THIS PLAN HAS BEEN AMENDED. SEE INSIDE COVER.

CONDOMINIUM OFFERING PLAN FOR

70 BERRY STREET CONDOMINIUM

70 Berry Street, Brooklyn, New York 11211

TOTAL INITIAL PURCHASE PRICE OF THE UNITS OFFERED FOR SALE IS $24,890,000

(The Condominium has a total of 38 residential units and one Parking Unit containing 19 spaces, 18 of the Parking Spaces will be offered for sale)

Sponsor

Essex Berry Street LLC
c/o Essex Capital Partners Ltd.
635 Madison Avenue
New York, New York 10022

Selling Agent

The Developers Group LLC
79 Bridge Street
Brooklyn, New York 11201

Filing Date of this Offering Plan is September 16, 2009

The term of the initial offering of this Plan commenced on September 16, 2009 and expires on September 16, 2010, unless said date is extended in a duly filed amendment.

SEE PAGE (i) 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.

BECAUSE SPONSOR IS RETAINING THE UNCONDITIONAL RIGHT TO RENT RATHER THAN SELL UNITS, THIS PLAN MAY NOT RESULT IN THE CREATION OF A CONDOMINIUM IN WHICH A MAJORITY OF THE UNITS ARE OWNED BY OWNER-OCCUPANTS OR INVESTORS UNRELATED TO THE SPONSOR.

PURCHASERS FOR THEIR OWN OCCUPANCY MAY NEVER GAIN CONTROL OF THE BOARD OF MANAGERS UNDER THE TERMS OF THIS PLAN.

FIRST AMENDMENT

TO THE CONDOMINIUM OFFERING PLAN FOR

70 BERRY STREET
70 Berry Street, Brooklyn, New York

DATED: October 27, 2009

The Offering Plan - a Plan to convert to Condominium Ownership premises at 70 Berry Street, Brooklyn, New York 11211 (hereinafter referred to as the "Plan") accepted for filing on September 16, 2009, is amended as follows:

1. The Prices for all the units have been decreased as per the annexed price change schedule.

2. Other than the revision in prices, there are no other changes in this Amendment.

6. There are no other material changes except as set forth in this First Amendment.

ESSEX BERRY STREET LLC, Sponsor

SCHEDULE A
PROJECTED COMMON CHARGES AND REAL ESTATE TAXES
FOR THE FIRST YEAR OF CONDOMINIUM OPERATION
Beginning November 1, 2009 - Ending October 31, 2010
Berry Street Condominium - 70 Berry Street - Brooklyn, New York

	(1)	(2a)	(2b)	(2c)	(2d)	(3a)		(4)	(5)	(6a)	(6b)	(7a)	(7b)	(8a)	(8b)
Unit	Number of Bedrooms / Baths	Approx Interior Area Interior Area (Sq. Feet)	Approx Terrace / Balcony (Sq. feet)	Approx Storage Room (Sq. feet)	Approx Total Area (Sq.Feet)	Offering Price	Percentage of Residential Common Interest	Percentage of General Common Interest	Projected Monthly Common Charges	Projected Monthly Real Estate Taxes without 421a Benefits	Projected Monthly Real Estate Taxes with 421a Benefits	Projected Total Monthly Common Charges and Real Estate Taxes without 421a Benefits	Projected Total Monthly Common Charges and Real Estate Taxes with 421a Benefits	Projected Total Annual Common Charges and Real Estate Taxes without 421a Benefits	Projected Total Annual Common Charges and Real Estate Taxes with 421a Benefits
2 A	1/1	729			729	$ 450,000.00	2.15%	2.05%	$ 370.49	$ 348.63	$ 44.77	$ 719.12	$ 415.26	$ 8,629.48	$ 4,983.09
2 B	1/1	718	350		1,068	$ 550,000.00	2.64%	2.51%	$ 453.84	$ 427.06	$ 54.84	$ 880.90	$ 508.68	$ 10,570.82	$ 6,104.11
2 C	1/1	747			747	$ 475,000.00	2.21%	2.10%	$ 379.64	$ 357.24	$ 45.87	$ 736.88	$ 425.51	$ 8,842.56	$ 5,106.13
2 D	1/1	785			785	$ 499,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
2 E	1/1	785			785	$ 499,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
2 F	2/2	1154			1,154	$ 699,000.00	3.41%	3.25%	$ 586.48	$ 551.88	$ 70.87	$ 1,138.37	$ 657.35	$ 13,660.39	$ 7,888.18
2 G	1/1	880			880	$ 550,000.00	2.60%	2.48%	$ 447.23	$ 420.85	$ 54.04	$ 868.08	$ 501.27	$ 10,416.94	$ 6,015.25
3 A	1/1	729			729	$ 465,000.00	2.15%	2.05%	$ 370.49	$ 348.63	$ 44.77	$ 719.12	$ 415.26	$ 8,629.48	$ 4,983.09
3 B	1/1	718			718	$ 450,000.00	2.12%	2.02%	$ 364.90	$ 343.37	$ 44.09	$ 708.27	$ 408.99	$ 8,499.27	$ 4,907.90
3 C	1/1	747			747	$ 490,000.00	2.21%	2.10%	$ 379.64	$ 357.24	$ 45.87	$ 736.88	$ 425.51	$ 8,842.56	$ 5,106.13
3 D	1/1	785			785	$ 510,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
3 E	1/1	785			785	$ 510,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
3 F	2/2	1154			1,154	$ 725,000.00	3.41%	3.25%	$ 586.48	$ 551.88	$ 70.87	$ 1,138.37	$ 657.35	$ 13,660.39	$ 7,888.18
3 G	1/1	880			880	$ 565,000.00	2.60%	2.48%	$ 447.23	$ 420.85	$ 54.04	$ 868.08	$ 501.27	$ 10,416.94	$ 6,015.25
4 A	1/1	729			729	$ 480,000.00	2.15%	2.05%	$ 370.49	$ 348.63	$ 44.77	$ 719.12	$ 415.26	$ 8,629.48	$ 4,983.09
4 B	1/1	718			718	$ 460,000.00	2.12%	2.02%	$ 364.90	$ 343.37	$ 44.09	$ 708.27	$ 408.99	$ 8,499.27	$ 4,907.90
4 C	1/1	747			747	$ 505,000.00	2.21%	2.10%	$ 379.64	$ 357.24	$ 45.87	$ 736.88	$ 425.51	$ 8,842.56	$ 5,106.13
4 D	1/1	785			785	$ 520,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
4 E	1/1	785			785	$ 520,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
4 F	2/2	1154			1,154	$ 750,000.00	3.41%	3.25%	$ 586.48	$ 551.88	$ 70.87	$ 1,138.37	$ 657.35	$ 13,660.39	$ 7,888.18
4 G	1/1	880			880	$ 580,000.00	2.60%	2.48%	$ 447.23	$ 420.85	$ 54.04	$ 868.08	$ 501.27	$ 10,416.94	$ 6,015.25
5 A	1/1	729			729	$ 495,000.00	2.15%	2.05%	$ 370.49	$ 348.63	$ 44.77	$ 719.12	$ 415.26	$ 8,629.48	$ 4,983.09
5 B	1/1	718			718	$ 470,000.00	2.12%	2.02%	$ 364.90	$ 343.37	$ 44.09	$ 708.27	$ 408.99	$ 8,499.27	$ 4,907.90
5 C	1/1	747			747	$ 520,000.00	2.21%	2.10%	$ 379.64	$ 357.24	$ 45.87	$ 736.88	$ 425.51	$ 8,842.56	$ 5,106.13
5 D	1/1	785			785	$ 530,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
5 E	1/1	785			785	$ 530,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
5 F	2/2	1154			1,154	$ 775,000.00	3.41%	3.25%	$ 586.48	$ 551.88	$ 70.87	$ 1,138.37	$ 657.35	$ 13,660.39	$ 7,888.18
5 G	1/1	880			880	$ 595,000.00	2.60%	2.48%	$ 447.23	$ 420.85	$ 54.04	$ 868.08	$ 501.27	$ 10,416.94	$ 6,015.25
6 A	1/1	748			748	$ 545,000.00	2.21%	2.11%	$ 380.15	$ 357.72	$ 45.93	$ 737.87	$ 426.08	$ 8,854.39	$ 5,112.96
6 B	1/1	718			718	$ 560,000.00	2.12%	2.02%	$ 364.90	$ 343.37	$ 44.09	$ 708.27	$ 408.99	$ 8,499.27	$ 4,907.90
6 C	1/1	764			764	$ 575,000.00	2.26%	2.15%	$ 388.28	$ 365.37	$ 46.92	$ 753.65	$ 435.19	$ 9,043.79	$ 5,222.33
6 D	1/1	802			802	$ 599,000.00	2.37%	2.26%	$ 407.59	$ 383.54	$ 49.25	$ 791.13	$ 456.84	$ 9,493.62	$ 5,482.08
6 E	1/1	802			802	$ 599,000.00	2.37%	2.26%	$ 407.59	$ 383.54	$ 49.25	$ 791.13	$ 456.84	$ 9,493.62	$ 5,482.08
6 F	2/2	1184			1,184	$ 825,000.00	3.50%	3.33%	$ 601.73	$ 566.23	$ 72.71	$ 1,167.96	$ 674.44	$ 14,015.51	$ 8,093.25
6 G	1/1	880			880	$ 650,000.00	2.60%	2.48%	$ 447.23	$ 420.85	$ 54.04	$ 868.08	$ 501.27	$ 10,416.94	$ 6,015.25
PH A	2/2	1440	411		1,851	$ 1,100,000.00	4.86%	4.63%	$ 836.27	$ 786.94	$ 101.05	$ 1,623.21	$ 937.32	$ 19,478.49	$ 11,247.84
PH B	3/2	1766	1160		2,926	$ 1,350,000.00	6.93%	6.60%	$ 1,192.28	$ 1,121.94	$ 144.06	$ 2,314.22	$ 1,336.34	$ 27,770.60	$ 16,036.11
PH C	0/1	491	171		662	$ 425,000.00	1.70%	1.62%	$ 292.99	$ 275.70	$ 35.40	$ 568.69	$ 328.39	$ 6,824.28	$ 3,940.67
		32,787	2,092	0	34,879	$ 22,395,000.00	100.00%	95.25%	$ 17,194.52	$ 16,180.12	$ 2,077.64	$ 33,374.64	$ 19,272.16	$ 400,495.65	$ 231,265.92
Parking 1	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 2	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 3	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 4	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 5	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 6	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 7	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 8	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 9	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 10	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 11	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 12	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 13	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 14	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 15	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 16	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 17	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 18	N/A	0	0	162	162	$ 40,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 19	N/A	0	0	162	162	$ 35,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Subtotal Parking		0	0	3,078	3,078	$ 755,000.00	0.00%	4.75%	$ 857.47	$ 806.88	$ 103.61	$ 1,664.35	$ 961.08	$ 19,972.22	$ 11,532.95
Total		32,787	2,092	3,078	37,957	$ 23,150,000.00	100.00%	100.00%	$ 18,051.99	$ 16,987.00	$ 2,181.25	$ 35,038.99	$ 20,233.24	$ 420,467.87	$ 242,798.87

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SPECIAL RISKS

1. Use Provisions

The 70 Berry Street Condominium will consist of 38 Residential Units. There is also a Parking Space, which is located in and is part of the North 10th Street Condominium which is located at 128 north 10th Street, and which is across the street from 70 Berry Street. The Parking Unit consists of 19 parking spaces, 18 of which are being offered for sale and a lease is offered for the one parking space in the Parking Space at North 10th Street and will be offered to residents of 70 Berry Street only. See Special Risk #30 below.

The Residential Units may generally only be used for residential purposes and a lawful home occupation as provided by applicable zoning laws, and may be leased by the Unit Owners thereof to tenants only for periods of one year or longer, as provided in the By Laws.

2. Purchaser Deposits; Defaults by Purchasers

At the time a Purchase Agreement is executed, a Purchaser is required to make an initial Deposit in an amount equal to 10% of the purchase price, and an additional Deposit equal to 10% of the purchase price upon the earlier to occur of (i) three (3) months after Purchaser's signing and delivering this Agreement or (ii) the date the Plan is declared effective. A Purchaser executing a Purchase Agreement on or after the date the Plan is declared effective is required to make the full Deposit in an amount equal to 20% of the purchase price. Notwithstanding the foregoing, if a Purchaser is a foreign government, a resident representative of a foreign government or other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity), such Purchaser will be required to make a Deposit equal to 50% of the applicable purchase price.

In the event a Purchaser fails to pay the additional Deposit and/or defaults under the Purchase Agreement, time being of the essence with regard to the obligations of the Purchaser thereunder, Sponsor shall give Purchaser written notice of default. If Purchaser does not cure such default within 30 days after notice to the Purchaser of such default, Sponsor may, at its option, either (i) cancel the Purchase Agreement and retain, as liquidated damages, the entire Deposit, (initial and additional) together with interest earned thereon, if any, or (ii) bring an action against such Purchaser for specific performance, in which event Purchaser could be compelled to complete the transaction. (See the Section of the Plan entitled "Procedure to Purchase" for further details.)

Time is of the Essence as to Purchaser's obligations under the Purchase Agreement, including without limitation, for the payment of all Deposits and the Balance of the Purchase Price. If a Purchaser fails for any reason to close title to the Unit on the originally scheduled date of closing ("Scheduled Closing Date") and Sponsor elects not to cancel the Purchase Agreement as a result of such default: (a) the closing apportionments to be made at the Closing will be made as of midnight of the day preceding the Scheduled Closing Date, and not as of midnight of the day preceding the actual date of closing ("Actual Closing Date") and (b) Purchaser will be required to pay to Sponsor an amount equal to .03% of the purchase price of the Unit per day (or such lower daily rate which is the legal limit, if 0.03% per day exceeds the legal limit) commencing with the Scheduled Closing Date

through the Actual Closing Date (See the Section of the Plan entitled "Procedure to Purchase" for further details.)

3. **Property Acceptance**

The signing of the Purchase Agreement signifies the Purchaser's acceptance of the condition of the Property (as represented by Sponsor in the Plan). Sponsor is obligated to construct the Building in accordance with all applicable codes, filed plans and specifications. Sponsor, however, has no obligation to make any repairs, improvements or decorations in or to the Property, the Building, the Units or the Facilities, except as may otherwise be set forth in the Plan. (See the Section of the Plan

4. **Escrow Deposits**

If a Purchaser makes a Deposit in excess of $250,000 for the purchase of a Unit, the amount in excess of $250,000 will not be federally insured. Additionally, until such time as Purchaser delivers either an executed W-BEN8 or W-9 Form to Sponsor, the Deposit shall remain in the non-interest bearing portion of the Escrow Account. While the Deposit remains in the non-interest bearing portion of the Escrow Account, the Deposit may not be federally insured even if the Deposit does not exceed $100,000. (See the Section of the Plan entitled "Procedure to Purchase" for further details.)

