Costs and Expenses incurred at a rate equal to the lower of 16% a year or the highest rate allowed by Law, computed from the date each item of Legal Expense and any other Cost and Expense is incurred or paid to the date full payment of same is received by the Condominium Board or Sponsor (as applicable). All Costs and Expenses (including reasonable Legal Expenses and said per diem interest thereon) billed by the Condominium Board pursuant to the foregoing shall be regarded as Additional Common Charges assessed to, and payable by, such offending Unit Owner.

17.1.2 No Violation Notice in Emergency. In addition, in the event that the Condominium Board or (if the Condominium Board fails to act) Sponsor (during only the Sponsor Veto Control Period and until the issuance of said permanent new or amended Certificate of Occupancy of the Building) shall determine that the abatement, removal or cure of any such violation is immediately necessary for the preservation of the Building or for the life, health, safety, security or protection of the occupants of the Building or other individuals, or is required to avoid the suspension of any necessary service in the Building or to correct any dangerous or hazardous condition, the Condominium Board or Sponsor (as applicable) may take such action immediately, without prior notice, without allowing the said Unit Owner any period

of time within which to cure or to commence to cure such violation and without being guilty or liable in any manner of trespass or otherwise.

17.1.3 Board Violation. If the Condominium Board shall violate any of Sponsor's Rights as defined in Section 28.1 of the Declaration or fails to perform or comply with its obligations under the Condominium Documents, including those relating to the Maintenance and Repair of the Common Elements (as provided in Article 14 of the Declaration) or to the restoration of the Common Elements after a casualty loss or a Taking by eminent domain or condemnation (as defined and provided respectively in Articles 7 and 18 hereof), then: (a) the Condominium Board shall indemnify Sponsor from and against any resulting Claims and Liabilities and Expenses; and (b) Sponsor shall have the Right of Self-Help, but not the obligation, to correct such violation or perform such defaulted obligation in the name, and at the Cost and Expense, of the Condominium Board, which shall be allocated, apportioned and assessed to all Unit Owners Pro Rata to their respective Common Interests. This indemnity and Right of Self-Help will apply only if: (a) the Board's violation or failure to perform occurs while the Independent Board Members constitute a majority of all Board Members; and (b) (in the case of a violation issued or noted by a Governmental Authority against the Building) Sponsor is not obligated to correct the violation under the Plan.

17.1.4 Board Cure Period. In addition, before Sponsor undertakes any Work to be paid or reimbursed by the Condominium Board:

(a) Sponsor shall first send to any Independent Board Member written notice ("**Self-Help Notice**") of the election of Sponsor to do the Work at the expense of the Condominium Board; and

(b) the Condominium Board shall be given the following period to commence the Work: (b-1) thirty (30) calendar days from giving the Self-Help Notice (if, in the reasonable judgment of Sponsor, the Work will cost in the aggregate under $100,000); (b-2) sixty (60) calendar days from giving the Self-Help Notice (if, in the reasonable judgment of Sponsor, the Work will cost in the aggregate $100,000 or more); or (b-3) ninety (90) calendar days from receipt of any proceeds of insurance (in the case of a casualty) or of any award (in the case of a Taking by eminent domain or condemnation); and

(c) the Condominium Board shall be allowed a reasonable period to complete the Work with reasonable diligence and continuity.

In the event the Condominium Board does not begin the Work within the applicable time period or the Condominium Board does not complete the Work within a reasonable period, Sponsor may (but is not obligated to) proceed to do the Work in the name, and at the Cost and Expense, of the Condominium Board, as provided in subsection 17.1.3 above.

17.1.5 Reimbursement of Sponsor. In the event Sponsor elects to do the Work, the Condominium Board will reimburse Sponsor, promptly after written demand is made, for the Costs and Expenses of Sponsor incurred in connection therewith. Sponsor's demand notice shall be accompanied by a reasonably detailed statement of the Costs and Expenses to be reimbursed and copies of any supporting or relevant bills. If full payment is not received by Sponsor within

a deadline of ten (10) business days after giving the demand notice ("TIME BEING OF THE ESSENCE"), the Condominium Board shall reimburse Sponsor per diem interest thereon (for lost opportunity of earnings on the amount owed), at a rate equal to the lower of 16% a year or the highest rate allowed by Law, computed from the first day following the ten (10) business day deadline period through the date payment is received by Sponsor. In addition, the Condominium Board shall reimburse Sponsor for the reasonable Legal Expenses and all other Costs and Expenses incurred to collect the amounts owed together with per diem interest thereon at a rate equal to the lower of 16% a year or the highest rate allowed by Law, computed from the date each item of Legal Expenses and all other Costs and Expenses is paid through the date such amount is received by Sponsor. All amounts to be so reimbursed by the Condominium Board shall be borne by all Unit Owners Pro Rata to their respective Common Interests in accordance with subsection 17.1.3 above.

17.1.6 Indemnity. If the Condominium Board or Sponsor (each, an "**Aggrieved Party**") exercises the Right of Self-Help pursuant to this Section 17.1, such Aggrieved Party shall be deemed to have agreed to indemnify (a) the alleged offending Party, (b) (if the Board is not the Aggrieved Party) the Condominium Board, and its members, officers, employees, agents (including the Managing Agent) and attorneys and (c) each Unit Owner from and against any and all Claims and Liabilities and Expenses caused by negligence or the acts or omissions of the Aggrieved Party or its Agents, Employees and Contractors, which may be incurred by the indemnified Parties in connection with such exercise of its Right of Self-Help.

17.1.7 Duty to Protect. An Aggrieved Party exercising the Right of Self-Help shall make all reasonable efforts to protect the life, health, safety and security of Owners, tenants and occupants of Units and property located in the portion of the Property to which Work is being performed pursuant thereto and shall not unreasonably interfere with the use, occupancy or Operation of, or the business being conducted in, such portion of the Property for its intended purposes.

Section 17.2 **Abatement and Enjoinment**

17.2.1 Unit Owner Violation. In the event that any Unit Owner shall violate any of the provisions of the Condominium Documents on such Owner's part to be observed or performed, the Condominium Board or (if the Condominium Board fails to act) Sponsor (during only the Sponsor Veto Control Period and until the issuance of said permanent new or amended Certificate of Occupancy of the Building) shall have the right to enjoin, abate or remedy the continuance or repetition of any such violation by appropriate Lawsuit.

17.2.2 Violation of Sponsor's Rights. The violation of any of the terms of the Condominium Documents or the Plan with respect to any of Sponsor's Rights thereunder shall give to Sponsor the right to enjoin, abate or remedy the continuation or repetition of any such violation by appropriate Lawsuit.

17.2.3 Reimbursement. The offending Party who is the subject of a Claim or Lawsuit brought pursuant to this Section 17.2 shall be obligated to reimburse the Party bringing such Claim or Lawsuit for all reasonable Legal Expenses and all other Costs and Expenses incurred in connection with such violation and the resulting Claim or Lawsuit, as well as all

reasonable Legal Expenses and all other Costs and Expenses of collection thereof, together with per diem interest thereon (for lost opportunity of earnings on the amount owed) at a rate equal to the lower of 16% a year or the highest rate allowed by Law, computed from the date each item of Legal Expenses and other Costs or Expenses is paid through the date payment is received. The demand notice shall be accompanied by a reasonably detailed statement of all Costs and Expenses to be reimbursed and copies of any supporting or relevant bills.

17.2.4 Additional Common Charges. All sums payable by a Unit Owner to the Condominium Board pursuant to the terms of this Article 17 shall, for all purposes hereunder, constitute Additional Common Charges payable by such Unit Owner promptly following written demand or with the next regular monthly payment of Common Charges (as directed by the Board).

Section 17.3 **Reimbursement of Legal Expenses**

A Sold Unit Owner shall reimburse the Condominium Board or Sponsor or an Unsold Unit Owner (as applicable) for all reasonable Legal Expenses incurred or paid by the Condominium Board or Sponsor or said Unsold Unit Owner (as applicable) to enforce, uphold, protect or defend a Claim or Lawsuit brought by or against such Sold Unit Owner, together with per diem interest thereon at the rate equal to the lower of 16% a year or the highest rate allowed by Law, computed from the date each item of Legal Expenses is paid through the date reimbursement is received; provided, however, the Condominium Board or Sponsor or Unsold Unit Owner (as applicable) is the prevailing party in any such Claim or Lawsuit. The foregoing requirement of a Sold Unit Owner to reimburse the Condominium Board or Sponsor or an Unsold Unit Owner (as applicable) for reasonable Legal Expenses and per diem interest thereon is applicable to only a Sold Unit Owner. In no event shall the Condominium Board or Sponsor or an Unsold Unit Owner be obligated or liable to reimburse a Sold Unit Owner for any Legal Expenses should such Sold Unit Owner be the prevailing party in said Claim or Lawsuit.

Section 17.4 **Remedies Cumulative**

The remedies specifically granted to each of the Condominium Board, Sponsor and the Commercial Unit Owner in this Article 17 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 Sponsor, 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 17.5 **No Arbitration**

Notwithstanding any other provision of the Condominium Documents to the contrary, the exercise and enforcement of the provisions of this Article 17 and all disputes and controversies underlying a violation, breach or default which give rise to the exercise and enforcement hereof, at the exclusive option and absolute discretion of the Aggrieved Party exercising and seeking to enforce these provisions, shall not be subject to arbitration under Article 19 below. An offending Party against whom the provisions of this Article are being enforced shall not have the right to submit said underlying dispute or controversy to arbitration while the provisions of this

Article 17 are being exercised and enforced by an Aggrieved Party. This Section 17.5 is paramount and shall govern any conflict or inconsistency with any other provision of the Condominium Documents.

ARTICLE 18

CONDEMNATION OR EMINENT DOMAIN

Section 18.1 **Taking of Entire Property**

If the entire Property is taken in condemnation or by eminent domain (herein called "**Taken**" or a "**Taking**"), then the award of the Taking authority shall be distributed among all Unit Owners Pro Rata to the respective then existing fair market values of the Units and their appurtenant Common Interests as determined by the Taking authority. Each Unit Owner shall have the right to pursue a separate Claim against the Taking authority for its share of the award, which may include an award for all fixtures, additions and improvements which are part of the Owner's Unit as well as for relocation and moving expenses and similar allowances designed to facilitate relocation of a displaced business concern.

Section 18.2 **Taking of Units**

If only one (1) or more, but not all, Units are Taken, then the award of the Taking authority shall be distributed exclusively to or among the Owner or Owners of the Units (as applicable) so Taken. In the latter case, the award shall be distributed to each such Owner shall be Pro Rata to the respective then existing fair market values of the Units and their respective appurtenant Common Interests Taken (i.e., in the proportion that then existing fair market value of such Owner's Unit and its appurtenant Common Interest bears to the then existing aggregate fair market values of all Units and their respective appurtenant Common Interests Taken), as such fair market values are determined by the Taking authority. Each such Unit Owner shall have the right to pursue a separate Claim against the Taking authority for its share of the award, which may include an award for the Unit's fixtures, additions and improvements as well as for the Owner's relocation and moving expenses as provided in Section 18.1 above.

In the event the remaining Unit Owners elect to withdraw the Property from the Condominium Act in accordance with Section 19.1(b) of the Declaration, then the portions of the Property not Taken shall be subject to an action for partition pursuant to Section 19.2 of the Declaration, which shall apply with respect to said remaining Unit Owners.

Section 18.3 **Taking of Portions of Common Elements**

18.3.1 Board Authority. If the entire Property is not Taken but portions of the Common Elements are Taken, regardless of whether one (1) or more Units are also Taken, the Condominium Board as agent and on behalf of Unit Owners shall have the exclusive right and authority to pursue a Claim against the Taking authority with respect only to the portions of the Common Elements Taken and the remaining portions of Common Elements and the remaining Units damaged or destroyed by the Taking, except as otherwise provided in subsection 18.3.2 below. The Board's right and authority to pursue such Claim include the following: (a) to

present evidence, negotiate, settle and otherwise conduct and make all decisions as to the proceedings before the Taking authority and all Lawsuits resulting therefrom; (b) to execute and acknowledge in the name of Unit Owners, as attorney-in-fact, all Litigation Documents, settlement agreements, releases and other documents in furtherance of the foregoing; and (c) to retain legal counsel, appraisers and other professionals and experts in connection with the foregoing.

18.3.2 Separate Claims of Units Taken. Each Owner of a Unit which is also Taken with portions of the Common Elements shall continue to have the right to pursue a separate Claim against the Taking authority with respect to such Owner's Unit and its appurtenant Common Interest, including the Unit's individual Unit Equipment, Facilities, Installations, fixtures, additions and improvements, as well as the Owner's moving and relocation expenses as provided in Section 18.2 above. However, the Claim with respect to a Unit not Taken but that is damaged or destroyed by the Taking shall be pursued exclusively by the Board in accordance with the preceding subsection 18.3.1, except that the Owner of such damaged or destroyed Unit shall have the exclusive right to pursue any Claim against the Taking authority with respect to the Unit's individual Unit Equipment, Facilities, Installations, fixtures, additions and improvements and the Owner's relocation and moving expenses.

18.3.3 Allocation of Award. The award in such Taking under subsection 18.3.2 above shall be allocated between or among the Common Elements Taken and the Unit or Units Taken Pro Rata to their respective then existing fair market values. Such values shall be determined in accordance with the floor space Taken (including the floor space of a Unit Taken together with the floor space of the Limited Common Element, if established, appurtenant to such Unit also Taken), the relative value of said floor space Taken to other space in the Property, the uniqueness of said floor space Taken, the overall dimensions of the remaining floor space not Taken, and any decrease in the availability, utility, function or performance of Common Elements for common use or exclusive or substantially exclusive use resulting from such Taking. Any Unit Owner who has the right to use, or to exclusive or substantially exclusive use of, the affected Common Elements or whose Unit is Taken may dispute any appraisal obtained to determine such values and submit the controversy to arbitration in accordance with Article 19 below.

18.3.4 Application of Award. The award of the Taking Authority made with respect to the Common Elements that are not Taken but are damaged or destroyed by the Taking shall be paid to the Condominium Board as agent and on behalf of all Unit Owners and applied by the Board in the following order: first, to pay the Costs and Expenses incurred by the Condominium Board to recover the award; and second, the balance ("**Net Award Trust Funds**") to Repair the remaining portions of the Common Elements not Taken but that are damaged or destroyed by the Taking, such Repair to be performed on the same basis as set forth in the provisions of Section 7.3 above, which shall apply and be followed with respect to such Repair of said damaged Common Elements. Such Net Award Trust Funds shall be allocated to the affected Common Elements and (if established) Limited Common Elements Pro Rata to the Costs and Expenses to Repair same, which allocation shall be made on the same basis as set forth in the provisions of Section 7.4 above, which also shall apply and be followed with respect to such allocation of Net Award Trust Funds. If the Net Award Trust Funds shall be insufficient to pay the Costs and Expenses of performing such Repairs, the Board shall levy a Special

Assessment to pay the deficiency, which Special Assessment shall be levied on the Unit Owners on the same basis as set forth in the provisions of Section 7.5 above, which also shall apply and be followed with respect to such insufficiency in the Net Award Trust Funds. If, conversely, the Net Award Trust Funds shall exceed the Costs and Expenses of performing such Repairs, such surplus shall be distributed to the Unit Owners, which distribution shall be made on the same basis as set forth in the provisions of Section 7.6 above, which also shall apply and be followed with respect to such surplus in the Net Award Trust Funds.

In the event Repairs are not made and the remaining portions of the Property not Taken shall become the subject of an action for partition, then the Net Award Trust Funds shall be distributed to all remaining Unit Owners Pro Rata to the respective then existing fair market values of the Units and their appurtenant Common Interests in accordance with Section 19.2 of the Declaration.

18.3.5 Unsold Units. If an Unsold Unit or any portion thereof, shall be the subject of all or part of any Repairs, then notwithstanding anything herein to the contrary, Sponsor or other Owner of such Unsold Unit (as applicable) shall have the exclusive right to arrange, make all determinations and supervise the Repairs, Decorating, finishing and equipping of such Owner's Unsold Unit.

18.3.6 Party in Charge. If the damage or destruction is to be Repaired and affects exclusively or substantially exclusively a single Unit, then notwithstanding anything herein to the contrary, the Owner of such Unit shall promptly make all arrangements and determinations as to, and shall supervise, the Repairs thereof. In all other cases, the Condominium Board shall promptly make all such arrangements and determinations of, and shall supervise, the Repairs, except as otherwise expressly provided in subsection 18.3.5 above with respect to Sponsor's Rights to do the same with respect to Unsold Units.