All deposits will be held by the Sponsor's attorney in escrow. (See the Section of the Plan entitled "Procedure to Purchase" for further details).

All funds received by Sponsor for upgrades or extras will be placed in the Escrow Account. However, Purchasers should note that such funds may be released from the Escrow Account by Escrow Agent to Sponsor provided that Sponsor uses the funds or is reimbursed from such funds for such upgrades or extras. As a result, in the event a Purchaser is entitled to rescind the Purchase Agreement in accordance with the Plan, Purchaser will not receive a refund of any funds used for upgrades or extras. (See the Section of the Plan entitled "Procedure to Purchase" for further details.)

If Sponsor makes an application to the Department of Law to withdraw the Deposits from escrow, and secure such Deposits with a Letter of Credit or Surety Bond and such application is approved by the Department of Law, following such withdrawal, no interest will be earned on the Deposits. (See the Section of the Plan entitled "Procedure to Purchase" for further details.)

5. **No Financing Contingency**

A Purchaser may obtain financing from any lending institution or other source, but Purchaser's obligation to purchase a Unit pursuant to a Purchase Agreement shall not be contingent on Purchaser obtaining such financing, so that a Purchaser will remain obligated under the Purchase Agreement whether or not Purchaser has been able to obtain financing. Neither Sponsor nor Selling Agent makes any representations as to the terms or availability of any mortgage financing. Prospective Purchasers should be aware that even if a loan commitment is obtained, its terms may be limited, and it could expire before the closing date. Neither Sponsor nor Selling Agent shall have any liability as a result of any scheduling or adjournment of closing beyond the expiration of a loan commitment. (See the Section of the Plan entitled "Procedure to Purchase" for further details.)

6. **Declaring Plan Effective**

Pursuant to Law, Sponsor may declare the Plan effective by entering into Purchase Agreements for the sale of a minimum of 15% of the Units in the Building. Even if the Plan is declared effective with a minimum number of sales, it is possible that Sponsor may be able to create a Condominium with fewer than the minimum number of sales, if Purchasers counted towards effectiveness do not ultimately close title to their Units. However, there is no commitment to sell more Units than the 15 percent of Units necessary to declare the Plan effective and owner-occupants may never gain effective control and management of the condominium. (See Sections A, J, L, P, Q and R in Part I of the Plan for further discussion.)

7. **Agreement/No Rescission/Liquidated Damages**

The Agreement between Sponsor and a Purchaser, the form of which is set forth as Exhibit 1 in Part II of the Plan, in respect of the purchase of a Unit requires the making of a Deposit. Such payment is in consideration of the granting (or continuation) of the right pursuant to such Agreement to purchase the Unit which is the subject thereof in accordance with the terms of the Plan. Provided a Purchaser shall have timely made its Deposit, such Purchaser shall have (or continue to have) the right to purchase its Unit at the stated purchase price and upon the terms and conditions set forth in the Agreement and in the Plan. The Deposit, and all other amounts paid by a Purchaser to Sponsor pursuant to the Agreement and/or the Plan in connection with the purchase of a Unit, shall be such Purchaser's own funds (and not a third party's). In the event a Purchaser elects not to exercise its right to purchase (by closing title in accordance with the terms of the Plan and the Agreement) after payment of any Deposit, the Deposit previously paid (together with any interest thereon) shall be retained by Sponsor (subject to the terms of the Plan), as liquidated damages, it being acknowledged and agreed by Sponsor and each Purchaser that it would be impractical and/or extremely difficult to fix or establish the actual damage sustained by Sponsor as a result of such a default by a prospective Purchaser, and that the Deposit (including all interest) shall constitute and be deemed to be the reasonable and agreed upon liquidated damages of Sponsor in respect of the possible loss of a timely closing, the possible fluctuation of values, additional carrying costs of the Unit and other expenses that may be incurred, including, without limitation, attorneys' fees, and shall be paid by Purchaser to and retained by Sponsor as Sponsor's sole and exclusive remedy. In such case, Purchaser shall have no further liability to Sponsor in respect of the Agreement (except for those matters expressly specified therein or herein to survive the termination thereof); however, such Purchaser shall not have any right whatsoever to the return of all or any portion of its Deposit (or any interest thereon). The payment of the Deposit (including all interest) as liquidated damages is not intended to be a forfeiture or penalty, but is intended to constitute liquidated damages to Sponsor. Purchasers are advised that notwithstanding the foregoing, including, without limitation, Sponsor not having the right of specific performance, nothing herein shall be deemed to grant Purchaser any right of rescission and/or any right to the return of all or any portion of a Deposit except as expressly set forth in the Plan. In the event of a dispute regarding disposition of the Deposit and any interest thereon, the Sponsor shall apply, and the Purchaser or Escrow Agent may apply, to the Attorney General for relief. (See Section J in Part I of the Plan for further discussion.)

The Sponsor shall comply with the escrow and trust fund requirements of GBL Sections 352-e(2-b) and 352-h and the applicable regulations contained in 13 N.Y.C.R.R. Part 20, and all funds paid by purchaser shall be handled in accordance with these statutes and regulations. In essence this means that Deposits shall be held by escrow by the Sponsor's attorney until (1) the closing of title, at which time the Deposit shall be paid to the Sponsor; or (2) there is an offer of rescission and the Purchaser rescinds, at which time the Deposit shall be returned to the Purchaser; or (3) the Purchaser defaults. In the latter instance, if there is a dispute over who is entitled to the Deposit, the Purchaser may and the Sponsor must apply to the Office of the Attorney General for a determination as to whether the Purchaser or the Sponsor is entitled to the Deposit. Further details of these requirements are contained in Section J of Par I of this Offering Plan.

8. **Control by Sponsor; First Meeting**

The 'Initial Control Period", during which time the Sponsor will be in control of the Board of Managers will extend until the later to occur of the following: (a) the fifth anniversary of the First Closing; (b) the closing of title to 75% of the units, in number and in percentage of common elements.

Until the second anniversary of the first closing, the Board will consist of three members, all of whom will be appointed by the Sponsor and all of whom will be related to the Sponsor. On or about the second anniversary of the First Closing, a meeting of unit owners will be convened for the purpose of constituting a new Board of Managers. The new Board will consist of three members appointed by the Sponsor, who may be Sponsor affiliates, and two members elected by all of the unit owners including the Sponsor. This procedure will be repeated annually until the end of Initial Control Period, after which time five members of the Board will be elected by all Unit Owners, including the Sponsor; provided that if the Sponsor does not have sufficient votes to elect a Board member, the Sponsor shall have the right to appoint one Board member for so long as the Sponsor owns one or more units.

After the Initial Control Period, Sponsor shall have the right to designate at least one (1) member to the Condominium's board of managers (the "Board" or "Condominium Board") for so long as Sponsor continues to own at least one (1) Residential Unit.

The Board shall consist of three members designated by Sponsor from time to time until the end of the Initial Control Period. However, at elections of members to the Board held annually during the Initial Control Period commencing not later than two years after the First Closing, Sponsor shall have the right to designate not more than three members of the Board, in the aggregate, who are related to or affiliated with Sponsor, such designee or other Unsold Residential Unit Owner(s), and Sponsor and all other Unit Owners shall have the right to elect the remaining two members of the Board who shall not be related to or affiliated with Sponsor.

As a result of the foregoing, there is no provision in the By Laws for a majority of the Board to be owner-occupants or members of an owner-occupant's household who are unrelated to the sponsor and its principals. Owner-occupants and non-resident owners, including Sponsor, may have inherent conflicts on how the Condominium should be managed because of their different reasons for purchasing, i.e., purchase as a home as opposed to as an investment. (See Sections P and Q in Part I of the Plan for further discussion.)

9. Interim Service Period, Building Staff and Common Charges

Prospective Purchasers are advised that until the later of: (i) twelve months after the First Closing; or (ii) the closing of title to and occupancy of at least 50% of the Residential Units, some of the services and facilities described in the Plan may not be available. The full range of services and facilities described in this Plan may not be provided until move-ins are finished and construction work within and on the Building is completed. To the extent that any service or facility provided during such interim period benefits particular Residential Units, to the exclusion of other Residential Units, and the cost of the same is readily identifiable, the Common Charges necessary to provide such service or facility will be borne exclusively by the owners of the benefited Residential Units, in proportion to their respective Common Interests.

The amount of the Common Charges necessary to defray the cost of the interim services and facilities described in the preceding paragraph, as well as the manner of allocating such Common Charges among any Residential Unit Owners who are exclusively benefited by any of the same, will be determined by the Board, which will be controlled by Sponsor during such period. However, such allocation will be made in compliance with Section 339-m of the New York State Real Property Law, and in no event will Purchasers be assessed Common Charges during such interim period that are more than the Common Charges listed in Schedule A as the same may theretofore have been amended.

After operation of the Condominium has commenced, it is anticipated that the methods of allocation of the Common Expenses to be paid by the Unit Owners will be periodically adjusted as provided in Section 6.1 of the By-Laws, but not more frequently than once each year, to reflect the differing proportions fairly attributable to the then amount of usage by such category of Unit Owner of the services and the Common Elements in question, but in any event in conformity with Section 339-m of the New York State Real Property Law. If any category of Unit Owners contends that any method of allocation determined by the Board is inequitable, the dispute may be submitted to arbitration as provided in the By-Laws. (See Section B, Note (5) to Schedule A and Note (2) to Schedule B in Part I of the Plan for further discussion.)

10. Additional Building Work

Construction in general is a complicated process which requires the coordination of numerous concurrent tasks, contractors and suppliers and the balancing of complex mechanical and architectural systems, all of which is subject to unanticipated delays and difficulties and necessarily involves noise, disruption and inconvenience. Thus, for a period of time following the First Closing (through, including and beyond the closing of title to any particular purchaser's Residential Unit), work should be expected to be undertaken and continue by or on behalf of: (i) Sponsor to complete the balance of the Building; (ii) individual Residential Unit Owners within their Residential Units (to perform custom renovations, etc.); and (iii) the Non-Residential Units Owner to complete construction, build-out, furnishing and equipping their Units. During at least the First Year of Operation, construction workers and related personnel of Sponsor and others will be at the Property from time to time performing construction work, making adjustments and performing various other tasks related to the completion of construction, fitting out of, and moving into, the Residential Units and other portions of the Building. Various systems, including, but not limited to, water supply, air conditioning, heating, cooling, ventilating and elevators, may require more than a year after any

particular Unit closing to complete and may be disrupted temporarily and from time to time. Residential elevator and personnel may be taken out of service and diverted to facilitate construction and exterior hoists may be in place during at least the year following the First Closing and from time to time thereafter, as needed, in connection with construction being performed in Residential Units by the Unit Owners thereof. Various other adjustments, to windows, elevators, heat pumps and other systems, may require eighteen months or more after the First Closing to complete. Sponsor may not fully complete the decoration or finishing of the lobby, corridors, elevator finishes and other portions of the Building, including, but not limited to, installing light fixtures, painting, hanging wall coverings or laying carpeting, until that particular floor is fully occupied by Unit Owners or, if additional construction within a Unit is anticipated, for some period thereafter. All of the foregoing work and conditions will create a noisy and otherwise disruptive condition in the Building during the period such work is being performed. Certain portions of the Common Elements may be completed before or after completion of any particular Purchaser's Unit. As a result, certain amenities and benefits anticipated such as full staff of personnel and the common recreational room on the ground floor, and the lower, upper and roof courts may not be available to Residential Unit Owners may not be available until such other portions of the Building are completed and fully operational. Sponsor shall have no liability whatsoever in the event these services are delayed, or disrupted. Further, the Board and/or Sponsor may refuse to permit a Residential Unit Owner to perform alterations in a Residential Unit until such time as the Building has been completed and permanent certificate(s) of occupancy have been obtained therefore. Even where such alterations are permitted, the Board and/or Sponsor may impose conditions and deadlines upon the planning, performing and completion of such work. No assurance can be given with regard to the accuracy of any projected schedules or completion dates set forth herein or with respect to the duration of any interim service period or periods of potential disruption to the Residential Unit Owners and their tenants or occupants, all such dates and timetables, to the extent provided, being only good faith estimates.

Based upon the current construction schedule, Sponsor presently contemplates that, unless delayed by weather, casualty, labor difficulties (including work stoppages and strikes), late delivery and/or the inability to obtain on a timely basis or otherwise, materials or equipment, governmental restrictions, acts of god or other events beyond its reasonable control, construction of the Building will be sufficiently completed to permit closings of title to certain Residential Units to begin in or about November 1, 2009. Construction is estimated to take approximately eighteen (18) months from commencement to completion. Prospective Purchasers should note, however, that the Residential Units will be completed at differing times over a period that may begin prior to and/or extend significantly beyond such date. Sponsor will have no liability to any Purchaser, nor will a Purchaser be entitled to any credit, offset or reduction in the purchase price for his or her Residential Unit or otherwise be relieved from any obligations under the Agreement, in the event that the First Closing occurs earlier or later than the targeted date or the time to complete or to close title to such Purchaser's Residential Unit is accelerated, delayed or postponed by Sponsor, provided, however, that in the event the actual or anticipated commencement date of the projected First Year of Condominium Operation is to be delayed by six months or more, Sponsor will amend the Plan to include a revised budget with current projections and if: (i) the amended budget exceeds the projected budget set forth herein by 25% or more; or (ii) the First Closing does not occur within 12 months after November 1, 2009, the date set forth in Schedule B as the commencement date for the projected First Year of Condominium Operation, then in either case Sponsor will offer all Purchasers (other than Purchasers who are then in default beyond any applicable grace period under their Agreements, if the Plan has been declared effective) the right to rescind their Agreements within not

less than 15 days after the presentation date of the amendment containing such revised budget or after such 12-month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Deposit and any interest accrued thereon returned. Purchasers' rights as described in the preceding sentence are in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of which shall be deemed to have been waived by all Purchasers. As set forth in the Section of this Plan entitled "Effective Date," no closing of title to any Unit will take place prior to the Plan being declared effective.

11. **Prohibition Against Advertising**

Purchasers are prohibited from listing their Units for resale with any broker or otherwise advertising, promoting or publicizing the availability of their Units for sale prior to the closing of title thereto and following the closing of title thereto until the earlier of (a) the first anniversary of the First Closing or (b) the closing of title to all Residential Units. (See Section K in Part I of the Plan and Exhibit 1 in Part II of the Plan for further information.)

12. **No Bond or Other Security**

No bond or other security has been posted by Sponsor to secure its obligation to pay Common Charges, special assessments or real estate taxes with respect to the Unsold Residential Units. Sponsor represents that it has the financial resources to pay such amounts with respect to the Unsold Residential Units and agrees to pay such amounts. (See Section O in Part I of the Plan for further discussion.)