18.3.7 Decorations. The Costs and Expenses to make Repairs to coverings, finishes, treatments and other Decorations of walls, floors or ceilings of the Common Elements shall be part of the Common Expenses and charged to all Units Pro Rata to their respective Common Interests to the extent the Net Award Trust Funds, after being allocated and applied for all other Repairs in accordance with this Article 18, shall be insufficient therefore.

Section 18.4 **Lien Priority**

No payment of any award or surplus Net Award Trust Funds shall be made to a Unit Owner until there has first been paid out of such Unit Owner's share thereof, such amounts as may be necessary to pay off all unpaid liens on the Owner's Unit (including the liens of mortgages and the liens of the Condominium Board) in the order of priority of such liens. Notwithstanding the foregoing, however, in the event a Special Assessment is levied pursuant to the terms of subsection 18.3.4 above for any projected deficiency in the amount of the Net Award Trust Funds available to the Condominium Board and, after the payment of all Costs and Expenses incurred in connection with the Repairs, any portion of the Net Award Trust Funds remains unspent, such surplus Net Award Trust Funds shall, to the extent such Special Assessment contributed to such surplus, be deemed to be, and shall constitute, an unspent Special Assessment and shall be refunded to the applicable Unit Owners so assessed in

proportion to the amount assessed, free of any claim of any lienor (including, without limitation, any mortgagee) other than the lien of the Condominium Board.

Section 18.5 **Adjustment of Common Interests**

18.5.1 Changes in Common Interests. If a portion of the Property Taken is no longer subject to the Condominium Documents and the Property shall not be subject to a partition action as provided in Section 19.2 of the Declaration, then the Common Interest of each Unit affected by such Taking shall be eliminated (if an entire Unit is Taken) or proportionately reduced (if only a portion of a Unit is Taken) and the Common Interests appurtenant to all other Units shall be proportionately increased by the amount of change in Common Interest of the affected Unit so that the total Common Interests of all remaining Units shall equal 100%. All such proportionate changes in Common Interests shall be based on the same factors used originally to determine the Common Interests as set forth in Article 8 of the Declaration. Any dispute that may arise hereunder shall be resolved by arbitration pursuant to Article 19 below.

18.5.2 Procedure. All changes in Common Interests shall be reflected in a duly recorded Amendment to the Declaration and (to the extent required by the Condominium Act) Floor Plans, which shall be prepared by the Condominium Board. The Amendment to the Declaration shall be executed and acknowledged in recordable form by the Condominium Board and the remaining Unit Owners and holders of recorded liens on such Units in accordance with Article 22 of the Declaration. In lieu of executing the Amendment, such Unit Owners and lienors may execute and acknowledge in recordable form a separate consent which shall be attached to the Amendment.

18.5.3 Changes in Votes. Following said Taking of all or a portion of a Unit and the recording of such Amendment to the Declaration and (if applicable) said consent to such Amendment, the votes based on the Common Interest appurtenant to the affected Unit shall be based on its new Common Interest (in case of only a partial Taking) or shall wholly terminate (in the case of a Taking of the entire Unit) and the votes based on Common Interests appurtenant to all other Units whose Common Interests are changed pursuant to subsection 18.5.1 above shall be based on their new Common Interests.

Section 18.6 **Abatement in Common Charges**

If due to destruction or damage caused by a Taking a Unit is rendered wholly or partially unusable for the purposes permitted in the Declaration, or the means of reasonable access thereto is prevented, the Common Charges otherwise payable by the Owner thereof shall proportionately abate until such Unit shall again be rendered useable for the purposes permitted in the Declaration and/or until the means of reasonable access thereto shall be restored, as the case may be. The amount of abatement shall be determined by the Condominium Board, in its discretion, reasonably exercised. To the extent that the amount of such abatement is not covered by insurance maintained by the Board, such uninsured amount shall be included in the Common Expenses payable by all Unit Owners and assessed to them Pro Rata to their respective Common Interests. The foregoing notwithstanding, if the destruction or damage shall be caused by an act, omission, negligence, abuse or neglect of the Owner or a tenant or occupant of the affected Unit, or any contractor or worker engaged by such Owner or tenant, the Common Charges otherwise

payable by such Owner shall abate only to the extent of any proceeds of business interruption or similar insurance actually collected by the Condominium Board with respect to such affected Unit.

ARTICLE 19

ARBITRATION

Section 19.1 **Submission to Arbitration**

19.1.1 Requirement to Arbitrate. Subject and subordinate to any provision of the Declaration or By-Laws which expressly excludes arbitration to resolve a dispute (including subsections 8.13.2, 11.3.4, 16.1.2 and Section 17.5 above), this Article shall constitute a written agreement of the Parties to submit to arbitration (and not Litigation) conducted in The City of New York in accordance with the terms of this Article 19 and the then "applicable commercial arbitration rules" (as defined in Section 19.3 below) any dispute, controversy or claim arising out of, or concerning, the Declaration or these By-Laws for which arbitration is required or permitted under the Declaration or these By-Laws, provided that: (a) the only Parties to the dispute are Unit Owners or one (1) or more Unit Owners and the Condominium Board; and (b) if the terms of this Article 19 differ from or conflict with the then applicable commercial arbitration rules, the arbitrators shall be chosen and the arbitration shall be governed in accordance with and pursuant to the terms and provisions of this Article 19.

19.1.2 Exclusive Dispute Resolution Method. Arbitration in accordance with this Article shall be the exclusive dispute resolution method for any dispute for which arbitration is required or permitted under the Declaration or these By-Laws, unless: (a) expressly provided otherwise in the Declaration or these By-Laws; or (b) all Parties to the dispute unanimously agree to vary any of the terms of this Article or unanimously agree to resolve their dispute in any other manner (including the manner set forth in Section 3031 of the New York Civil Practice Law and Rules and known as "New York Simplified Procedure for Court Determination of Disputes" or an equivalent statute).

Section 19.2 **Notice of Arbitration**

The Party desiring arbitration of such dispute, controversy or claim shall give notice ("**Arbitration Notice**") of its intention to submit such dispute, controversy or Claim to arbitration. Such Arbitration Notice shall set forth with particularity the dispute, controversy or claim sought to be arbitrated, and shall, in addition, comply with any applicable requirements of the then applicable commercial arbitration rules, which requirements supplement, without conflicting with, the foregoing requirements in this sentence regarding such notice.

Section 19.3 **Commercial Arbitration Rules**

For purposes of this Article 19, the term "**then applicable commercial arbitration rules**" shall mean the commercial arbitration rules then applicable of the American Arbitration Association (or any successor thereto with similar function). If the American Arbitration Association or any successor thereto with similar function shall not then be in existence, the Parties to an arbitration to which the arbitration rules of the American Arbitration Association (or

any successor thereto with similar function) would otherwise apply under this Article 19, during the fifteen (15) calendar day period following the giving of the Arbitration Notice referred to in Section 19.2 above, shall endeavor to agree upon an appropriate body of rules to govern arbitration to be conducted pursuant to this Article 19, and such rules so agreed on shall be the then applicable arbitration rules. However, if said Parties fail to so agree within such fifteen (15) calendar day period, such arbitration shall be governed by, and the then applicable arbitration rules shall be, the rules then applicable of the entity most commonly utilized in the New York City metropolitan area for the arbitration of commercial disputes.

Section 19.4 **Selection of Arbitrators**

19.4.1 Definition. The term "**Appointing Authority**" shall mean the entity or body that administers the then applicable commercial arbitration rules, provided that if such entity or body shall be affiliated with or subject to control by any Party to an arbitration, the Appointing Authority for purposes of such arbitration shall instead be the entity at the time most commonly utilized in the New York City metropolitan area for the arbitration of commercial disputes and which is not so affiliated or subject to such control.

19.4.2 The term "**qualified arbitrator**" as used herein shall mean a disinterested individual having not less than ten (10) years experience relating to office and commercial mixed-use real estate in New York City relatively comparable to the Property and relating to the specific matter in dispute.

19.4.3 Number of Arbitrators. In any dispute involving claims exceeding $100,000 in the aggregate, the dispute shall be submitted for resolution by three (3) arbitrators selected in accordance with subsection 19.4.3 below. All other disputes shall be submitted for resolution by a single arbitrator.

19.4.4 Procedure. In the case of a dispute to be resolved by three (3) arbitrators as provided in subsection 19.4.2 above, the Party desiring arbitration shall appoint a qualified arbitrator on its behalf, and give notice thereof to the other Party or Parties to the arbitration, who shall, within fifteen (15) calendar days thereafter, collectively (if more than one other Party), appoint a second qualified arbitrator on its or their behalf and give written notice thereof to the first Party. The arbitrators thus appointed shall, within fifteen (15) calendar days following the appointment of the second arbitrator, appoint a third qualified arbitrator and said three arbitrators shall, as promptly as possible (but in any event within thirty (30) calendar days following the appointment of the third arbitrator), determine the matter which is the subject of the arbitration, and whether any damages, costs or expenses are to be awarded in connection therewith.

19.4.5 Selection by Appointing Authority. If a Party to the arbitration having the right pursuant to subsection 19.4.3 above to appoint an arbitrator fails or neglects to do so within the requisite fifteen (15) calendar day period, or if the two (2) arbitrators appointed by the Parties to the arbitration shall fail to appoint a third arbitrator within the requisite fifteen (15) calendar day period following the appointment of the second arbitrator, then any of the Parties to the arbitration may apply to the Appointing Authority for the appointment of such arbitrator.

19.4.6 Successor. In the event any of the three (3) arbitrators selected pursuant to subsection 19.4.3 or 19.4.4 above shall fail, refuse or be unable to act, his or her successor shall be appointed within ten (10) calendar days by the Party or Parties to the arbitration who originally appointed him or her, or in the event such Party or Parties shall fail to so appoint such successor, or in the case of the third arbitrator, his or her successor shall be appointed as provided in subsection 19.4.4 above. None of the Parties to the arbitration shall raise any challenge or objection as to the full power and jurisdiction of the Appointing Authority to entertain such application and make such appointment.

Section 19.5 **Decision of Arbitrator(s); Binding Effect**

19.5.1 Majority Requirement. The decision of the arbitrator (in the case of a single arbitrator) or a majority of the arbitrators (in the case of three (3) arbitrators) shall be delivered to the Parties to the arbitration by the arbitrator(s) when made and shall be controlling for all purposes under the Declaration and these By-Laws immediately upon receipt by said Parties of a copy of the decision.

19.5.2 Immediately Effective. The effectiveness and implementation of such decision for such purposes shall not be delayed or postponed pending confirmation of the arbitration decision or award or entry of judgment upon the decision or award, notwithstanding any challenge or contest by any of said Parties with respect to the decision or award, and notwithstanding any application or other request by any of said Parties that the arbitrator(s) or any court or other body stay, set aside, nullify or otherwise change the decision or award. Said Parties shall make no request or other application to the arbitrator(s) or any court or other body for any injunction, stay or other relief that would be contrary to the provisions of the preceding sentence, and agree that the arbitrator(s), any court and any other body shall have no jurisdiction or other authority to consider any request or other application for, or to grant, any injunction, stay or other relief that would violate any provision of this Article 19.

19.5.3 Subsequent Change. If any decision of the arbitrator (in the case of a single arbitrator) or a majority of the arbitrators (in the case of three (3) arbitrators) shall be set aside, nullified, modified or otherwise changed after the Parties to the arbitration receive a copy of the original decision or award, said Parties shall thereupon comply with the action setting aside, nullifying, modifying or otherwise changing the original decision or award, with such changes and adjustments by said Parties in actions taken pursuant to the original decision as may be necessary for such purpose.

19.5.4 Binding and Conclusive. In any such arbitration, the determination of such dispute, controversy or Claim by such arbitration shall constitute the final determination thereof and shall be binding and conclusive upon the Parties to such arbitration and shall constitute an "award" by the arbitrator within the meaning of the American Arbitration Association rules and judgment may be entered thereon in any court of competent jurisdiction.

19.5.5 Immunity and Indemnity of Arbitrators. No arbitrator, including an arbitrator selected by any Party to the arbitration, shall have any liability to any other Party to the arbitration by reason of the arbitrator's participation in any determination made under this Article 19, and each of the Parties to the arbitration shall indemnify the arbitrator(s) from and

against any and all Claims and Liabilities and Expenses asserted against any arbitrator by reason of such arbitrator's participation in any such determination.

Section 19.6 **Expenses of Arbitration**

Except as otherwise determined by the arbitrator (in the case of a single arbitrator) or a majority of the arbitrators (in the case of three (3) arbitrators), whose determination shall be binding and conclusive upon all Parties to the arbitration, the expenses of arbitration shall be shared equally by said Parties, and each of said Parties shall be responsible for the fees and expenses of its own attorneys and other representatives and witness.

Section 19.7 **Limitation on Power of Arbitrator(s)**

The arbitrator(s) shall apply the Law of the State of New York without regard to principles of conflict of Laws and shall have no power to vary or modify any of the provisions of the Declaration or these By-Laws, and the powers and jurisdiction of the arbitrator(s) are hereby limited accordingly.

Section 19.8 **Payment of Undisputed Sums**

To the extent any dispute, controversy or claim concerns liability for or payment of Common Expenses allocated, apportioned and assessed to a Unit, the Owner of such Unit shall pay any portion of such Common Expenses that is not in dispute when due and before the ten (10) day grace expires for imposition of the interest and late charge set forth in subsection 8.13.2 above.

ARTICLE 20

NOTICES

Section 20.1 **General**

20.1.1 How and Where Given. All notices required or desired to be given hereunder, except for a notice of a meeting or a special meeting of Unit Owners under Section 4.4 above, shall be sent by hand delivery or overnight courier by a recognized national courier (with receipt of delivery) or registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

(a) (in the case of a notice to the Condominium Board) to:

The Board of Managers of
100 Vandam
100 Vandam Street
New York, NY 10013
Attention: President

with a copy sent simultaneously and in like or speedier manner to the Sponsor at its address given below (for so long as Sponsor owns a Unit) and to the then Managing Agent of the Building (if any);

(b) (in the case of a notice to a Unit Owner other than Sponsor) to the Unit Owner at the address of the Building;

(c) (in the case of a notice to Sponsor as Owner of an Unsold Unit or otherwise) to:

100 Vandam, LLC
c/o Beck Street Capital LLC
100 Vandam Street, 4th Floor
New York, NY 10013

20.1.2 Changes in Address. Each Party may substitute a different address or add an address by sending written notice of the change to the other Parties (i.e., the Condominium Board, Unit Owners, Permitted Mortgagees and Registered Tenants, as appropriate).

20.1.3 Date Effective and Notice Period. Unless otherwise expressly provided elsewhere in the Declaration or these By-Laws, each notice shall be effective only if and when given or sent as provided in subsection 20.1.1 above. Any specified period of time following the giving or sending of a notice shall begin on the day delivered by hand (unless it is not a business day or is actually received after business hours, in which case the period shall begin on the next business day), or the next business day after being sent by overnight courier or the second business day after being deposited in a post office or mail depository maintained by the United States Postal Service. Notices mailed from outside the United States or notices of a change of address or an additional address shall not be considered effective until actually received.

20.1.4 Refusal or Failure to Accept. A refusal or failure to accept a notice shall be deemed receipt of the notice and will not affect the effectiveness, validity or enforceability of the notice, nor excuse or justify delaying the performance of any duties.

Section 20.2 **Waiver of Service of Notice**

Whenever any notice is required to be given by Law or 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 21

FURTHER ASSURANCES

Section 21.1 **Provisions of Declaration Apply and Govern**

The provisions of Article 20 of the Declaration are applicable to, and govern, the terms, restrictions and requirements to be followed by the Condominium Board, each Unit Owner and all Persons who, or whose interests in the Property or a Unit, are subject to the Declaration, in

connection with the cooperation by the aforementioned with each other in order to effectuate the purposes and provisions of the Condominium Documents, including the giving of Assurances, instruments and the limited power of attorney set forth, respectively, in Sections 20.4, 20.5 and 20.6 of the Declaration.

ARTICLE 22

AMENDMENTS TO BY-LAWS

Section 22.1 **Provisions of Declaration Apply and Govern**

The provisions of Article 22 of the Declaration are applicable to, and govern, the terms, restrictions, requirements, approvals and consents to be followed or obtained to amend these By-Laws.

ARTICLE 23

TERMINATION OF CONDOMINIUM

Section 23.1 **Provisions of Declaration Apply and Govern**

The provisions of Article 19 of the Declaration are applicable to, and govern, the terms, restrictions, requirements, approvals and consents to be followed or obtained to terminate condominium ownership of the Property. Accordingly, condominium ownership of the Property shall continue until the occurrence of any of the Condominium Termination Events, as defined and provided in Section 19.1 of the Declaration.