13. **Sponsor's Right to Lease Unsold Residential Units**

Sponsor will endeavor in good faith to sell, but nevertheless reserves the unconditional right to rent or lease, rather than sell, the Units offered hereunder. As a result, there is no commitment to sell more Units than the 15% necessary to declare the Plan effective and owner-occupants may never gain effective control and management of the Condominium. Further, Purchaser may be acquiring a Unit that has been previously occupied, but unless otherwise specifically agreed to in writing by Sponsor and such Purchaser, such Unit will be delivered at closing free and clear of all leases and tenancies.

14. **Changes in the Non-Residential Unit**

Sponsor and any successor Owner(s) of the Non-Residential Units will have the right to alter, divide, subdivide and combine portions of its Non-Residential Units, subject to the provisions of all applicable laws and ordinances, and the Declaration and By Laws. No representation or warranty is made (other than as expressly set forth in this Plan) as to who the tenant of the Non-Residential Units may be at any time or the uses to which such Units may be put at any time. (See Section G in Part I of the Plan for further discussion.)

15. **Transfer Taxes; Mansion Taxes; Closing Costs**

Purchasers shall be obligated to pay at the closing of title to their Unit(s) the New York City Real Property Transfer Tax and New York State Real Property Transfer Tax ("deed stamps") which by law are the primary obligation of the seller. For purposes of calculating the taxes payable, the amounts of such taxes will be included in the consideration subject to such tax. Currently, for the purchase of a single Residential Unit, the New York City Real Property Transfer Tax is 1% of the Purchase Price of a Unit if such Purchase Price is $500,000 or less and 1.425% of the Purchase Price if such Purchase Price is over $500,000; and the New York State Real Estate Transfer Tax is presently $2 for each $500 (or part thereof) of the Purchase Price of a Residential Unit. Additionally, Purchasers shall be required to pay various other additional closing costs, fees and adjustments. (See Section ___ in Part I of the Plan for further discussion.)

16. **Reserve Fund/Working Capital Fund**

A reserve fund is being established for the Condominium from the closing proceeds. Sponsor has elected to provide a reserve fund to be used for capital replacements or repairs, because the Building will be newly constructed in the initial amount of $8,500.00. The Board, in its discretion, and subject to certain restrictions contained in the By Laws, may decide in the future to increase the reserve fund by special assessment or by increases in Common Charges. A Working Capital Fund will be established through payments made therefore by each Purchaser at Closing to be held or used for working capital and for such other appropriate purposes as the Board may determine. (See Section 0 in Part I of the Plan for further discussion.)

17. **Real Estate Taxes**

The estimated real estate taxes payable in respect of each Unit were calculated on the assumption that the real estate taxes for the Building payable for the First Year of Building Operation, as estimated by Sponsor's real estate tax counsel, will be allocated to such Units on the basis of Common Interest as between the Non-Residential Units and the Residential Units in the aggregate and then to each Unit based upon the proportion that the respective Unit's initial offering price bears to the total initial offering price for all similar type of Units as set forth in Schedule A. However, upon determination of individual tax lots and individual assessments for Unit, the New York City tax authorities may allocate taxes among the Units in proportion to each such Unit's percentage interest in the Common Elements or some other basis rather than its relative offering price, and, if so, Units having the same or similar initial offering price may pay different real estate taxes and/or taxes may differ from those set forth on Schedule A. In addition, the New York City tax authorities may assess taxes against the Building in a different manner and in a different amount than that assumed by Sponsor's real estate tax counsel and, if so, Unit Owners may pay significantly different real estate taxes than those set forth on Schedule A. Sponsor can only estimate, based on reasonable, professional third party expert assumptions, what the real estate taxes for each Unit will be. Only the New York City tax authorities will make this determination upon the filing of tax lots. (See Sections D and S in Part I of the Plan for further discussion.)

18. **Closing Fees and Costs**

All legal costs, fees and expenses charged by each Purchaser's attorney shall be the sole responsibility of such Purchaser. In addition, each Purchaser shall also be responsible for payment of the following fees to Sponsor's attorneys, Eiseman Levine Lehrhaupt & Kakoyiannis, PC

("Sponsor's Counsel"), in connection with the closing of title to such Purchaser's Unit: (i) the sum of $1,750 to reimburse Sponsor for a portion of its legal fees incurred in connection with the closing of title to the Purchaser's Unit; (ii) $250 for the preparation of ACRIS transfer documents required by the City of New York; (iii) if the Purchaser requests the closing to occur other than at the offices of Sponsor's Counsel (or such other place as Sponsor may designate in its closing notice) and Sponsor consents to such change (in its sole discretion), an attendance fee of $500 for each closing held within Manhattan and $750 for each closing held in any borough outside Manhattan; (iv) if the closing is adjourned through no fault of Sponsor, an additional fee of $600 for each such adjournment to help defray the cost of preparing for and coordinating the new closing; (v) if Sponsor, in its sole discretion, consents to a Purchaser's request for an assignment of the Agreement, or for the addition, deletion or substitution of names on the Agreement, a fee of $1,000, payable in advance, for preparation of an assignment agreement; and (vi) if Purchaser obtains mortgage financing, an additional fee of $500 to Sponsor's Counsel to defray the additional costs associated therewith. Purchaser may be required to pay more than one fee pursuant to the preceding provisions of this paragraph with respect to a single Unit. Other additional charges may apply. At Sponsor's option (in its sole discretion), any one or more of the foregoing fees to be paid to Sponsor's Counsel shall be paid by Purchaser prior to closing upon notice to Purchaser. (See Section N in Part I of the Plan for further discussion.)

19. **No Warranty**

Sponsor shall not be obligated to correct, repair or replace any defects relating to construction of the Units or the Common Elements or in the installation or operation of any appliances, fixtures, or equipment therein, except as expressly provided in this Plan. Sponsor will not warrant the materials or workmanship of any Unit or any of the Common Elements. The Housing Merchant Implied Warranty Law (General Business Law Article 36-B) is not applicable to this offering. Notwithstanding the foregoing, Sponsor is obligated, regardless of any limitations set forth in this Offering Plan, to construct the Building in accordance with all applicable codes and filed plans and specifications. (See Section N in Part I of the Plan for further discussion.)

20. **Insurance**

The Board is not required to obtain or maintain any insurance with respect to any property contained in any Unit or any liability with respect to occurrences in or about each Unit or the Common Elements, if any, exclusive and/or appurtenant thereto. Consequently, all Unit Owners are required to obtain and maintain comprehensive general public liability insurance against claims for personal injury, death or property damage occurring in, on or about such Unit Owner's Unit and the Common Elements, if any, exclusive and/or appurtenant to his or her Unit. Further requirements with respect to such insurance are more particularly set forth in the By Laws. In addition, all Residential Unit Owners are urged to obtain casualty insurance with respect to the fixtures, furniture, furnishings and other personal property located within their respective Units. Purchasers are also advised that the insurance policies to be maintained by or on behalf of the Board will be on a "replacement cost" basis and will not cover losses to the extent that "market value" of a Unit may exceed its insured replacement cost. Further, as a result of current fluctuations in the insurance market, the Board will not be required to obtain or maintain terrorism coverage but may do so, and in such event, the cost thereof shall be a Common Expense as described in the By Laws. (See Section I in Part I of the Plan for further discussion.)

21. **Waiver of Diplomatic or Sovereign Immunity**

Purchasers will be required to waive expressly any and all immunity from suit by Sponsor and/or the Board. In addition, any Purchaser that is a foreign government, a resident representative of a foreign government or other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity) will be required at the time of closing of title to such Purchaser's Unit, to deposit with the Board an amount equal to two years' estimated Common Charges. (See Section I in Part I of the Plan for further discussion.)

22. **Partial Exemption from Real Estate Taxes**

Sponsor has applied for a partial exemption from real estate taxes attributable to Residential Units pursuant to Section 421-a of the New York Real Property Tax Law ("Section 421-a"). There can be no assurance that such exemption will be granted. Such exemption, if granted, will be for a limited period of 25 years, and will decrease progressively during such period. However, if for any reason, the aforementioned exemption is not granted, the Residential Units will be subject to full taxation and will receive no partial exemption from real estate taxes. Purchasers will have no right to rescind their Agreements in such event, will continue to be obligated to pay the full purchase price without any offset or credit and will have no claim against Sponsor by reason of the same. (See Sections D and R in Part I of the Plan for further discussion.)

23. **Certificate of Occupancy**

If, as of the First Closing, only a temporary Certificate of Occupancy has been issued for the Building, Sponsor will use all reasonable diligence to cause the New York City Department of Buildings to continuously renew the temporary Certificate of Occupancy until a permanent Certificate of Occupancy for all of the Units has been issued. Sponsor will, at its sole expense, do and perform, or cause to be done and performed, all such work (subject to events and circumstances beyond Sponsor's reasonable control, e.g., casualty, strikes, governmental restrictions, acts of god, etc.), and will supply, or cause to be supplied, all such materials, and will submit or cause to be submitted all such documentation, and shall pay all applicable fees required by the New York City Department of Buildings that shall be necessary in order to cause the temporary Certificate of Occupancy to be continuously renewed until a permanent Certificate of Occupancy for the Building has been issued, as well as to obtain any requisite certificates or permits relative to the electrical work, plumbing, heating and air-conditioning facilities and elevators at the Building. Prospective Purchasers are advised that permanent Certificates of Occupancy are required for permanent use of the Building, and that a temporary Certificate of Occupancy may be renewed only for a total of two years from the first date of issuance. Sponsor projects, but cannot assure, that a permanent Certificate of Occupancy for the Building will be obtained within two years after the First Closing. If a temporary Certificate of Occupancy expires and is not renewed, Purchaser may find it difficult or impossible to renew homeowners' insurance policies or to sell or refinance the Unit.

24. **Terraces**

There is a roof terrace on the seventh floor penthouse level, on the north and east sides of the building. The terrace is divided per apartment by an aluminum and glass railing system.

Doors at the terraces will be aluminum fames integral with the adjacent window wall system. Roof drains will be installed at the terrace.

25. **Increase or Decrease in Common Interest**

The Common Interest of each of the Units has been determined pursuant to Section 339-i (1) (iv) of the Condominium Act and accordingly based upon a comparison of the 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. Based upon final specifications, construction conditions and/or "as-built" plans for the Building reflecting relative measurements, areas and uses of portions of the Building, application of such method of allocation of Common Interest may justify a minor increase or decrease in the aggregate Common Interest appurtenant to the Residential Units and a corresponding decrease or increase in the Common Interest appurtenant to the Non-Residential Units. In such event, the Common Interest appurtenant to each individual Residential Unit, as the case may be, would be adjusted (by a minimal amount) pro rata. Sponsor expressly reserves the right, from time to time prior to the First Closing, to effect such a change in the Common Interests and to amend the Plan so as to reflect the same. In no event, however, will the Common Interest of any Residential Unit subject to a Purchase Agreement be increased as a result of any of the foregoing by more than 5%.

26. **Window Washing**

The Building does not feature a window washing rig and accordingly the washing and cleaning of the interior and exterior glass surfaces of all windows in the Residential Units shall be the responsibility of the respective Residential Unit Owners. All window interiors and exteriors shall be cleaned a minimum of two times per calendar year. The Board may from time to time enforce the responsibility of Residential Unit Owners to wash and clean the interior and exterior surfaces of windows located in their respective Units and charge the defaulting Residential Unit Owner therefor. Residential Unit Owners are prohibited from cleaning or allowing to be cleaned any window from the outside in violation of Section 202 of the New York State Labor Law, any other applicable Legal Requirements, any insurance policy or requirement or otherwise.

27. **Measurement of Units**

The approximate square foot area of each Unit is measured horizontally from the exterior side of the exterior walls (columns, mechanical pipes, shafts, shaft ways, chases, chase ways and conduits are not deducted from the measurements of each unit) to the centerline of the partitions separating one unit from another unit, or separating one unit from corridors, stairs, elevators and other mechanical equipment spaces or any other Common Element not within a unit or to the exterior side of the opposite exterior walls. Each unit will be measured vertically from the top of the floor (located under the finish flooring and sub-flooring materials) to the underside of the ceiling. Any Common Elements located within or appurtenant to any Unit, such as Terraces and Private Storage Spaces, shall not be considered as part of that Unit. The square foot areas determined using the methodology set forth above, as shown in Schedule A in Part I of the Plan, do not disclose the actual useable floor space and would be different from that derived by using an alternative methodology of measuring from interior surfaces to interior surfaces (which would yield lesser actual useable floor

area for each Unit). The stated method of measurement used is applicable to all Units. The room count for each Residential Unit was determined by Sponsor's architect in accordance with industry practice for new construction condominiums and does not necessarily conform to the zoning room count or the method utilized by the Real Estate Board of New York.

28. **Sponsor's Right to Use the Building**

Sponsor and its designee(s) shall have the right, until the tenth anniversary of the First Closing, to use, without charge, portions of the Building, including the Common Elements, for promotional functions (e.g., with respect to any sales programs for Unsold Residential Units) or otherwise. (See Section N in Part I of the Plan for further discussion.)

29. **Amendments to Condominium Documents**

Notwithstanding any provision contained herein or the Declaration or By Laws to the contrary, no amendment, modification, addition to or deletion of the Declaration, the By Laws or the Rules and Regulations shall be effective in any way against Sponsor or its designee, for so long as Sponsor or its designee is the owner of one or more Units, or any Unsold Residential Unit, unless Sponsor or its designee, as applicable, has given its prior written consent thereto, and no such amendment, modification, addition or deletion may in any manner adversely affect the Residential Units or the rights, benefits, easements, privileges or exemptions of such Residential Unit, without the consent of the affected residential Unit Owners. (See Section Q in Part I of the Plan for further discussion.)

30. **Parking**

The Condominium will include one (1) parking unit (the "Parking Unit") which will be located on the ground floor of the Building consisting of 19 parking spaces. Eighteen spaces in the Parking Unit are being offered for sale at this time, and eighteen are located in the Building and one space is located across the street at at 128 N. 10th Street. In order for the 70 Berry Street Condominium to qualify for the issuance of a permanent Certificate of Occupancy, it was necessary for there to be one additional parking space available to residents of the Building.

In order to accomplish this, the Sponsor entered into a lease for one parking space in the building across the street from 70 Berry Street, in a Condominium known as the North 10th Street Condominium, located at 128 north 10th Street. Simultaneously with the first closing of the Units at 70 Berry Street, the Parking lease will be assigned to the 70 Berry Street Condominium and will become an obligation of the 70 Berry Street Condominium as Lessee. The term of the lease is 50years and the initial rent is $1,000 per month in addition to common charge. The lease is renewable for an additional 25 year at a rental of $2,000 per month, plus common charges. The 70 Berry Street Condominium will be able to rent out the Parking Space at North 10th to any unit owner or renter who resides in 70 Berry Street, which will partially offset the rent paid to North 10th Street.

The terms of this lease require the Lessee (70 Berry Street Condominium) to pay to the Lessor (North 10th Street Condominium) a base rent of $1,000 per month plus a common charge for the Unit per month. The common charge for the Parking Unit will increase over time in accordance with increases in the common charges in that Condominium. The 70 Berry Street

Condominium will be able to rent out the Parking space to any unit owner or renter who resides in 70 Berry Street, which will partially offset the rent paid to North 10th Street.