ARTICLE 24

GENERAL

Section 24.1 **Inspection of Documents**

Copies of the Declaration, these By-Laws, the Rules and Regulations and the Floor Plans, as each of the same may be amended from time to time, shall be maintained at the office of the Condominium Board or its Managing Agent (if any) and shall be available for inspection by Unit Owners and their authorized representatives and agents in accordance with the provisions of subsection 14.7.3 above.

Section 24.2 **Changes and Waiver**

The provisions of Article 26 of the Declaration, as hereby modified to change all references therein to "this Declaration" (or similar words) to read instead "these By-Laws (including the Rules and Regulations annexed hereto)" or similar words, shall apply and govern with respect to changes and waivers of provisions of these By-Laws (including the Rules and Regulations annexed hereto).

Section 24.3 **Conflicts**

These By-Laws are intended to be consistent with, and to complement and supplement, the Declaration, and are also intended to be consistent with the Plan for the Property and all Amendments thereto filed prior to the First Unit Closing, as well as the Condominium Act and all other applicable Laws. 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, the Plan or any said Amendment thereto, the Condominium Act or other applicable Law, the provision contained in the Declaration, the Plan and said Amendments thereto, the Condominium Act or other applicable Law, as the case may be, shall control.

Section 24.4 **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 be valid and enforced to the fullest extent permitted by Law, except as otherwise provided herein.

Section 24.5 **Successors and Assigns**

24.5.1 General. Subject and subordinate to Article 28 of the Declaration, the powers and/or duties of, and limitations imposed on, a Unit Owner as set forth in these By-Laws and the Declaration, shall inure to the benefit of, and shall be binding upon, such Owner's heirs, distributees, executors, administrators, legal representatives, successors and assigns.

24.5.2 Permitted First Mortgage Exception. Notwithstanding the foregoing, any Permitted First Mortgagee of a Unit or a purchaser at a foreclosure sale of a Permitted First Mortgage who succeeds to the interest of a Unit Owner, shall be responsible for only those duties of such Unit Owner accruing from and after the effective date of succession to title to such Unit and shall not be liable for any previously unpaid or past due Common Charges or Special Assessments accruing prior to the effective date that such successor succeeds to title.

24.5.3 Sponsor's Rights. The Sponsor's Rights under the Condominium Documents, the Plan, and the limitations, restrictions and requirements thereunder in connection therewith or otherwise applicable thereto, shall inure to and be binding upon a "Designee", an "Involuntary Transferee" and a "Successor in Interest", all as defined and more particularly provided in Article 28, Section 28.1 of the Declaration.

Section 24.6 **Table of Contents and Headings**

The Table of Contents and the Article, Section and subsection headings in these By-Laws are for convenience and reference only and do not, and shall not be construed to, affect the scope, meaning or interpretation of any provision of these By-Laws.

Section 24.7 **References**

The words "Article", "Section", "subsection", "provision", "paragraph" and "clause" or similar words refer to an Article, Section, subsection, provision, paragraph and clause of these By-Laws, unless otherwise expressly stated. Similarly, the words "hereof", "herein", "above", "below" and similar terms mean these By-Laws.

Section 24.8 **Grammar**

Any word or term in these By-Laws that is: used in the singular, shall include the plural and vice versa; or used in any gender shall include any other gender; or used in any tense (past, present or future), shall include any other tense, whenever required by the sense of these By-Laws and not contrary to the express context.

Section 24.9 **Insurance Trustee**

The Insurance Trustee shall be appointed by the Condominium Board and the fees and disbursements of any Insurance Trustee shall be paid by the Condominium Board as a Common Expense, which shall be specially allocated and assessed to only those Unit Owners on whose benefit the trust funds are held by the Insurance Trustee and apportioned among all such Unit Owners in the same proportion as said trust funds are held for the benefit of their respective accounts. The Insurance Trustee shall hold all proceeds as trust funds until paid over or applied as provided in the Declaration and these By-Laws.

Section 24.10 **Approvals or Consents**

Wherever in the Declaration or these By-Laws provision is made for any required Discretionary or Reasonable Approval or Consent of the Condominium Board, such approval or consent shall be sufficient and effective only if given in writing by the Board, or an Independent Board Member or a Sponsor Board Member on behalf of the Board (as applicable and as provided in these By-Laws or the Declaration), prior to implementing the transaction for which approval or consent is required or requested, and the approval or consent of the Unit Owners shall not be required, unless otherwise expressly provided in the Declaration or these By-Laws.

Section 24.11 **Incorporation of Declaration**

All provisions of the Declaration referred to in these By-Laws are hereby incorporated herein with the same force and effect as though set forth at length.

END OF BY-LAWS
The Rules and Regulations of 100 Vandam
start on the next page and are part of these By-Laws.

RULES AND REGULATIONS OF 100 VANDAM

[Addendum to, and forming a part of, the By-Laws of such Condominium.]

1. No Unit Owner shall allow or suffer anything whatever to fall from the windows of its Unit or sweep or throw from the Unit any dirt or other substance on or into any of the Common Elements (except for the use of waste lines in the manner for which intended and not prohibited under the Declaration and the By-Laws) or on to any yard, court or alley adjacent to the Building or the Immediately Adjacent Sidewalks to the Property.

2. No Unit Owner shall place a load upon any floor of its Unit exceeding the floor load per square foot area that it was designed to carry and that is allowed by applicable Law. The Board shall have the right to prescribe reasonable requirements for weight and position in any Sold Unit of all unusually heavy objects. All Equipment that generate noise or vibration shall be placed and maintained by each Unit Owner, at its sole Cost and Expense, in settings sufficient to absorb and prevent vibration and unreasonable noise and annoyance.

3. No Unit Owner shall Alter, damage, impair, destroy or otherwise adversely and materially affect the Common Elements or (if established) the Limited Common Element appurtenant another Unit without obtaining the express prior written Discretionary Approval or Consent of the Condominium Board or the Owner of such other Unit, respectively, except as expressly permitted herein or in the Declaration or the By-Laws. A Unit Owner shall give the Condominium Board or another Unit Owner prompt notice of any Repairs that are needed in or to the Common Elements or (if established) the Limited Common Elements appurtenant such other Owner's Unit, respectively, after such Unit Owner has actual notice thereof.

4. Water closets, sinks and other plumbing apparatus in the Building shall not be used for any purpose other than those for which they were designed or constructed, and no sweepings, rubbish, rags or any other article shall be thrown into the same. Any damage resulting from misuse of any water closets, sinks or other apparatus in a Unit shall be promptly Repaired and paid for by the Owner of such Unit.

5. Intentionally Omitted.

6. Any amounts assessed as a Common Expense against a Unit in addition to the regular monthly Common Charges due and payable as provided in the By-Laws shall be paid to the Condominium Board upon demand or if not demanded, then with the next monthly payment of Common Charges due and payable as provided in the By-Laws.

7. No agent or employee of the Condominium Board shall be sent out of the Building by any Unit Owner at any time for any purpose.

8. Complaints by a Unit Owner regarding services or Operation of the Building shall be made in writing to the Condominium Board or its Managing Agent (if any).

9. The fiscal year of the Condominium Association shall be a calendar year beginning on the first day of January or such other fiscal year as the Condominium Board may establish from time to time.

10. No vehicle belonging to an Owner, tenant or occupant of a Unit or to Agents, Employees or Contractors of such Owner, tenant or occupant, shall be parked in such manner as to impede or prevent ready access to or from any entrance or exit to or from another Unit or the Building.

11. A Unit Owner may apply to the Condominium Board for a temporary waiver of one or more of the Rules and Regulations. Such temporary waiver may be granted by the Board in its sole discretion, for good cause shown.

12. At the discretion of the Condominium Board, any consent or approval given under these Rules and Regulations may be made conditional and may also be amended at any time. However, if expressly provided herein or elsewhere in the Condominium Documents that the Reasonable Approval or Consent is required, then such approval or consent may not be unreasonably conditioned, delayed, withheld or denied.

13. Subject to Sponsor's Rights, the Immediately Adjacent Sidewalks to the Property, the public or common areas of the Common Elements (including a Unit entrance and the common or public passageways, halls, vestibules, corridors and public stairs) shall not be obstructed or encumbered by refuse or otherwise used for any purpose other than in connection with temporary loading or unloading of cartons, furniture, Equipment, materials, supplies and other items, or for ingress to and egress from the Units or (as to the Immediately Adjacent Sidewalks to the Commercial Unit, including its entrance) the Use and Enjoyment of the Commercial Unit.