31. **Window Guards**

Unit Owners must notify the Managing Agent in writing when a Child or children under the age of Eleven (11) years lives or resides, even temporarily in the Unit. Each Residential Owner shall install at the Residential Owner's expense, the required Window Guards in all windows of the Unit and shall not remove them until permitted by law but in no event, without the full knowledge of the Managing Agent.

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

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PART I

A. INTRODUCTION

Essex Berry Street LLC, a New York limited liability company and qualified to do business in the State of New York ("Sponsor"), hereby presents this Offering Plan (the "Plan") for the establishment of condominium ownership of the Land, Building and appurtenances thereto, known as and having the street address 70 Berry Street, Brooklyn, New York 11211-1918. The condominium will be known as the "70 Berry Street Condominium" and is herein called the "Condominium." The purpose of the Plan is to set forth in detail all material terms of the offering by Sponsor of the Residential Units located in the Condominium and offered hereby.** Sponsor may amend the Plan from time to time by filing an amendment with the New York State Department of Law ("Department of Law"), a copy of which amendment will be served on all purchasers of Units pursuant to executed Agreements who are not in default, and to all Residential Unit Owners and any other Offerees as may be required by applicable law or regulation.

The Plan is presented in two parts (in one volume) which together constitute the entire Plan. Part I of the Plan sets forth a general description of the offering and the rights and obligations of Sponsor and the Unit Owners. Part II contains the basic documents necessary to create the Condominium and to otherwise effectuate the provisions of the Plan. Also included in Part II is a detailed physical description of the Property and certifications by Sponsor, Sponsor's architect and Sponsor's financial experts. In addition to the Plan, Sponsor has filed separately with the Department of Law certain exhibits to the Plan which are presented as Parts A (Certifications), B (General), C (Engineering) and D (Other Information).

The Plan, including all Schedules set forth herein, and Parts A, B, C and D of the exhibits, together constitute the entire offer of Sponsor to sell the Units at the Condominium which are the subject of this Plan. Sponsor shall not make, and has not authorized any other party to make, any oral representations or statements concerning this Plan, and no such representations or statements shall be considered part of this Plan. No information, data or representations other than those contained herein or in the documents annexed hereto as exhibits in Part II of this Plan may be relied upon. Copies of the Plan and the exhibits will be available for inspection by prospective Purchasers without charge, and for copying at a reasonable charge, at the Condominium's Sales Office by appointment. Copies of the Plan and the exhibits will also be available for inspection by prospective Purchasers without charge, and for copying at a reasonable charge, at the New York Department of Law, 120 Broadway, New York, New York 10271.

The Condominium is subject to and will comply with all statutes and regulations applicable to condominiums in the State of New York.

Sponsor hereby represents that no contracts or agreements have been entered into and that no deposits or advances of funds have been accepted as of the date the Plan is accepted for filing by the

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* Each capitalized term used in Part I of the Plan shall have the meaning ascribed thereto in the section of the Plan entitled "Certain Definitions", unless otherwise clearly indicated or defined elsewhere.

Attorney General of the State of New York. Sponsor also hereby represents that all of the Residential Units offered in this Plan are vacant as of such date.

Effective November 5, 2004, owners of Class A multiple dwellings in New York City, which include condominium units, must install carbon monoxide detectors. Accordingly , Sponsor shall install carbon monoxide detectors in the offered Residential Units and Owners of such Units are required to maintain the detectors in their respective Units.

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1. **The Property**

Sponsor, by deed dated November 5, 2006, acquired title to the Land, an approximately 11,441 square foot parcel, and the improvements located at 70 Berry Street, Brooklyn, New York 11211-1918, consisting of Lot 19 in Block 2303 of the Tax Map of the City of New York. Sponsor has partially demolished such improvements in order to allow for the construction of a new building (the "Building") which, as more specifically described herein, upon completion of construction, will constitute the Condominium and includes 38 Residential Units and 19 Parking Space.

Based upon the current construction schedule, Sponsor presently contemplates that, unless delayed by weather, casualty, labor difficulties (including work stoppages and strikes), late delivery and/or the inability to obtain on a timely basis or otherwise, materials or equipment, governmental restrictions, acts of god or other events beyond its reasonable control, construction of the Building will be sufficiently completed to permit closings of title to certain Residential Units to begin on or about November 1, 2009 and construction is estimated to take approximately eighteen (18) months from commencement to completion. Prospective Purchasers should note, however, that the Residential Units will be completed at differing times over a period that may begin prior to and/or extend significantly beyond such date. Sponsor will have no liability to any Purchaser, nor will a Purchaser be entitled to any credit, offset or reduction in the purchase price for his or her Residential Unit or otherwise be relieved from any obligations under the Agreement, in the event that the First Closing occurs earlier or later than the targeted date or the time to complete or to close title to such Purchaser's Residential Unit is accelerated, delayed or postponed by Sponsor, provided, however, that in the event the actual or anticipated commencement date of the projected First Year of Condominium Operation is to be delayed by six months or more, Sponsor will amend the Plan to include a revised budget with current projections and if: (i) the amended budget exceeds the projected budget set forth herein by 25% or more; or (ii) the First Closing does not occur within 12 months after November 1, 2009, the date set forth in Schedule B as the commencement date for the projected First Year of Condominium Operation, then in either case Sponsor will offer all Purchasers (other than Purchasers who are then in default beyond any applicable grace period under their Agreements, if the Plan has been declared effective) the right to rescind their Agreements within not less than 15 days after the presentation date of the amendment containing such revised budget or after such 12-month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Deposit and any interest accrued thereon returned. Purchasers' rights as described in the preceding sentence are in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of which shall be deemed to have been waived by all Purchasers. As set forth in the Section of this Plan entitled "Effective Date," no closing of title to any Unit will take place prior to the Plan being declared effective.

As set forth in more detail in the Section entitled "Changes in Prices" in Part I of the Plan, Sponsor reserves the right to change the number of Units from time to time by subdividing and/or combining Units, even after the Condominium is created, except with respect to a Unit as to which a binding Agreement has been entered into and remains in effect unless the Purchaser thereof consents in writing to such change.

A detailed description of the Property is contained in the Section entitled "Description of the Property and Improvements" in Part I, Section B of the Plan.

2. Features of Condominium Ownership

The ownership of a Unit is similar in many respects to the ownership of a private home. Each Unit Owner is the fee owner of his or her Unit. Each such Unit Owner also owns, in common with the owners of all other Units, an undivided interest in the Common Elements, which, as more particularly set forth herein and in the Declaration, include all parts of the Property other than the Units themselves, including, without limitation, the Land and the roofs, foundations and supports of the Building, and all areas, equipment or facilities for the common use of two or more Units or two or more Unit Owners.

Use and occupancy of all Units is governed by the Declaration and the By Laws of the Condominium, the provisions of this Plan and applicable Legal Requirements.

As more particularly set forth in the By Laws, a Residential Unit may generally be used only as a residence and for a lawful home occupation.

With certain exceptions, any sale or lease of a Residential Unit will be subject to a right by the Board to acquire or lease such Residential Unit, as the case may be, on the same terms as were offered by the Residential Unit Owner to the potential purchaser or lessee thereof. This right of first refusal in favor of the Board is not applicable to a sale or lease of Unsold Residential Units. For a more complete discussion of the foregoing, see the Section entitled "Rights and Obligations of Unit Owners and the Board" in Part I of the Plan.

There is no limit on the number of Unit Owners who may purchase a Unit for investment, rather than personal occupancy, purposes. As such there may always be a substantial percentage of Unit Owners who are non-residents of the Condominium.

Each Unit Owner must pay Common Charges to cover the costs of operation and maintenance of the Condominium in accordance with Sections 339(i)(1)(iv) and 339(m) of the New York Condominium Act. The costs of operation and maintenance of the Condominium, including both those directly attributable to the Units and an allocated share of expenses attributable to the Condominium as a whole (such as expenses for insurance, repairs and maintenance of the Common Elements and various service contracts), will generally be borne by the estimated Common Charges for each Unit for the projected First Year of Condominium Operation are set forth in Schedule A.

Operation of the Condominium will be vested in the Board which will be elected by the Unit Owners and/or designated by Sponsor as described in the Plan and the By Laws. As more particularly set forth in the By Laws, the Board will determine the amounts of Common Expenses, the allocation of Common Expenses among the Residential Units, and will assess Unit Owners for Common Charges accordingly.

Residential Unit Owners may decorate the interior of their Residential Units in any way that they desire, subject to compliance with the By Laws, the Rules and Regulations and applicable Legal Requirements and will be responsible for maintaining, repairing and painting their Residential Units

and for complying with Legal Requirements applicable to their Residential Units, all at their own expense.

As set forth in the Rules and Regulations to the By-Laws, to promote a consistent appearance of the Building from the outside, any window treatments or shades installed and maintained in any Residential Unit must have a neutral-colored backing on the sides facing the windows in its Unit, which window treatments and backings must conform to any specifications (including a new color) established from time to time by the Board.

Residential Unit Owners, except Sponsor or the holder of unsold Units, must obtain the consent of the Board before altering their Residential Units in any way, subject to the further applicable provisions of the By Laws. There are no limitations or restrictions upon the rights of the Non-Residential Unit Owners to decorate or alter their Units except those imposed by applicable Legal Requirements or as expressly provided in the Declaration and/or By Laws.

Each Unit Owner may mortgage his or her Unit with such lender and in such amount as he or she chooses, provided only that the Unit Owner satisfies all unpaid liens (other than any other permitted mortgages) against his or her Unit prior to making such mortgage. Each Unit is separate and is not subject to the lien of any mortgage placed by other Unit Owners on their respective Units.

After The City of New York assesses as a separate tax lot each Unit and bills each Unit Owner, the Unit Owner will be responsible for paying the real estate taxes and assessments imposed against such Unit, and no Unit Owner will be responsible for the payment of, nor will his or her Unit be subjected to any lien arising from the non-payment of, taxes and assessments imposed on other Units.

In the opinion of Eiseman Levine Lehrhaupt & Kakoyiannis, PC, Sponsor's Counsel, an individual Residential Unit Owner who itemizes deductions generally may, under the income tax laws and regulations in effect as of the date of this Plan, subject to certain limitations, deduct from his or her income for Federal, New York State and New York City income tax purposes:

(a) the annual real estate taxes assessed against his or her Residential Unit and paid or incurred by such Residential Unit Owner; and

(b) the annual interest paid or incurred by such Residential Unit Owner on mortgage indebtedness incurred to acquire or substantially improve his or her Residential Unit, provided that such Residential Unit is a qualified residence. A "qualified residence" generally is a person's principal residence and one other residence selected by the taxpayer.

Prospective Purchasers should refer to the Section entitled "Income Tax Deductions to Residential Unit Owners and Tax Status of Condominium" in Section U below, as well as to Sponsor's Counsel's Income Tax Opinion reproduced in Section V below for a more complete discussion.

The Board will be responsible for maintaining casualty and liability insurance (excluding terrorism and mold coverage), with respect to the entire Building (including each Unit but excluding fixtures, furniture, furnishings, decorations, appliances and other personal property not constituting part of the Unit), together with all service machinery contained therein, in accordance with the

provisions of the By Laws. See the Section entitled "Rights and Obligations of the Unit Owners and the Board" in Part I, Section R for a more complete discussion. The Board is not required to obtain or maintain any insurance with respect to any property contained in any Unit or any liability with respect to occurrences in or about each Unit or the Common Elements appurtenant thereto. Consequently, all Unit Owners are required to obtain and maintain comprehensive general public liability insurance against claims for personal injury, death or property damage occurring in, on or about such Unit Owner's Unit and the Common Elements, if any, exclusive and/or appurtenant to his or her Unit. In addition, all Residential Unit Owners are urged to obtain casualty insurance with respect to the fixtures, furniture, furnishings and other personal property located within their respective Units. Purchasers are also advised that the insurance policies to be maintained by or on behalf of the Board will be on a "replacement cost" and will not cover losses to the extent that "market value" of a Unit may exceed its insured replacement cost. Further, as a result of current fluctuations in the insurance market, the Board will not be required to obtain or maintain terrorism or mold coverage but may do so, and in such event, the cost thereof shall be a Common Expense as described in the By Laws.

3. Offering of Units for Sale

Sponsor hereby offers the 38 Residential Units and 18 Parking Spaces, for sale under the Plan. The prices for the Units offered under the Plan are listed on Schedule A.

There are no limitations on who may purchase Units, except as set forth herein. Under the New York Real Property Law, a condominium unit may be owned by an individual, a corporation, a partnership, an association, a trust or any other entity which is permitted to take title pursuant to Law. However, Sponsor hereby reserves the right at any time and from time to time for any reason whatsoever, without the consent of any of the Condominium Board, any Residential Unit Owner or any Permitted Mortgagee, to refuse to approve and execute Purchase Agreements for one or more Units to any Person. Sponsor shall not discriminate against any person because of race, creed, color, sex, sexual orientation, disability, marital status, age, ancestry, national origin or other ground proscribed by Law. Sponsor will not accept an offer of purchase from an individual younger than 18 years of age or an incompetent under Law.

There is no limit on the number of Unit Owners who may purchase a Unit for investment, rather than personal occupancy, purposes. As such there may always be a substantial percentage of Unit Owners who are non-residents of the Condominium and some Units may be occupied by renters instead of Unit Owners. It is possible that those Unit Owners who occupy their Units may have different interests than those non-resident Unit Owners. Owner -occupants and non-resident owners may have inherent conflicts on how the condominium should be managed because of their different reasons for purchasing, i.e. purchase as a home as opposed to as an investment.

No binding obligation will arise for the sale of a Unit unless and until a Purchase Agreement executed by both Purchaser and Sponsor has been exchanged and Sponsor has collected the funds constituting Purchaser's required deposit thereunder (see the Section of the Plan entitled "Procedure to Purchase" for further details).

As of the date of the filing of this Offering Plan, no contracts or agreements have been entered into, nor have any funds been received, in connection with the sale or transfer of any of the Units offered in this Plan.

Sponsor will endeavor in good faith to sell, in a reasonably timely manner, all Residential Units to Purchasers for personal occupancy by themselves or their families. As a result, Purchaser may be acquiring a Unit that has been previously occupied, but, unless otherwise specifically agreed to in writing by Sponsor and such Purchaser, such Unit will be delivered at closing free and clear of all leases and tenancies.

Sponsor will endeavor in good faith to sell, but nevertheless reserves the unconditional right, to rent or lease, rather than sell, the Units offered hereunder. If Sponsor or any Sponsor-designee, elects to do so, depending on the number of Units in the Condominium being leased, this may adversely affect the ability of Purchasers to obtain financing or refinancing for his or her Unit. In addition, there is no commitment to sell more Units than the 15 percent of Units necessary to declare the Plan effective and owner-occupants may never gain effective control and management of the condominium.

Purchasers are prohibited from listing their Units for resale with any broker or otherwise advertising, promoting or publicizing the availability of their Units for sale prior to the closing of title thereto and following the closing of title thereto until the earlier of (a) the first anniversary of the First Closing or (b) the closing of title to all Residential Units. (See Section K in Part I of the Plan and Exhibit 1 in Part II of the Plan for further information.)

The Building will not have a resident manager. The staff of the Condominium will consist of one part-time non-resident non-union Superintendent. The Superintendent shall be assigned such hours of duty as are necessary for the comfortable occupancy of all Unit Owners. (See Note (3) to "Schedule B Projected Budget for the First Year of Condominium Operation" for further details.)

The affairs of the Condominium shall be governed by the Condominium Board. The Board shall initially consist of three members designated by Sponsor until the First Annual Meeting of Unit Owners, at which time the incumbent Board will resign and a new Board, consisting of five members, will be elected and/or designated by the Unit Owners and Sponsor, as the case may be, as follows: four members elected by the Residential Unit Owners (including Sponsor) and one member designated by the Residential Unit Owners.

4. Leasing of Units

Sponsor, including any Sponsor-designee, reserves the unconditional right, to rent or lease, rather than sell, the Units offered hereunder. If Sponsor or any Sponsor-designee, elects to do so, depending on the number of Units in the Condominium being leased, this may adversely effect the ability of Purchasers to obtain financing or refinancing for his or her Unit. There is no commitment to sell more Units than the 15 percent of Units necessary to declare the Plan effective and owner-occupants may never gain effective control and management of the condominium.

5. **Certain Definitions**

For convenience, general definitions of certain of the terms used in Part I of the Plan are set forth below, which definitions are subject, in many cases, to the more particular definitions of such terms set forth in the Declaration and By Laws included in Part II of the Plan.

Agreement: The agreement to purchase a Unit pursuant to the Plan, the form of which is set forth as Exhibit 1 in Part II of the Plan.

Alteration: The alteration, addition, improvement of the Building or any part thereof.

Board: The board of managers of the Condominium, also sometimes referred to as the "Condominium Board."

Building: The new building and other improvements to be located on the Land and commonly known as 70 Berry Street, Brooklyn, New York 11211-1918.

By Laws: The By Laws governing the operation of the Condominium, the form of which is set forth in Part II of the Plan, including the Rules and Regulations.

City Register's Office: The Kings County office of the Register of The City of New York.

Common Charges: Assessments payable to the Board by Unit Owners for the purpose of meeting Common Expenses. Generally, Residential Unit Owners will pay Common Charges based on their proportionate share (among all Residential Unit Owners) of Common Expenses.

Common Elements: The entire property, including the Land and all parts of the Building and other improvements thereon, other than the Units. The Common Elements include, among other things, the foundations, roofs and supports of the Building, windows of Residential Units, and all areas, equipment or facilities for the common use of all or some of the Units or all or some of the Unit Owners.

Common Expenses: The costs and expenses in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the Common Elements and the provision of services to Unit Owners.

Common Interest: The proportionate undivided interest in fee simple absolute in the Common Elements appertaining to each Unit expressed as a numerical percentage and determined in accordance with the Declaration. The total Common Interest appertaining to all Units equals 100%. As described more fully in the By Laws, generally, the Common Interest is the basis of determining, among other things, a Unit Owner's voting power and liability for a share of the Common Expenses.

Condominium: 70 Berry Street Condominium.

CPI Increase Factor: An increase proportionate to any increase in the cost of living from the date of the initial recording of the Declaration, as reflected by the change in the Consumer Price Index (CPI-U; All Items; 1982-84 = 100 standard reference base period) for New York, New

York (or the smallest measured area including New York, New York), as published by the Bureau of Labor Statistics, United States Department of Labor or, if the same ceases to be published, a commonly used substitute therefor reasonably selected by the Board.

Declaration: The instrument creating the Condominium, the form of which is set forth in Part II of the Plan as Exhibit 6.

Department of Buildings: The Department of Buildings of The City of New York.

First Closing: The first date upon which title to any Residential Unit is conveyed to a Purchaser under the Plan.

First Year of Condominium Operation: The 12-month period commencing on the date of the First Closing, currently anticipated to be the period from November 1, 2009 – October 31, 2010.

Floor Plans: The floor plans of the Building which will be filed with, and approved by, the Real Property Assessment Bureau of The City of New York and the City Register's Office at the time the Declaration is recorded. The Floor Plans will show the locations of the Units and the Common Elements in the Building.

General Common Elements: All of the Common Elements which are not Residential as more particularly described in the Declaration and as shown on the Floor Plans for the Building.

Initial Control Period: The period ending upon the later to occur of: (a) the fifth anniversary of the First Closing; or (b) the closing of title to Units representing more than 75%, both in number and in aggregate Common Interests, of all Residential Units.

Land: The parcel(s) of land being in the Borough of Brooklyn, County of Kings, designated as Block 2303, Lots 19 on the Tax Map of the Real Property Assessment Department of The City of New York as and more particularly described in Exhibit A to the Declaration.

Legal Requirements: All laws, statutes and ordinances (including, without limitation, environmental laws, and all building codes and zoning ordinances) and the orders, rules, regulations, directives, binding resolutions and requirements of all governmental authorities (including, without limitation, the New York City Department of Buildings, the City Planning Commission, the boards of fire underwriters or any public authority or agency having jurisdiction), whether in force as of the date hereof or hereafter, which are or become, or purport to be, applicable to the Property or any part thereof, all as more fully provided in the By Laws.

Managing Agent: It is anticipated that the managing agent of the Condominium will initially be Able Management II Corp., a management firm engaged in the management of luxury residential buildings in New York City, pursuant to a management agreement, as more fully discussed in "Management Agreement" in Part I, Section X of this Plan.

Offeree: A Purchaser who has executed and delivered an Agreement to Sponsor or Selling Agent and whose Agreement is in effect, and a Unit Owner.

Parking Unit: A condominium unit consisting of 19 parking spaces, 18 located at the Building and one leased by the 70 Berry Street Condominium from the North Tenth Street Condominium, located at 128 North Tenth Street, Brooklyn, New York 11211.

Permitted Encumbrances: Those matters encumbering title to a Unit subject to which a Purchaser agrees to take title, as more particularly itemized on Schedule A annexed to the form of Agreement.

Permitted Mortgage: A mortgage of a Unit or Units permitted to be placed thereon pursuant to the provisions of the By Laws.

Plans and Specifications: The plans and specifications for the construction of the Building which (to the extent required by applicable Legal Requirements) have been or will be filed with the Department of Buildings and which may, from time to time, hereafter be amended in accordance with the provisions of the Plan.

Property: The Land, the Building and the appurtenances thereto, including, without limitation, all Common Elements.

Purchaser: A purchaser of one or more of the Units offered hereunder pursuant to an Agreement.

Repair: Any repair, replacement, or restoration of the Building or any part thereof.

Residential Limited Common Elements: Those Common Elements which serve or benefit exclusively all or one or more Residential Units or the Residential Unit Owners as more particularly described in the Declaration.

Residential Unit: Any Unit designated as a Residential Unit in the Declaration, and all such Residential Units, are, collectively, referred to as the "Residential Units."

Residential Unit Owner: An owner of any Residential Unit at the time in question.

Rules and Regulations: The rules and regulations of the Condominium made in accordance with the By Laws and attached thereto as Schedule A, as the same may be amended from time to time in accordance with the applicable provisions of the By Laws.

Sales Office: The sales office for the Condominium, at a location to be designated by the Selling Agent from time to time. The Sales Office will initially be located at 496 Driggs Avenue, Brooklyn New York 11211, which may be changed from time to time.

Sales Office: will initially be located at 70 Berry Street, Brooklyn, New York 11211.

Selling Agent: Aptsandlofts.com, having an address at 496 Driggs Avenue, Brooklyn New York 11211.

Selling Agent: The Developers Group LLC, having an address at 79 Bridge Street, Brooklyn, New York 11201

Sponsor: Essex Berry Street LLC

Sponsor or its designee; or similar phrases: Sponsor, any affiliate of Sponsor or a designee of Sponsor. An affiliate of Sponsor shall be deemed to be (i) a person or entity who or which owns 25% or more of the legal or beneficial interest of Sponsor or (ii) an entity with respect to which Sponsor owns 25% or more of the legal or beneficial interest.

Sponsor's Office: The office of Sponsor located at 635 Madison Avenue, New York, New York 10022 or any other office regularly maintained by Sponsor in the City of New York.

Terrace: Any of the terraces appurtenant to a Residential Unit as shown on the Floor Plans.

Title Company: New York Land Services, 630 Third Avenue, New York, New York 10017, or such other or additional company/ies designated by Sponsor in an amendment to this Plan.

Unit: Any space designated as a Residential Unit, consisting, generally, of the relevant condominium unit in the Building and an appurtenant undivided interest in the Common Elements and the Limited Common Elements. All or any of such Units are collectively referred to as the "Units."

Unit Owner or Owner: The owner of a Unit at the time in question.

Unsold Residential Units: Any Residential Unit owned or retained, by way of lease or any other arrangement by which management and/or financial responsibility is retained, by Sponsor or any of its designees as the holder of one or more Unsold Residential Units; any Residential Unit that is acquired, individually or collectively, by a principal of Sponsor or a group of which Sponsor or one or more of its principals is a member; or a Residential Unit that is acquired, individually or collectively, by either the holder of a Permitted Mortgage given by Sponsor or the designee of a holder of such a Permitted Mortgage.

"Unsold Unit": shall mean any Unit owned or retained, by way of lease or any other arrangement by which management and/or financial responsibility is retained, by Sponsor or a principal of Sponsor at the time in question. All such Unsold Units are, collectively, referred to as the "Unsold Units".

All other capitalized terms used in Part I of the Plan which are not separately defined in Part I shall have the meanings ascribed thereto in the By Laws or in the Declaration, as the case may be.

Unless the context otherwise requires, words used in the singular include the plural and vice versa, and a reference herein to any one gender, masculine, feminine or neuter, includes the other two.

B. DESCRIPTION OF THE PROPERTY AND IMPROVEMENTS

The following is a general description of the Property, including the Land, Building, Units and Common Elements, as well as certain facilities and services anticipated to be provided at the Condominium. For a more detailed physical description of the Property, see "Description of Property and Specifications" in Part II of the Plan.

1. The Building

The Building is located on the north-west corner of the intersection North 10th Street and Berry Street known by the street address of 70 Berry Street, Brooklyn, New York 11211. The Land frontage of approximately 148 feet on North 10th Street and 66 feet on Berry Street and consists of Lot 19 in Block 2303 and Lot 6 in Block 2304.

The Building, upon completion of construction project, will contain 38 Residential Units.

Sponsor has engaged KSQ Architects, PC ("KSQ") as architects of record. In addition, TSF Engineering, P.C. has been retained as mechanical and electrical engineer, Wexler & Associates as structural engineer, and the Sponsor is the general contractor. (See "Identity of Parties" in Part I, Section Y.) The Plans and Specifications for the Building have been prepared by KSQ, in consultation with such other professionals.

Construction of the Building, including the individual Units, will be completed substantially in accordance with the Plans and Specifications, and otherwise in accordance with the Zoning Resolution, the Building Code of The City of New York and all other applicable Legal Requirements. However, Sponsor reserves the right to amend or modify, in any way, the Plans and Specifications (including, without limitation, changing materials, appliances, equipment, fixtures and other construction details) and substitute in place of any materials, appliances, equipment and fixtures set forth therein or in Part II of the Plan, items of substantially equal or better quality, provided, however, that any material change shall be set forth in an amendment to the Plan, that any necessary approval of any governmental authority having jurisdiction is first obtained, and that no such amendments, modifications or substitutions may be made if the same would materially adversely affect any Purchaser under an Agreement which has been countersigned by Sponsor and returned to the Purchaser unless the same is dictated by construction conditions at the Property (such as coordination of Building systems, conflicts with structural members or elements, conforming with Legal Requirements, unforeseen events, etc. and, in all cases, in good faith, reasonably necessary due to factors not within Sponsor's reasonable control, and where no practicable alternative (in the exercise of sound construction management practices) exists), and in such event, Sponsor will, in the amendment disclosing such change and delivered to the Purchasers, offer any materially adversely affected Purchaser(s) the right, for at least 15 days, to rescind their Agreements and receive a refund of their Deposit, together with all interest earned thereon. (Any such changes that are not both material and adverse will not give rise to a right of rescission.)

The location in the Building, and the size, layout and approximate square footages of the Units are shown on the floor plans attached as an exhibit in Part II of the Plan. Such floor plans are subject to the rights of Sponsor or its designee to combine two or more Unsold Residential Units, to add additional Units by subdividing Unsold Residential Units as well as the size, layout and square

foot area of, any Unsold Residential Units, as further described in Part I, Section ___ hereof, provided, however, that any material change (for example, a reduction in square footage in excess of 5%) shall be set forth in an amendment to the Plan, and no material adverse change will be made in the size (i.e., material decrease), configuration or layout of a Unit for which an Agreement which has been countersigned by Sponsor and returned to the Purchaser unless the same is dictated by construction conditions at the Property (such as coordination of Building systems, conflicts with structural members or elements, conforming with Legal Requirements, unforeseen events, etc. and, in all cases, in good faith, reasonably necessary due to factors not within Sponsor's reasonable control, and where no practicable alternative (in the exercise of sound construction management practices) exists), and in such event, Sponsor will, in the amendment disclosing such change and delivered to the Purchasers, offer the materially adversely affected Purchaser(s) the right, for at least 15 days, to rescind their Agreements and receive a refund of their Deposit, together with all interest earned thereon.

Sponsor will have no liability to any Purchaser, nor will any Purchaser be entitled to a credit, offset or reduction in the purchase price for his or her Unit or otherwise be relieved of any obligations under the Agreement, by virtue of a minor inaccuracy or error in the floor plans.

The Building incorporates highly sophisticated mechanical equipment designed to provide for the physical comfort and convenience of the Building's occupants. During normal operation of this equipment, some occupants of Residential Units adjacent to or in the vicinity of the equipment floors and equipment areas of the Building may perceive noise and/or vibration from the equipment. The sole obligation of Sponsor and the Board with respect to such noise and/or vibration shall be to install and operate such equipment in a manner consistent with commercially reasonable practices in typical residential buildings and in compliance with applicable Legal Requirements, including the New York City Building Code.