14. No equipment, packages or other objects shall be allowed to stand in the lobby, vestibule, public stairs or other public areas of the Building.

15. All service and delivery persons going to or from Office Units will be required to use the entrance of the Building designated by the Condominium Board for such purposes.

16. Furniture, furnishings, cartons, heavy equipment and other heavy or bulky personal property of Owners, tenants or occupants of Office Units shall be taken in or out of the Building only through the entrance and exit as designated by the Condominium Board or the Managing Agent or (in the case of Unsold Office Units) Sponsor for such purpose. The Board shall determine the days and hours for such deliveries or removal through the 100 Vandam Street Public Areas, subject and subordinate to the rights of Sponsor to make all such determinations with respect to the tenants and occupants of its Unsold Office Units.

17. No article (including, but not limited to, garbage cans, bottles or mats) shall be placed or stored by a Unit Owner in any of the public vestibule, hall or on any of the public stair, or landing of the Building, nor shall any public stair be obstructed in any manner.

18. Any storage space in the Common Elements shall be used only for the storage of such Equipment, supplies, material and other articles, and for such other purposes, allowed by Law, as the Condominium Board, in its sole discretion, may determine. Supervision, management and control of the moving in, storing and removal of, an Owner's property from such storage space in the Common Elements is vested in the Condominium Board. The use of

storage space shall be at the sole risk of the respective Owners or other person using the same, and the Condominium Board, its agents, and 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.

19. Each Unit Owner shall comply with all applicable Laws (including municipal, state and federal laws and the regulations, codes and other requirements of Governmental Authorities having jurisdiction, collectively called "**Environmental Laws**") regarding the disposal by a Unit Owner or the tenants or occupants of an Owner's Unit of trash, refuse or garbage (collectively called "**Trash**"). In furtherance thereof, each Unit Owner shall comply with all Environmental Laws requiring Trash to be separated into "recyclable" and "non-recyclable" materials. If the Condominium Board elects to arrange for private cartage of Trash, the Condominium Board may designate from time to time types of materials which must be separated for recycling, the types of containers or binding to be used by the Unit Owners for disposal of designated recyclable or non-recyclable materials and the locations where recyclable or non-recyclable materials shall be deposited. Each Unit Owner shall comply with all other rules and regulations the Condominium Board may establish from time to time for disposal and recycling of Trash. Any Costs and Expenses incurred by the Condominium Board as a result of a Unit Owner's violation of this rule or the enforcement of this rule against such Unit Owner (including, legal fees and disbursements, litigation expenses and fines and penalties imposed on the Condominium Board by any Governmental Authority having jurisdiction) shall be payable, promptly following demand, by said Unit Owner as Additional Common Charges. Notwithstanding the foregoing, Sponsor or other Unsold Unit Owner shall not be obligated to reimburse the Condominium Board for any Costs and Expenses incurred by the Board as a result of a violation of this rule by a tenant or occupant of an Unsold Unit or the enforcement of this rule against Sponsor or other Unsold Unit Owners by reason of said violation.

20. There shall be no playing or lounging in the 100 Vandam Street Public Areas, public stairs or other public spaces.

21. The Condominium Board or the Managing Agent may, from time to time, curtail or relocate portions of the Common Elements, if any, devoted to storage or service purposes in the Building.

22. Nothing shall be done or kept in any Unit, or in or on the Common Elements that increases or would with reasonable likelihood increase the rate of insurance of the Building, or the contents thereof, without obtaining the prior written Discretionary Approval or Consent of the Condominium Board, unless the Owner of such Unit pays the increase in premium caused by such rate increase. No Unit Owner shall permit or suffer anything to be done or kept in the Owner's Unit, or in or on the Common Elements, that would with reasonable likelihood result in the cancellation, or results in a notice of cancellation, of insurance on the Building, or the contents thereof, or that would be in violation of any Law. No Owner or tenant of a Sold Unit or such Owner's or tenant's agents, employees, licensees or visitors shall, at any time, bring into or keep in or on such Owner's or tenant's Sold Unit any inflammable, combustible, or explosive fluid, material, chemical, or substance, except as shall be necessary and appropriate for the permitted uses of such Unit (this provision is not applicable to the Unsold Units).

23. There shall be no barbecuing in or on the Office Units, the Roof Terrace Unit or the Common Elements.

24. Intentionally Omitted.

25. No Sold Office Unit Owner shall make, cause, or permit or suffer any unusual, disturbing, or objectionable noises or odors to be produced upon or to emanate from such Owner's Unit or (if established) its appurtenant Limited Common Element or permit or suffer anything to be done therein that will unreasonably interfere with the rights, comforts, or conveniences of the Owners, tenants or occupants of other Units. No Owner, tenant or occupant of a Sold Office Unit shall play, permit or suffer to be played any musical instrument, or shall operate, permit or suffer to be operated a phonograph, sound system, radio, television set, or other loudspeaker device in such Owner's Unit, except in such a manner and under such conditions so that the same shall not disturb or annoy occupants of other Units. No construction, Repair Work or other installation involving noise shall be conducted in any Sold Unit or (if established) its appurtenant Limited Common Element except on business days 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. This paragraph is not applicable to the Unsold Units.

26. No bird, reptile or other animal shall be permitted, raised, bred, kept, or harbored in Sold Units, unless, in each instance, the same shall have been expressly permitted in writing by the Condominium Board or the Managing Agent. Any such consent, if given, shall be revocable at any time by the Condominium Board or the Managing Agent, in its sole discretion. No Sold Office Unit shall be used for the breeding of animals or pets for commercial purposes. No dangerous or poisonous reptiles, insects or other animals shall be kept in any Sold Office Unit. No pigeons or other birds or animals shall be fed by Owners, tenants or occupants of Sold Units from a Unit's windows, or from public portions of the Building, or on any yards, courts, alleys, sidewalks or streets adjacent to the Building. This paragraph is not applicable to the Unsold Units.

27. No group tour or exhibition of any Sold Office Unit or its contents shall be conducted, nor shall any auction sale be held in any Sold Office Unit, without obtaining the prior written Discretionary Approval or Consent of the Condominium Board or the Managing Agent in each instance. This paragraph is not applicable to the Unsold Units or the Commercial Unit.

28. No clients or other invitees of Sold Units shall be permitted to wait in any lobby, public hallway or vestibule of the Building. This paragraph is not applicable to the Unsold Units.

29. Intentionally Omitted.

30. Intentionally Omitted.

31. In no event shall the interior or exterior glass surface of any windows or skylights of a Sold Unit be colored or painted. This paragraph is not applicable to the Unsold Units or the Commercial Unit.

32. Intentionally Omitted.

33. No Sold Unit Owner shall attach, hang or project any radio or television aerial, antenna or satellite dish to or from or on the exterior of such Owner's Sold Unit, or the Sold Unit's windows, skylights or the Building Walls. The foregoing restriction is subject to applicable Law (if any) expressly prohibiting such restriction. No articles of any kind shall be hung on or out of, or shaken from, a Sold Unit. This paragraph is not applicable to the Unsold Units or permitted Signage of the Commercial Unit.

34. No Sign, notice, advertisement, or illumination (including, without limitation, "For Sale", "For Lease", or "For Rent" Signs) shall be inscribed or exposed on or at or from any window of a Sold Unit, or other part of the Building, by a Sold Unit Owner except such as are permitted (if any) pursuant to the terms of the Declaration and/or the By-Laws or as to which the prior written Discretionary Approvals or Consents of Sponsor (during only the Sponsor Veto Control Period and until the issuance of said permanent new or amended Certificate of Occupancy) and the Condominium Board have been given. Nothing shall be projected from any window or skylight of a Sold Unit without obtaining similar prior written Discretionary Approvals or Consents of Sponsor (during only the Sponsor Veto Control Period and until the issuance of said permanent new or amended Certificate of Occupancy) and the Condominium Board. This paragraph is not applicable to the Unsold Units or permitted Signage of the Commercial Unit.

35. 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 Governmental 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.

36. Each Sold Unit Owner shall keep the Owner's Unit in a good state of preservation, condition, Repair and cleanliness in accordance with the Building's Maintenance Standard and the terms of the Declaration and By-Laws. This paragraph is not applicable to the Unsold Units.

37. The employees and agents of the Condominium Board or the Managing Agent, and any contractor or worker authorized by the Condominium Board or the Managing Agent, may enter any room or area of the Common Elements or Units at any reasonable hour of the day, on at least one (1) calendar day's prior oral or written 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, occupancy or Operation of such Unit for its permitted purposes.