Based upon the current construction schedule, Sponsor presently contemplates that, unless delayed by weather, casualty, labor difficulties (including work stoppages and strikes), late delivery and/or the inability to obtain on a timely basis or otherwise, materials or equipment, governmental restrictions, acts of god or other events beyond its reasonable control, construction of the Building will be sufficiently completed to permit closings of title to Residential Units to begin in or about November 1, 2009. Prospective Purchasers should note, however, that the Residential Units will be completed at differing times over a period that may begin prior to and/or extend significantly beyond such date. Sponsor will have no liability to any Purchaser, nor will a Purchaser be entitled to any credit, offset or reduction in the purchase price for his or her Residential Unit or otherwise be relieved from any obligations under the Agreement, in the event that the First Closing occurs earlier or later than the targeted date or the time to complete or to close title to such Purchaser's Residential Unit is accelerated, delayed or postponed by Sponsor, provided, however, that in the event the actual or anticipated commencement date of the projected First Year of Condominium Operation is to be delayed by six months or more, Sponsor will amend the Plan to include a revised budget with current projections and if: (i) the amended budget exceeds the projected budget set forth herein by 25% or more; or (ii) the First Closing does not occur within 12 months after November 1, 2009, the date set forth in Schedule B as the commencement date for the projected First Year of Condominium Operation, then in either case Sponsor will offer all Purchasers (other than Purchasers who are then in default beyond any applicable grace period under their Agreements, if the Plan has been declared effective) the right to rescind their Agreements within not less than 15 days after the presentation date

of the amendment containing such revised budget or after such 12-month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Deposit and any interest accrued thereon returned. Purchasers' rights as described in the preceding sentence are in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of which shall be deemed to have been waived by all Purchasers. As set forth in the Section of this Plan entitled "Effective Date," no closing of title to any Unit will take place prior to the Plan being declared effective.

2. **Residential Units**

The approximate area for the Residential Units (including terraces) vary in size from approximately 729 square feet to 1,766 square feet and will be located on Floors 1 through 7. The approximate square footage and configuration of all Units as well as any included balconies and terraces are set forth on the Floor Plan included in Exhibit 5 of Part II of the Plan.

There will be no modifications or extras for any Residential Unit unless set forth in the Agreement for such Residential Unit. Moreover, Sponsor shall not be obligated to correct and shall have no liability or responsibility to any Purchaser for, and no Purchaser shall be entitled to any reduction in or credit against the purchase price of his or her Residential Unit or be otherwise relieved from performing his or her obligations under the Agreement as a result of minor or insubstantial inaccuracy or error in the floor plans for such Residential Unit as set forth in Part II of the Plan.

Construction of the Building, including the individual Units, will be completed substantially in accordance with the Plans and Specifications, and otherwise in accordance with the Zoning Resolution, the Building Code of The City of New York and all other applicable Legal Requirements. (See Section B.1 above for further discussion.) A common residential recreation space, as required by Quality Housing program, is provided to the south of the building in an outdoor courtyard above the parking garage.

3. **Terraces**

As indicated in Schedule A, Terraces are appurtenant to certain Residential Units. Each Terrace is a Residential Limited Common Element. The Residential Unit Owner of a Residential Unit having a Terrace shall have the exclusive use of the Terrace appurtenant thereto, subject to the right of the Board to regulate its use in accordance with the By Laws and the Rules and Regulations; and such Residential Unit Owner shall be responsible for all normal maintenance (e.g., sweeping and snow removal, and normal repairs and replacements to such Terrace. However, the costs and expenses of any structural or capital repairs or repairs or replacements caused by the need for such structural or capital repairs to any Terrace (including replacement at the end of the Terrace's useful life) (unless caused by or attributable to the Residential Unit Owner thereof) shall be charged to all Residential Unit Owners as a Common Expense.

The Board shall have the right to require a Residential Unit Owner to remove plantings, roof surfaces and other installations which have been placed on the Terraces if the Board determines, in its sole discretion, that such plantings or other installations may adversely affect the integrity of the roof or other portion of the Building or is otherwise unsafe. In addition, the Board shall have the right, in connection with any repair or maintenance work in the Building, to erect scaffolding temporarily on

any Terrace. In no event shall any Residential Unit Owner of a Residential Unit having a Terrace be permitted to enclose or erect any structure on such Terrace. The Board may establish such other rules and regulations it deems necessary to protect the Common Elements and the Residential Units and to insure the integrity of the Building and the health and safety of the occupants.

4. Common Elements

As is set forth in more detail in the Declaration, the Common Elements consist of the Land, together with all easements, rights and privileges appurtenant thereto (except as otherwise expressly provided in the Declaration) and all parts of the Building other than the Units themselves, including, generally, the foundations, roofs and supports of the Building and all other parts of the Building and all apparatus, installations, systems, equipment and facilities therein for the common use of the Units and Unit Owners or which are necessary or convenient for the existence, maintenance or safety of the Property. The Common Elements are divided into the following separate categories: (i) the General Common Elements, which are, generally, those Common Elements which serve or benefit all the Units or Unit Owners; (ii) the Residential Limited Common Elements, which are, generally, those Common Elements which serve or benefit exclusively the Residential Units, or the Residential Unit Owners. The Common Elements cannot be divided or partitioned, except as provided in the New York Condominium Act. A Unit Owner's interest in the Common Elements shall not be separated from the Unit to which it appertains. For a detailed description of the Common Elements, see Exhibit 5 in Part II of the Plan and Article 7 of the Declaration (Exhibit 7 in Part II of the Plan).

a. General Common Elements

The General Common Elements consist of all Common Elements other than the Residential Limited Common Elements, and include, among other things, the following: (i) the Land, together with all easements, rights and privileges appurtenant thereto (except as otherwise expressly provided in the Declaration); (ii) all foundations, foundation walls, roofs (except as otherwise expressly provided in the Declaration), footings, columns, girders, beams, supports, interior load-bearing walls, floor slabs and ceilings; (iii) the chiller and related support structure including the cooling tower; (iv) all passages and corridors, service, mechanical and other utility rooms, all fire staircases, landings and stairs, areas and spaces located in the Building, which are not Residential Limited Common Elements or included in any Unit; (v) smoke detection alarm system, telephone system and cable television system; (vi) any ventilation supply system consisting of motors, ductwork, fans and controls return piping, serving or benefiting any of the Residential Units; (vii) hot water and chilled water systems; (viii) all mechanical equipment and associated piping and controls serving or benefiting any of the Residential Units; (ix) all electrical risers, feeders, lines and equipment, including incoming service, main switchgear and distribution panelboards, conduits, wires, meters, transformers and panelboards serving or benefiting any combination of the Residential Units, excluding, however, all such items located within a Unit and serving only that Unit; (x) all plumbing fixtures, equipment for distribution of cold water and equipment for producing and distributing hot and chilled water, including pumps, valves, pressure reducers, meters and water heaters and chillers, excluding, however, all such items located within a Unit and serving only that Unit; (xi) all fire protection equipment for distribution of sprinkler and standpipe systems, including the water storage tank and the structure provided therefore; (xii) all storm and sanitary sewer equipment and pipes (including vent lines, ejectors, interceptors, filters and valves), excluding, however, all such items located within a Unit and serving only that Unit; (xiii) all electric service

rooms, gas, steam and water meter rooms, ("Common Storage Spaces") if any, and workrooms; (xiv) all other facilities of the Building (including shafts, pipes, wires, ducts, vents, flues, cables, conduits and lines) which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of any of the Residential Units; and (xv) all other parts of the Property either existing for the common use of any of the Residential Units, or their respective Unit Owners or that are necessary or convenient for the existence, maintenance, operation or safety of the Property. The Common Elements cannot be divided or partitioned, except as provided in the New York Condominium Act. A Unit Owner's interest in the Common Elements shall not be separated from the Unit to which it appertains. For a detailed description of the Common Elements, see Article 7 of the Declaration (Exhibit 6 in Part II of the Plan).

b. **Residential Limited Common Elements**

The Residential Limited Common Elements consist of the following: (a) the lobby and entrance located on the first floor and entrance from Berry Street; (b) all passages, corridors, Common Storage Spaces, housekeeping areas, mechanical and other rooms, areas and spaces (including their respective floors, ceilings and enclosing walls) located in the Building which exclusively serve or benefit the Residential Units and are not part of any Unit; (c) the passenger elevators serving floors one through seven, including the shafts, elevator equipment, elevator pits and entrances and appurtenant facilities; (d) all Common Storage Spaces, and other service, mechanical and utility rooms serving or benefiting the Residential Units; (e) all security monitors and equipment and other security facilities serving or benefiting the Residential Units; (f) all other systems, installations and facilities of the Building (including shafts, pipes, wires, ducts, vents, cables, conduits and lines) which exclusively serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of the Residential Units; (g) the windows of each Residential Unit; and (h) the Terrace appurtenant to any particular Residential Unit (although the benefited Residential Unit Owner shall have the responsibilities with respect thereto as are set forth in the By Laws).

5. **Available Services and Facilities**

The services and facilities described below will be provided to Residential Unit Owners and are included in the Common Charges, unless otherwise specified below.

a. **Building Staff**

The staff of the Condominium will consist of one (1) non-resident non-union Superintendent working twenty (20) hours per week. The Superintendent shall be assigned such hours of duty as are necessary for the comfortable occupancy of all Unit Owners.

b. **Elevator Service**

There will be one (1) passenger elevator servicing the Building which will service the Residential Units and stops at 1st through 7th floors. The elevator will be automatically operated and in service as necessary, 24 hours per day, seven days per week. Purchasers should refer to the Description of Property and Building Condition set forth in Part II of the Plan for further details.

c. **Telecommunications**

The Building will be pre-wired for a telecommunications system which will provide cable television and internet services to the Units. Residents will be able to subscribe for television through a conventional cable provider. Charges for activating cable television, installing and attaching appropriate receptacles, additional installations and monthly usage charges will be determined by and payable directly to the cable company, as applicable, by each resident subscribing for and activating such service. The Condominium will be the owner of the cable and conduits built into the Building and will enter into an agreement with a provider for use of same. Each Unit will be pre-wired for high-speed internet access. Charges for internet access service, however, for residents activating same, will be set by the provider and paid directly by the user to the provider. Residents desiring internet services will be required to apply to the applicable provider to activate same.

d. **Mail**

All incoming mail will be delivered to the Unit Owners by the United States Postal Service and deposited by its personnel in mail boxes located in the residential lobby of the Building.

e. **Laundry**

There will be washer and ventless electric dryer hook ups installed in each Unit.

f. **Refuse Disposal**

There will be trash chute located from the 2nd floor to the 7th floors with a refuse collector compactor located on the first floor. The compactor bags will be stored in the Compactor Room until collection by the City of New York Department of Sanitation.

g. **Door Signal System/Intercom System**

Each Unit will be equipped with an intercom buzzer system which will enable the occupants to communicate directly with the entrance panel over a hard wire intercom.

h. **Smoke Detector/Sprinklers**

A smoke and carbon monoxide detector located in the vicinity of the bedrooms.

i. **General Provisions Concerning Services, Facilities and Building Staff**

Although Sponsor anticipates that many of the services and amenities described above will be available at the time of the First Closing, prospective Purchasers should note that some of these services and amenities (such as a full staff of personnel and the common recreational room on the ground floor, and the lower, upper and roof courts may not be available to Residential Unit Owners until such other portions of the Building are completed and fully operational) may not be available until the later of: (i) twelve months after the First Closing; or (ii) the closing of title to and occupancy of at least 50% of the Residential Units.

Purchasers are also advised that during such period and beyond, various systems, including, but not limited to, water supply, air conditioning, heating, cooling, ventilating and

elevator, may be incomplete and may be disrupted temporarily and from time to time. See the Special Risks entitled "Interim Service Period" and "Additional Building Work" above.

Purchasers are further advised to note that construction in general is a complicated process which requires the coordination of numerous concurrent tasks, contractors and suppliers and the balancing of complex mechanical and architectural systems, all of which is subject to unanticipated delays and difficulties and necessarily involves noise, disruption and inconvenience. Thus, for a period of time following the First Closing (through, including and beyond the closing of title to any particular purchaser's Residential Unit), work should be expected to be undertaken and continue by or on behalf of: (i) Sponsor to complete the balance of the Building; (ii) individual Residential Unit Owners within their Residential Units (to perform custom renovations, etc.). During at least the First Year of Operation, construction workers and related personnel of Sponsor and others will be at the Property from time to time performing construction work, making adjustments and performing various other tasks related to the completion of construction, fitting out of, and moving into, the Residential Units and other portions of the Building. The elevator and personnel may be taken out of service and diverted to facilitate construction and exterior hoists may be in place during at least the year following the First Closing and from time to time thereafter, as needed, in connection with construction being performed in Residential Units by the Unit Owners thereof. Sponsor may not fully complete the decoration or finishing of the lobby, corridors, elevator finishes and other portions of the Building, including, but not limited to, installing light fixtures, painting, hanging wall coverings or laying carpeting, until that particular floor is fully occupied by Unit Owners or, if additional construction within a Unit is anticipated, for some period thereafter. All of the foregoing work and conditions will create a noisy and otherwise disruptive condition in the Building during the period such work is being performed. Certain portions of the Common Elements may be completed before or after completion of any particular Purchaser's Unit. As a result, certain amenities and benefits anticipated to be available to Residential Unit Owners (e.g., the kitchen, dining area, and outdoor terrace, etc.) may not be available until such other portions of the Building are completed and fully operational. Sponsor shall have no liability whatsoever in the event these services are delayed, not made available, or discontinued or disrupted. Further, the Board and/or Sponsor may refuse to permit a Residential Unit Owner to perform alterations in a Residential Unit until such time as the Building has been completed and permanent certificate(s) of occupancy have been obtained therefor. Even where such alterations are permitted, the Board and/or Sponsor may impose conditions and deadlines upon the planning, performing and completion of such work. No assurance can be given with regard to the accuracy of any projected schedules or completion dates set forth herein or with respect to the duration of any interim service period or periods of potential disruption to the Residential Unit Owners and their tenants or occupants, all such dates and timetables, to the extent provided, being only good faith estimates.

Additionally, it is anticipated that for a significant period of time following the First Unit Closing through, including and beyond the closing of title to any particular purchaser's Unit, work is expected to be undertaken and performed by or on behalf of Sponsor to complete construction of the Building, the decoration or finishing of the residential lobby, corridors, elevator finishes and other portions of the Building, including installing light fixtures, painting, hanging wall coverings or laying carpeting. All of the foregoing work and conditions may create a noisy and otherwise disruptive condition in the Building during the period such work is being performed.

Sponsor and its designee(s) shall have the right, until the tenth anniversary of the First Closing, to use, without charge, portions of the Building, including the Common Elements, for exhibitions, events, promotional functions (e.g., with respect to any sales programs for Unsold Residential Units) or otherwise.

C. LOCATION AND AREA INFORMATION

1. Location

The Condominium is located at 70 Berry Street in Williamsburg Section of Brooklyn, New York City, being known by the street address of 70 Berry Street, Brooklyn, New York.11211-1918.

2. Surrounding Area, Shopping, Museums, Theatre and Parks

New York City is the leading cultural center of the world, with the finest universities, museums, libraries, theaters and cultural institutions, attracting millions of national and international tourists. New York City is the nation's center for communications, publishing, advertising, the stock market and other financial services, visual and performing arts and the fashion industry.

3. Transportation

Transportation to and from the Condominium, and through New York City, is available by taxi, limousine private automobile, subway or bus. The "L" and the "G" lines are located within a few short blocks (Union Avenue and Metropolitan Avenue,) with access to J and M trains as well.

4. Medical, Educational and Religious Facilities

A number of medical centers, such as New York Methodist Hospital, and Woodhull Hospital a major New York City teaching hospital which is located at 760 Broadway, Brooklyn are within short driving distance. Major Manhattan general and specialty hospitals are easily reachable.

Numerous private schools, public schools and parochial schools on the elementary, junior high school and high school levels are located varying distances from the Condominium. In addition to the world-class universities located in the New York City area.

There are houses of worship of most major denominations in the vicinity of the Building.

5. Municipal Services

The City of New York will provide water, sanitation, police and fire services to the Building.

The local police station is the 90th Precinct, located on the 211 Union Avenue.

The local fire station is Engine 216, Ladder 108, located at 187 Union Avenue.

6. Zoning

The Condominium is located within an m1-2/r6azoning district which permits residential, commercial and community facility uses.

7. General

Sponsor makes no representations to the continued existence of any of the named establishments. Additionally, no representation is made that future construction in the neighborhood surrounding the Condominium will not result in the obstruction of the views from any windows.

D. SCHEDULE A

SCHEDULE A
PROJECTED COMMON CHARGES AND REAL ESTATE TAXES
FOR THE FIRST YEAR OF CONDOMINIUM OPERATION
Beginning November 1, 2009 - Ending Ocotber 31, 2010
Berry Street Condominium - 70 Berry Street - Brooklyn, New York

	(1)	(2a)	(2b)	(2c)	(2d)	(3a)		(4)	(5)	(6a)	(6b)	(7a)	(7b)	(8a)	(8b)
Unit	Number of Bedrooms / Baths	Approx Interior Area Interior Area (Sq.Feet)	Approx Terrace / Balcony (Sq. feet)	Approx Storage Room (Sq. feet)	Approx Total Area (Sq.Feet)	Offering Price	Percentage of Residential Common Interest	Percentage of General Common Interest	Projected Monthlty Common Charges	Projected Monthly Real Estate Taxes without 421a Benefits	Projected Monthly Real Estate Taxes with 421a Benefits	Projected Total Monthly Common Charges and Real Estate Taxes without 421a Benefits	Projected Total Monthly Common Charges and Real Estate Taxes with 421a Benefits	Projected Total Annual Common Charges and Real Estate Taxes without 421a Benefits	Projected Total Annual Common Charges and Real Estate Taxes with 421a Benefits
2 A	1/1	729			729	$ 525,000.00	2.15%	2.05%	$ 370.49	$ 348.63	$ 44.77	$ 719.12	$ 415.26	$ 8,629.48	$ 4,983.09
2 B	1/1	718	350		1,068	$ 555,000.00	2.64%	2.51%	$ 453.84	$ 427.06	$ 54.84	$ 880.90	$ 508.68	$ 10,570.82	$ 6,104.11
2 C	1/1	747			747	$ 540,000.00	2.21%	2.10%	$ 379.64	$ 357.24	$ 45.87	$ 736.88	$ 425.51	$ 8,842.56	$ 5,106.13
2 D	1/1	785			785	$ 565,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
2 E	1/1	785			785	$ 565,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
2 F	2/2	1154			1,154	$ 750,000.00	3.41%	3.25%	$ 586.48	$ 551.88	$ 70.87	$ 1,138.37	$ 657.35	$ 13,660.39	$ 7,888.18
2 G	1.5/1	880			880	$ 600,000.00	2.60%	2.48%	$ 447.23	$ 420.85	$ 54.04	$ 868.08	$ 501.27	$ 10,416.94	$ 6,015.25
3 A	1/1	729			729	$ 530,000.00	2.15%	2.05%	$ 370.49	$ 348.63	$ 44.77	$ 719.12	$ 415.26	$ 8,629.48	$ 4,983.09
3 B	1/1	718			718	$ 525,000.00	2.12%	2.02%	$ 364.90	$ 343.37	$ 44.09	$ 708.27	$ 408.99	$ 8,499.27	$ 4,907.90
3 C	1/1	747			747	$ 545,000.00	2.21%	2.10%	$ 379.64	$ 357.24	$ 45.87	$ 736.88	$ 425.51	$ 8,842.56	$ 5,106.13
3 D	1/1	785			785	$ 570,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
3 E	1/1	785			785	$ 570,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
3 F	2/2	1154			1,154	$ 755,000.00	3.41%	3.25%	$ 586.48	$ 551.88	$ 70.87	$ 1,138.37	$ 657.35	$ 13,660.39	$ 7,888.18
3 G	1.5/1	880			880	$ 605,000.00	2.60%	2.48%	$ 447.23	$ 420.85	$ 54.04	$ 868.08	$ 501.27	$ 10,416.94	$ 6,015.25
4 A	1/1	729			729	$ 535,000.00	2.15%	2.05%	$ 370.49	$ 348.63	$ 44.77	$ 719.12	$ 415.26	$ 8,629.48	$ 4,983.09
4 B	1/1	718			718	$ 530,000.00	2.12%	2.02%	$ 364.90	$ 343.37	$ 44.09	$ 708.27	$ 408.99	$ 8,499.27	$ 4,907.90
4 C	1/1	747			747	$ 550,000.00	2.21%	2.10%	$ 379.64	$ 357.24	$ 45.87	$ 736.88	$ 425.51	$ 8,842.56	$ 5,106.13
4 D	1/1	785			785	$ 575,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
4 E	1/1	785			785	$ 575,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
4 F	2/2	1154			1,154	$ 760,000.00	3.41%	3.25%	$ 586.48	$ 551.88	$ 70.87	$ 1,138.37	$ 657.35	$ 13,660.39	$ 7,888.18
4 G	1.5/1	880			880	$ 610,000.00	2.60%	2.48%	$ 447.23	$ 420.85	$ 54.04	$ 868.08	$ 501.27	$ 10,416.94	$ 6,015.25
5 A	1/1	729			729	$ 540,000.00	2.15%	2.05%	$ 370.49	$ 348.63	$ 44.77	$ 719.12	$ 415.26	$ 8,629.48	$ 4,983.09
5 B	1/1	718			718	$ 535,000.00	2.12%	2.02%	$ 364.90	$ 343.37	$ 44.09	$ 708.27	$ 408.99	$ 8,499.27	$ 4,907.90
5 C	1/1	747			747	$ 555,000.00	2.21%	2.10%	$ 379.64	$ 357.24	$ 45.87	$ 736.88	$ 425.51	$ 8,842.56	$ 5,106.13
5 D	1/1	785			785	$ 580,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
5 E	1/1	785			785	$ 580,000.00	2.32%	2.21%	$ 398.95	$ 375.41	$ 48.21	$ 774.36	$ 447.16	$ 9,292.38	$ 5,365.88
5 F	2/2	1154			1,154	$ 765,000.00	3.41%	3.25%	$ 586.48	$ 551.88	$ 70.87	$ 1,138.37	$ 657.35	$ 13,660.39	$ 7,888.18
5 G	1.5/1	880			880	$ 615,000.00	2.60%	2.48%	$ 447.23	$ 420.85	$ 54.04	$ 868.08	$ 501.27	$ 10,416.94	$ 6,015.25
6 A	1/1	748			748	$ 555,000.00	2.21%	2.11%	$ 380.15	$ 357.72	$ 45.93	$ 737.87	$ 426.08	$ 8,854.39	$ 5,112.96
6 B	1/1	718			718	$ 550,000.00	2.12%	2.02%	$ 364.90	$ 343.37	$ 44.09	$ 708.27	$ 408.99	$ 8,499.27	$ 4,907.90
6 C	1/1	764			764	$ 570,000.00	2.26%	2.15%	$ 388.28	$ 365.37	$ 46.92	$ 753.65	$ 435.19	$ 9,043.79	$ 5,222.33
6 D	1/1	802			802	$ 595,000.00	2.37%	2.26%	$ 407.59	$ 383.54	$ 49.25	$ 791.13	$ 456.84	$ 9,493.62	$ 5,482.08
6 E	1/1	802			802	$ 595,000.00	2.37%	2.26%	$ 407.59	$ 383.54	$ 49.25	$ 791.13	$ 456.84	$ 9,493.62	$ 5,482.08
6 F	2/2	1184			1,184	$ 780,000.00	3.50%	3.33%	$ 601.73	$ 566.23	$ 72.71	$ 1,167.96	$ 674.44	$ 14,015.51	$ 8,093.25
6 G	1.5/1	880			880	$ 620,000.00	2.60%	2.48%	$ 447.23	$ 420.85	$ 54.04	$ 868.08	$ 501.27	$ 10,416.94	$ 6,015.25
PH A	2/2	1440	411		1,851	$ 1,225,000.00	4.86%	4.63%	$ 836.27	$ 786.94	$ 101.05	$ 1,623.21	$ 937.32	$ 19,478.49	$ 11,247.84
PH B	3/2	1766	1160		2,926	$ 1,525,000.00	6.93%	6.60%	$ 1,192.28	$ 1,121.94	$ 144.06	$ 2,314.22	$ 1,336.34	$ 27,770.60	$ 16,036.11
PH C	0/1	491	171		662	$ 525,000.00	1.70%	1.62%	$ 292.99	$ 275.70	$ 35.40	$ 568.69	$ 328.39	$ 6,824.28	$ 3,940.67
		32,787	2,092	0	34,879	$ 24,045,000.00	100.00%	95.25%	$ 17,194.52	$ 16,180.12	$ 2,077.64	$ 33,374.64	$ 19,272.16	$ 400,495.65	$ 231,265.92
Parking 1	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 2	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 3	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 4	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 5	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 6	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 7	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 8	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 9	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 10	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 11	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 12	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 13	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 14	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 15	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 16	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 17	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 18	N/A	0	0	162	162	$ 45,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Parking 19	N/A	0	0	162	162	$ 35,000.00	0.00%	0.25%	$ 45.13	$ 42.47	$ 5.45	$ 87.60	$ 50.58	$ 1,051.17	$ 607.00
Subtotal Parking		0	0	3,078	3,078	$ 845,000.00	0.00%	4.75%	$ 857.47	$ 806.88	$ 103.61	$ 1,664.35	$ 961.08	$ 19,972.22	$ 11,532.95
Total		**32,787**	**2,092**	**3,078**	**37,957**	**$ 24,890,000.00**	**100.00%**	**100.00%**	**$ 18,051.99**	**$ 16,987.00**	**$ 2,181.25**	**$ 35,038.99**	**$ 20,233.24**	**$ 420,467.87**	**$ 242,798.87**

NOTES TO SCHEDULE A

1. Amounts are projected on the assumption that the First Year of Condominium Operation will be the year from November 1, 2009 to October 31, 2010. It is currently anticipated that the construction of the Building will be substantially completed to permit closing on the Units on or about October 1, 2009. However, the actual First Year of Condominium Operation may begin earlier or later than that year.

2. Any floor plan or sketch or schedule shown to a prospective Purchaser depicts within reasonable tolerances the square foot area and layout of the Residential Unit in question. However, any material change (for example, a reduction in square footage in excess of 5%) will be set forth in an amendment to the Plan, and no material adverse change will be made in the size (i.e., decrease), configuration, or layout of a Unit for which an Agreement has been signed and which has been countersigned by Sponsor and returned to the Purchaser unless the same is dictated by construction conditions at the Property (such as coordination of Building systems, conflicts with structural members or elements, conforming with Legal Requirements, unforeseen events, etc. and, in all cases, in good faith, reasonably necessary due to factors not within Sponsor's reasonable control, and where no practicable alternative (in the exercise of sound construction management practices) exists), and in such event, Sponsor will, in the amendment disclosing such change and delivered to the Purchasers, offer the materially adversely affected Purchaser(s) the right, for at least 15 days, to rescind their Agreements and receive a refund of their Deposits, together with all interest earned thereon. An increase in the size of a room or Unit will not on its own give rise to a right of rescission. (See also Section H, "Changes in Prices" in Part I of the Plan for further details concerning and certain limitations applicable to Sponsor's rights with respect to changes in the construction of the Units and the Common Elements.)

The approximate square foot area of each Unit is measured horizontally from the exterior side of the exterior walls (columns, mechanical pipes, shafts, shaft ways, chases, chase ways and conduits are not deducted from the measurements of each unit) to the centerline of the partitions separating one unit from another unit, or separating one unit from corridors, stairs, elevators and other mechanical equipment spaces or any other Common Element not within a unit or to the exterior side of the opposite exterior walls. Each unit will be measured vertically from the top of the floor (located under the finish flooring and sub-flooring materials) to the underside of the ceiling. Any Common Elements located within or appurtenant to any Unit, such as Terraces and Private Storage Spaces, shall not be considered as part of that Unit.* The square foot areas determined using the methodology

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* Each Residential Unit includes, and each Residential Unit Owner shall be responsible for, all fixtures, equipment and other items of personalty, including, without limitation, all plumbing and heating fixtures and equipment, and other appliances as may be contained in, affixed, attached or appurtenant to such Residential Unit, other than as may constitute part of the Common Elements. Plumbing and heating fixtures and equipment as used in the preceding sentence shall include exposed gas and water pipes attached to fixtures, appliances and equipment to which they are attached, and any special pipes or equipment which a Residential Unit Owner may install within a wall or ceiling, or under the floor, but shall not include water or other pipes, conduits, wiring or ductwork within the walls, ceiling or floors. Except as otherwise expressly set forth herein, each Residential Unit shall also include all lighting and electrical fixtures and appliances within the Residential Unit and any

set forth above, as shown in Schedule A, do not reflect the actual useable floor space and would be different from that derived by using an alternative methodology of measuring, such as measuring from interior surfaces to interior surfaces (which would yield lesser actual useable floor area for each Unit). The stated method of measurement used is applicable to all Units. The room count for each Residential Unit was determined by Sponsor's architect in accordance with industry practice for new construction condominiums and does not necessarily conform to the zoning room count or the method utilized by the Real Estate Board of New York.

3 Sponsor has reserved the right to change the purchase prices (as well as other terms of sale) of Units not subject to executed Agreements, so Purchasers may pay different prices for similar Units. (See "Changes in Prices" in Section H below for further discussion.) In addition to paying the purchase prices of their Units, purchasers will be responsible for paying certain closing adjustments and closing costs, including, without limitation, the obligation to contribute to the Working Capital Fund. Purchasers are advised to consult with their attorneys as to the exact closing costs they will incur in purchasing their Residential Units. (See "Unit Closing Costs and Adjustments" in Section N below for further discussion.)

4 The Common Interest of each Unit has been determined, pursuant to Section 339-i(1)(iv) of the Condominium Act. In accordance with such method of calculation, the Common Interests have been determined based primarily upon a comparison of the floor areas of the Units, 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. The aggregate Common Interests of all of the Units equals 100%.