38. The Condominium Board or the Building's superintendent or the Managing Agent, upon request, shall be given a pass-key to the entrance door of each Sold Unit by its Owner. If any lock to the entrance door of a Sold Unit is altered or a new lock is installed, the Condominium Board or the Building's superintendent or the Managing Agent shall be provided with a key thereto immediately upon such alteration or installation. If the Sold Unit Owner is not personally present to open and permit an entry to such Owner's Unit at any time when an entry

therein is necessary or permissible under these Rules and Regulations or under the By-Laws, and such Unit Owner has not furnished a key to the Condominium Board or the Building's superintendent or the Managing Agent, then the Condominium Board or the Building's superintendent or Managing Agent or their respective agents or employees (but, except in an emergency, only when specifically authorized by an officer of the Condominium or an officer of the Managing Agent), upon giving reasonable advance oral or written notice to such Unit Owner (except no advance notice shall be required in the case of an emergency) 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). This paragraph is not applicable to the Unsold Units.

39. If any key or keys of an Owner or tenant of a Unit, or any agent, employee, licensee or visitor of such Owner or tenant, are entrusted by such Person to an employee of the Condominium or to the Building's superintendent or to the Managing Agent, whether for such Person's Unit, vehicle, or other item of personal property, the acceptance of the key shall be at the sole risk of such Unit Owner or tenant, and neither the Condominium Board (or its agents and employees, including the Managing Agent and its employees) nor other Unit Owners (or their respective Related Parties) shall be liable for injury, loss or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

40. Owners and tenants of Sold Units and their respective employees, agents, contractors, visitors and licensees shall not at any time or for any reason whatsoever enter upon, or attempt to enter upon, the Roofs of the Building. This paragraph is not applicable to the Unsold Units or the portion of the main Roof occupied by the Roof Terrace Unit after such Unit is erected and installed thereon.

41. Refuse shall be retained within each Unit until the hour of removal by the carting company retained by the Unit Owner. Each Unit Owner shall take its refuse to the sidewalk for pickup by the Unit Owner's private cartage company.

42. Except as otherwise expressly provided in the Declaration and the By Laws, the Common Elements, including the 100 Vandam Street Public Areas and the elevator, and the sidewalks adjacent to the Building, shall not be obstructed or encumbered by refuse or otherwise (except during the hour of pickup by a Unit Owner's private cartage company), nor used for any purpose other than ingress or egress to and from the Units.

43. Bulky matter of any description, such as freight, furniture and business equipment, shall be delivered to and removed from the Property in the elevator under the supervision of the Building staff, subject to the safety load limit of the elevator. No large quantities of furniture and equipment may be moved into or out of the Building without first making special arrangements therefor with the Condominium Board and obtaining the prior written Reasonable Approval or Consent of the Board.

44. No Unit Owner shall permit any individual to enter any telephone or electrical closet within its Unit unless the individual is qualified to do so.

45. Any additional elevator service must be requested in writing by the Unit Owner at least one (1) business day in advance and must be for such minimum number of hours as the Board shall reasonably prescribe or as required by any union contract in effect with respect thereto.

46. Each Sold Unit Owner shall: (a) submit for inspection by the Board and its agents and employees any governmental license or permit required for the lawful conduct of any business carried on in its Unit; (b) keep clean at all times the interior side of windows in its Unit (including the frames thereof); and (c) at no time, either directly or indirectly, use any contractors and/or materials in connection with any Work in its Unit, if the use of such contractors and/or materials would or will create any difficulty with other contractors and/or labor engaged by the Board and/or Sponsor in the maintenance and/or operation of the Building and/or the other Units.

47. Except as otherwise provided in the Declaration and the By-Laws, no Sold Office Unit Owner or Sold Roof Terrace Unit Owner shall exhibit, inscribe, paint or otherwise affix any Sign outside its Unit or in or on any part of the Common Elements without the prior written Discretionary Approval or Consent of the Board. No Sold Office Unit Owner or Sold Roof Terrace Unit Owner shall maintain or install Signs it its Unit which are visible from outside of its Unit. In the event that a Sign is installed or maintained in violation of any of the provisions of the foregoing by any Sold Office Unit Owner or Sold Roof Terrace Unit Owner (as applicable), the Board may, in addition to any and all other rights provided in the Declaration, the By-Laws and the Rules and Regulations, remove such Sign without any liability therefor, and the expense incurred in such removal shall be assessed as an Additional Common Charge against such Owner's Sold Office Unit or Sold Roof Terrace Unit (as applicable) and shall be payable by such Sold Office Unit Owner or Sold Roof Terrace Unit Owner (as applicable) immediately following written demand.

48. The Board shall not be required to establish or maintain a Building directory of tenants or occupants of Units.

49. The Board may prohibit admission to the Building outside of ordinary business hours by any person unless the person (a) is known to the Condominium Association's security guard (if any) in the Building; or (b) has a pass issued by a Unit Owner; or (c) is otherwise properly identified. The Board may require registration or other recording of all persons admitted to or leaving the Building outside of ordinary business hours.

END OF RULES AND REGULATIONS

DOCUMENT 8A

CERTIFICATION BY SPONSOR AND SPONSOR'S PRINCIPALS PURSUANT TO PART 20, SECTION 20.4(b) OF TITLE 13 NYCRR

TO:	New York State Department of Law Real Estate Finance Bureau	
FROM	**"Sponsor":**	100 Vandam, LLC
		and
	"Principal":	The undersigned individual signing in his capacity as the principal of Sponsor
RE:	**"Property":**	100 Vandam, a Condominium 100 Vandam Street New York, NY 10013
DATE:	August 22, 2008	

We are the Sponsor and the Principal of the Sponsor of the condominium offering plan ("**Offering Plan**") for the captioned Property. 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 Department of Law in Part 20 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 documents submitted hereafter by us which amend or supplement the Offering Plan will:

(i) set forth the detailed terms of the transaction and be complete, current and accurate;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;

(iii) not omit any material fact;

(iv) not contain any untrue statement of a material fact;

(v) not contain any fraud, deception, concealment, suppression, false pretense or fictitious or pretended purchase or sale;

(vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

(vii) 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.

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.

SPONSOR:

100 Vandam, LLC

By: BSCKIM Holdco III, LLC, Manager
BSC NYC Holdings, LLC, Manager
Beck Street Capital LLC, Manager

By: _____
Kevin Comer, Manager

Sworn to before me this
22 day of August, 2008

_____
Notary Public

SHANNON M H SMITH
Notary Public
Connecticut
My Commission Expires May 31, 2012

PRINCIPAL OF SPONSOR:

_____
Kevin Comer

Sworn to before me this
22 day of August, 2008

_____
Notary Public

SHANNON M H SMITH
Notary Public
Connecticut
My Commission Expires May 31, 2012

DOCUMENT 8B

CERTIFICATION BY ARCHITECT
PURSUANT TO PART 20, SECTION 20.4(c)
OF TITLE 13 NYCRR

TO: New York State Department of Law
Real Estate Finance Bureau

FROM: K Square Designs, Inc.

RE: **"Property":** 100 Vandam
100 Vandam Street
New York, NY

"Sponsor": 100 Vandam, LLC

"Offering Plan": The Condominium Offering Plan for the captioned Property

Date: August 26, 2008, Updated January 6, 2009

The Sponsor of the Offering Plan to convert the captioned Property to condominium ownership retained our firm to prepare a report describing the construction and/or renovation of the Property (the **"Report"**). We visually inspected existing portions of the renovated Property on July 23, 2008, and December 9, 2008, and we examined the building plans and specifications prepared by us dated August 25, 2008, and prepared the Report dated August 25, 2008, and updated on January 9, 2009.

We are a registered architect in the State in which the Property is located.

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 20 insofar as they are applicable to this Report.

We have read the entire Report and investigated the facts set forth in the Report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

We certify that the Report:

(i) sets forth in narrative form the description and/or physical condition of the entire Property as it will exist upon completion of renovation and/or construction, provided that renovation and/or construction is in accordance with the plans and specifications that we examined;

(ii) in our professional opinion affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the description and/or physical condition of the Property as it will exist upon completion of renovation and/or construction, provided that renovation and/or construction is in accordance with the plans and specifications that we examined;

(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; and

(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 representations or statement made.

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.

K Square Designs, Inc.

By: _____

Name: Marc Kemeny, R.A.
Title: President

Sworn to before me this

8 day of January, 2009

_____
Notary Public

DAVID BUFFUM
NOTARY PUBLIC STATE OF NEW YORK
KINGS COUNTY
LIC. #01BU6197044
COMM. EXP. 11/24/2012

PENMARK
REALTY CORP

CERTIFICATION BY EXPERT ON ADEQUACY OF BUDGET PURSUANT TO PART 20, SECTION 20.4 (d) OF TITLE 13 NYCRR

TO: New York State Department of Law
Real Estate Finance Bureau

FROM: Penmark Realty Corp.

RE: **"Property":** 100 Vandam, a Condominium
100 Vandam Street
(a/k/a 96-100 Vandam Street and 527-531 Greenwich Street)
New York, NY 10013

"Sponsor": 100 Vandam, LLC

"Offering Plan": The Condominium Offering Plan for the captioned Property

DATE: August 18, 2008

The Sponsor of the Condominium Offering Plan for the captioned Property retained the undersigned to review or prepare Schedules B and B-1 containing projections of income and expenses for the first year of condominium operation.

We are a licensed real estate broker and have been involved in the management of more than 100 commercial, mixed residential and commercial, and residential buildings, including cooperatives and condominium, for more than 40 years.

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 20 insofar as they are applicable to Schedules B and B-1.

We have reviewed the Schedules and investigated the facts set forth in the Schedules and the facts underlying them with due diligence in order to form a basis for this certification. We also have relied on our experience in managing commercial, mixed residential and commercial, and residential buildings.

We certify that the projections in Schedules B and B-1 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 Schedules:

(i) set forth in detail the projected income and expenses for the first year of condominium operation;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the first year of condominium operation;

(iii) do not omit any material fact;

(iv) do not contain any untrue statement of a material fact;

(v) do not contain any fraud, deception, concealment or suppression;

(vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

(vii) do 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.

Penmark Realty Corporation

Signature: _____

Name: Bernard Friedman

Title: President

Sworn to before me this
21 day of August, 2008

_____
Notary Public

MARIBEL ALVERIO
Notary Public, State of New York
No. 01AL6074898
Qualified in New York County
Commission Expires May 27, 2010

PENMARK
REALTY CORP

CERTIFICATION BY EXPERT ON ADEQUACY OF COMMON CHARGES PAYABLE BY COMMERCIAL UNIT OWNERS PURSUANT TO PART 20, SECTION 20.4 (e) OF TITLE 13 NYCRR

TO: New York State Department of Law
Real Estate Finance Bureau

FROM: Penmark Realty Corp.

RE: **"Property":** 100 Vandam, a Condominium
100 Vandam Street
(a/k/a 96-100 Vandam Street and 527-531 Greenwich Street)
New York, NY 10013

"Sponsor": 100 Vandam, LLC

"Offering Plan": The Condominium Offering Plan for the captioned Property

DATE: August 18, 2008

The Sponsor of the Condominium Offering Plan for the captioned Property retained the undersigned to review or prepare Schedule B, which includes projections of common charges payable by the owner of the commercial unit.

We are a licensed real estate broker and have been involved in the management of more than 100 commercial, mixed residential and commercial, and residential properties, including cooperatives and condominiums, for more than 40 years.

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 20 insofar as they are applicable to the commercial unit listed in Schedule B.

We have reviewed the Schedule B as it impacts upon the commercial unit and investigated the facts underlying it with due diligence in order to form a basis for this certification. We also have relied on our experience in managing commercial, mixed residential and commercial, and residential buildings.

We certify that the projections in Schedule B for common charges payable by the owner of the commercial unit appear reasonable and adequate under existing circumstances to meet the anticipated operating expenses fairly attributable to such commercial unit for the projected first year of condominium operation, and that the allocation of common charges attributable to the commercial unit also reflects special or exclusive use or availability or exclusive control of particular common areas.

820 Second Avenue • New York, NY 10017 • 212-876-4200 • F 212-876-4258

We certify the estimates in Schedule B for the common charges payable by the owner of the commercial unit:

(i) set forth in detail the projected common charges for the commercial unit for the first year of condominium operation;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the common charges payable by the owner of the commercial unit;

(iii) do not omit any material fact;

(iv) do not contain any untrue statement of a material fact;

(v) do not contain any fraud, deception, concealment or suppression;

(vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

(vii) do 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 common charges fairly attributable to the commercial unit 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.

Penmark Realty Corporation

Signature: _____

Name: Bernard Friedman

Title: President

Sworn to before me this
21 day of August, 2008

_____
Notary Public

MARIBEL ALVERIO
Notary Public, State of New York
No. 01AL6074898
Qualified in New York County
Commission Expires May 27, 2010

DOCUMENT 9

OPINION ON A MARKET RATE MANAGEMENT FEE

TO: New York State Department of Law
Real Estate Finance Bureau

FROM: Penmark Realty Corp.

RE: **"Property":** 100 Vandam, a Condominium
100 Vandam Street, New York, NY 10013

"Sponsor": 100 Vandam, LLC

"Offering Plan": The Condominium Offering Plan for the captioned Property

DATE: August 18, 2008

The Sponsor of the Condominium Offering Plan for the captioned Property has retained us to render the subject opinion on a current market rate management fee for the Property. The definitions of the terms contained in the Condominium Offering Plan shall apply when such terms are used in this opinion without express definition.

A. Opinion On Current Market Rate Management Fee

We have reviewed Schedule B containing projections of income and expenses for first year of condominium operation of the Property and have read the summary of the proposed management agreement set forth in the Offering Plan as well as the proposed **"Management Agreement"** to be given by the Condominium Board to BSC Property Management, LLC.

In our opinion, the current market rate fee to manage the Property and to perform the duties and services for the term set forth in the proposed Management Agreement is approximately $60,000 for the projected first year of condominium operation of the Property.

B. Experience

We are a licensed real estate broker. Our above opinion is based, and given in reliance, on our knowledge of current market conditions and on our experience in managing commercial, mixed residential and commercial, and residential properties in New York City for more than 40 years. We currently manage approximately 100 commercial, mixed residential and commercial, and residential properties in New York City, including cooperatives and condominiums.

We are not owned or controlled by, and have no financial or beneficial interest in, nor any family, employment or other business relationship with, Sponsor or Sponsor's principal, other than our fee for services rendered in connection with this opinion and related certifications and another opinion we are giving for inclusion in the Offering Plan.

We understand that this letter will be reproduced in the Condominium Offering Plan and we hereby consent to such use.

Very truly yours,

Penmark Realty Corp.

Signature: _____
Name: Bernard Friedman
Title: President

DOCUMENT 9

OPINION ON A MARKET RATE MANAGEMENT FEE

TO: New York State Department of Law
Real Estate Finance Bureau

FROM: Penmark Realty Corp.

RE: **"Property":** 100 Vandam, a Condominium
100 Vandam Street, New York, NY 10013

"Sponsor": 100 Vandam, LLC

"Offering Plan": The Condominium Offering Plan for the captioned Property

DATE: August 18, 2008

The Sponsor of the Condominium Offering Plan for the captioned Property has retained us to render the subject opinion on a current market rate management fee for the Property. The definitions of the terms contained in the Condominium Offering Plan shall apply when such terms are used in this opinion without express definition.

A. Opinion On Current Market Rate Management Fee

We have reviewed Schedule B containing projections of income and expenses for first year of condominium operation of the Property and have read the summary of the proposed management agreement set forth in the Offering Plan as well as the proposed **"Management Agreement"** to be given by the Condominium Board to BSC Property Management, LLC.

In our opinion, the current market rate fee to manage the Property and to perform the duties and services for the term set forth in the proposed Management Agreement is approximately $60,000 for the projected first year of condominium operation of the Property.

B. Experience

We are a licensed real estate broker. Our above opinion is based, and given in reliance, on our knowledge of current market conditions and on our experience in managing commercial, mixed residential and commercial, and residential properties in New York City for more than 40 years. We currently manage approximately 100 commercial, mixed residential and commercial, and residential properties in New York City, including cooperatives and condominiums.

We are not owned or controlled by, and have no financial or beneficial interest in, nor any family, employment or other business relationship with, Sponsor or Sponsor's principal, other than our fee for services rendered in connection with this opinion and related certifications and another opinion we are giving for inclusion in the Offering Plan.

We understand that this letter will be reproduced in the Condominium Offering Plan and we hereby consent to such use.

Very truly yours,

Penmark Realty Corporation

Signature: _____
Name: Bernard Friedman
Title: President