5 These projections have been based upon the projections contained in "Projected Budget for First Year of Condominium Operation -- Schedule B" (set forth in Section E below), which were made based on the assumption that the First Year of Condominium Operation will be from November 1, 2009 to October 31, 2010. The actual first year of operation may be earlier or later. In the event the actual or anticipated commencement date of the First Year of Condominium Operation is to be delayed by six months or more, Sponsor will amend the Plan to include a revised budget with current projections. If the amended budget exceeds this projected budget by 25% or more, Sponsor will offer all Purchasers (other than Purchasers who are then in default beyond any applicable grace period, if the Plan has been declared effective) the right to rescind their Agreements within not less than 15 days after the presentation date of the amendment containing such revised budget, and any Purchasers electing rescission pursuant to such offer will have their Deposit and any interest accrued thereon returned.

As discussed in "Available Services and Facilities" in Section B above, the full range of services and facilities described in this Plan may not be provided until move-ins are finished and construction work within and on the Building is completed. To the extent that any service or facility provided during such interim period benefits particular Residential Units, to the exclusion of other Residential Units, and the cost of the same is readily identifiable, the Common Charges necessary to

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special equipment, fixtures or facilities affixed, attached or appurtenant to the Residential Unit to the extent located within such Residential Unit and serving or benefitting only that Residential Unit.

provide such service or facility will be borne exclusively by the owners of the benefited Residential Units, in proportion to their respective Common Interests.

The amount of the Common Charges necessary to defray the cost of the interim services and facilities described in the preceding paragraph, as well as the manner of allocating such Common Charges among any Residential Unit Owners who are exclusively benefited by any of the same, will be determined by the Board, which will be controlled by Sponsor during such period. However, such allocation will be made in compliance with Section 339-m of the New York State Real Property Law, and in no event will Purchasers be assessed Common Charges during such interim period that are more than the Common Charges listed in Schedule A as the same may theretofore have been amended.

In addition to the payment of Common Charges, each Unit Owner will incur additional expenses for, among other things:

(a) mortgage payments under any loan or loans obtained to finance the purchase of the Unit;

(b) the cost of electricity supplied to the Unit, which will be separately metered and payable as and when billed;

(c) the cost of interior repairs, compliance with Legal Requirements and maintenance, painting and decoration in, to or of, the Unit, including, without limitation, the equipment and appliances contained in the same, and, with respect to the Residential Units, any appurtenant Limited Common Elements;

(d) the cost of any insurance that the Unit Owner may be required to (or desire to) carry covering the furniture, belongings, equipment and other personal property in the Unit, as well as the cost of any insurance the Unit Owner may be required to carry covering liability to others for personal injury or property damage as a result of occurrences in the Unit;

(e) telephone, internet access and cable television charges; and

(f) real estate taxes (see footnote 6 below).

(6) The projection of the real estate taxes that will be payable for each of the Units during the projected First Year of Condominium Operation is based upon an opinion prepared by Jerome Mazursky, Sponsor's real estate tax consultant and takes into account the following assumptions and projections:

a. The property is currently assessed in Tax Class 4. After completion of the renovation/construction and the establishment of a condominium, the residential units will be assessed in Tax Class 2 under the classification system adopted by the State Legislature in its revision of the Real Property Tax Law (Section 305, Article 1902, and Section 581, applicable to the assessment of cooperative apartments and condominiums.)

b. Tax Class 4 includes most properties which have uses other than residential. Tax Class 2 is comprised of residential rental, cooperatives or condominiums with 11 or more units. The

City's assessment ratio policy for properties in Tax Classes 2 and 4 is to assess such properties at 45% of market value based upon value as an income-producing property. Increases to value are unlimited, but increases due to physical changes of the Property, are required to be phased-in over a five-year period. The taxable value is the lower of the actual or transitional values.

c. The projected taxable valuation for the Property, based upon the assessed valuation of the Property during and after completion of construction of the Building, for the 2009/2010 tax year is approximately $2,000,000 and for the 2010/2011 tax year approximately $3,200,000;

d. The estimated tax rates for 2009/2010 and 2010/2011tax years are $11.25 per $100 for Class 4 and $12.45 per $100 for Class 2. The tax liability without 421-a benefits during the first year of operation is estimated to be $264,471. During the second year it is estimated to be $391,528. See the opinion of Jerome Mazursky at page 119 for additional details.

No warranty, guaranty or assurance is given that:

(i) any projected or estimated amount set forth above (including, without limitation, the estimates of the Property's assessed valuations during the First Year of Condominium Operation, the estimates of the portions of such assessed valuations that will be allocable to the Units, the projection of the average real estate tax rate that will be in effect during such First Year of Condominium Operation and the rate at the time of construction progress on November 2009, which will determine the real estate tax rate between July 1, 2009 and June 30, 2010 will approximate the actual amount;

(ii) the New York City Real Estate Tax Assessment Bureau will allocate the Property's aggregate assessed valuation between the Units in accordance with the values used by The Mazursky Group for such purpose, or that such bureau will allocate the aggregate assessed valuation attributable to the Units among the different Units as described above; or

(iii) any of the projections or estimates made above and in Schedule A are accurate.

Until the Units are separately assessed, each Unit Owner will pay to the Condominium Board his or her Unit's pro rata share of the Property's real estate taxes for the period in question. This proration will be determined based upon the proportion that the respective Unit's initial offering price bears to the total initial offering price for all similar type of Units as set forth in Schedule A above. The Condominium Board will pay such real estate taxes to the Department of Finance of The City of New York or directly to Sponsor if Sponsor has paid such real estate taxes. If any Unit Owner fails to pay his or her pro rata share as set forth above, the Condominium Board will be entitled to assess late charges and/or place a lien on such Unit as if such unpaid share were Common Charges. (See "Collection and Lien for Non-Payment of Common Charges" in Part I, Section R for further discussion.)

At such time as a Unit is separately assessed and separate tax bills are issued, the Unit Owner will pay such taxes directly to the taxing authority. If Sponsor fails to pay real estate taxes attributed to any Unsold Residential Unit in a timely manner and as a result of such failure a lien is placed on the Condominium Property and/or any other Unit, Sponsor will immediately cause such

lien to be resolved at its sole cost and expense. A Unit Owner will not be responsible for the payment of, and will not be subject to any lien arising from, the non-payment of real estate taxes assessed against any other Units.

There is no assurance that the proration of taxes described in the paragraph above will equal the actual amount or allocation of real estate taxes which will be assessed against the Units, and the actual amounts may vary considerably from the method set forth above. Sponsor will amend the Plan to disclose the actual amount of real estate taxes assessed against the Units promptly after the same are assessed.

In the opinion of Sponsor's Counsel, the tax laws existing on the date of this Plan in general permit, subject to certain limitations, a Residential Unit Owner who itemizes his or her deductions to deduct from income for the purposes of Federal, New York State and New York City income taxes, any real estate taxes actually paid by such Residential Unit Owner with respect to his or her Residential Unit. However, the amount of such deductions may vary from year to year due to changes in the amount of the real estate taxes payable by the Residential Unit Owner (which might result from changes in the assessed valuation of the Residential Unit, in the tax rate and/or in the manner of assessing real property). Prospective Purchasers should refer to "Income Tax Deductions to Residential Unit Owners and Tax Status of Condominium" in Section U below, as well as to the "Opinion of Counsel" in Section V below, for further discussion.

7. Sponsor has applied for exemption from real estate taxes with respect to the Property pursuant to Section 421-a of the New York State Real Property Tax Law. For the first year of operations, the estimated total tax liability with 421-a benefits for the year is $24,931.68. Please refer to the Section of the Plan entitled "Real Estate Taxes" the Section of the Plan entitled "Partial Real Estate Tax Exemption (Section 421-a)," and the opinion of Jerome Mazursky set forth in Part I of the Plan for further discussion regarding real estate taxes and benefits under the Section 421-a program.

8. These figures represent the aggregate estimated monthly and yearly carrying charges which include estimated Common Charges and estimated real estate taxes. Reference should be made to note (5) of these Notes for certain other "home ownership" costs that may be incurred by Unit Owners.

SCHEDULE B

BUDGET FOR FIRST YEAR OF CONDOMINIUM OPERATION
BEGINNING November 1, 2009

70 Berry Street Condominium
70 Berry Street
Brooklyn, New York

Estimated Income	
Total Estimated Common Charges (Note 2)	$216,623.87
Total	$216,623.87

	Monthly	Annual
Estimated Expenses (Note 3)		
Payroll and Related Expenses (Note 3)	$2,058.33	$24,700.00
Electricity (Note 4)	$1,977.00	$23,724.00
Service Contracts (Note 8)	$3,131.66	$37,579.87
Gas (Note 5)	$3,165.00	$37,980.00
Water Charges and Sewer (Note 6)	$1,245.00	$14,940.00
Repairs, Supplies and Maintenance (Note 7)	$ 500.00	$ 6,000.00
Insurance (Note 9)	$2,916.67	$35,000.00
Management Fee (Note 10)	$1,000.00	$12,000.00
Legal and Audit Fees (Note 11)	$ 416.67	$ 5,000.00
Reserve for Contingencies (Note 12)	$ 500.00	$ 6,000.00
Parking Lease with Neighbor (Note 14)	$1,000.00	$12,000.00
Miscellaneous Administrative Expenses (Note 13)	$ 141.67	$ 1,700.00
Total (Note 15)	$18,051.99	$216,623.87

The Notes to Schedule B below are an integral part of this Schedule and should be read in conjunction herewith.

NOTES TO SCHEDULE B

1. Amounts are projected on the assumption that the First Year of Condominium Operation will be the year from November 1, 2009 to October 31, 2010. The actual First Year of Condominium Operation may be earlier or later than that year. In the event the actual or anticipated commencement date of the First Year of Condominium Operation is to be delayed by six months or more, Sponsor will amend the Plan to include a revised budget with current projections. If the amended budget exceeds this projected budget by 25% or more, Sponsor will offer all Purchasers (other than Purchasers who are then in default beyond any applicable grace period, if the Plan has been declared effective) the right to rescind their Agreements within not less than 15 days after the presentation date of the amendment containing such revised budget, and any Purchasers electing rescission pursuant to such offer will have their Deposit returned.

These amounts represent the total Common Charges to be levied against and collected from the Residential Units, the Commercial Unit, Community Facility and Parking Units during the anticipated First Year of Condominium Operation. The Common Charges will be utilized by the Board to pay for the operational expenses of the Condominium. Generally, Common Expenses have been allocated between the Residential Units, the Commercial Unit, the Community Facility Unit and the Parking Units based on anticipated usage and benefits derived by such Unit Owners, respectively, and between and among the Residential Units, the Commercial Unit, the Community Facility Unit and the Parking Units on the basis of percentage of Common Interest allocated to each Residential Unit, the Commercial Unit, Community Facility and Parking Unit Owners. Where the allocation of Common Expense is not based on percentage of Common Interest or Common Expenses have been allocated only to certain categories of Units and such circumstances are set forth in the following notes. The Non-Residential Unit Owners will be obligated to pay their allocated share of the expenses, and only such allocated share of the expenses, that are incurred by the Board in furnishing those services, as well as operating, maintaining and repairing those Common Elements, that are utilized by such Unit Owners.

2. Common Expenses include the costs and expenses in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the Common Elements and the provision of services to Unit Owners in general, such as service contracts applicable to the Building as a whole, employees who will provide services to the entire Condominium, the managing agent for the Condominium, and insurance coverage for the Common Elements.

3. Payroll and Related Expenses: $24,700

This estimate includes wages, workers compensation, and disability insurance, welfare and pension costs, payroll taxes and the cost of sick days, holidays and vacation pay for one part time superintendent. The projected level of staffing for the Building complies with all applicable housing and labor laws. It is anticipated that the superintendent will be non-union. However, no warranty is made as to the actual wages, salaries, benefits and related payroll taxes and similar expenses which will be applicable and in effect during the First Year of Condominium Operation. The wages described below are computed in accordance with NON UNION LABOR.

The projected expenses for wages, salaries and benefits as well as the assumptions described herein, are believed to be reasonable and reflect the experience of Sponsor's budget expert, Able Management II Corp., in managing comparable buildings.

The wage and salary estimates included in Common Expenses are detailed as follows:

POSITION	**WEEKLY WAGE**
Part Time Super	$200.00 per 20 hour week for a total yearly wage of $10,400.00 per person.

4. Electricity: $23,724

This estimate is made as of February 26, 2009 by TSF Engineering, P.C., and is based on an estimate of total KW/HR/YR which was provided by TSF Engineering, P.C., 200 Park Avenue South, Suite 1020, New York, New York 10003. The monthly estimated cost is $1,977.00 with an annual cost of $23,724.00. This estimate is based on current Con Edison energy rates and it is important to note that energy costs fluctuate on a daily basis.

Electricity for each unit including electrical usage necessary to operate PTAC Systems within each Residential Unit will be separately metered by Con Edison.

5. Gas: $37,980

This estimate is made as of February 2009 by TSF Engineering, P.C. and is based on an estimate of total therms for the year. It is anticipated that heat and hot water will be provided to the Units by a gas fired boiler. This estimate is based on a projected usage of $19,110.00 therms/yr for heat and hot water at an average cost of $1.71 per therm, totaling $33,843.00 per year. The Gas for cooking estimate is based on an annual usage of 3901therms monthly at a cost of $1.71 per therm totaling $6,905.00 per year. It is important to note that the cost of energy fluctuates is difficult to predict. Costs can vary considerably due to weather, temperature settings, equipment maintenance and the building's overall level of efficiency.

6. Water Charges and Sewer Rent: $14,940

The budgeted amount constitutes a projection of the water charges and sewer rents that will be payable with respect to the Building. This amount is based on an estimate which was provided by TSF Engineering, P.C., 200 Park Avenue South, Suite 1020, New York, New York 10003. The annual water usage estimate is $5,742.00 and the annual sewer charges are $9,200.00. Because the Building is being newly constructed, it has no operative history upon which to base such a projection.

Water charges and sewer rent will be allocated among the Units based on the estimated annual consumption set forth above.

7. Repairs, Supplies and Maintenance: $6,000

This estimate includes maintenance and repair costs of Common Elements only. Unit Owners will be responsible for the cost of repairs and painting in the interiors of their Units. No provision

has been made to cover the cost of any major capital expenditure. This estimate also includes the estimated annual cost of services and supplies (including service contracts) provided to and for the benefit of the Units.

No amounts have been budgeted for repairs to the roof, the heating, ventilating and air-conditioning system or the Building exterior, and a relatively small amount has been estimated for other repairs, because the Building's is newly constructed. This estimate is based on the experience of Sponsor's budget expert, and the reliance that repair and maintenance costs will be lower due to the fact that this is a newly constructed building. These costs may increase when the warranties expire. .

8. Service Contracts and Supplies: $37,579.87

This estimate includes the cost of various services used in or for the Common Elements, including elevator service, boiler service contract and fire sprinkler system inspections.

Elevator Maintenance	$9,600.00
Boiler Service Contract	$12,000.00
Fire System/Sprinkler	$12,500.00
Fire Alarm System	$3,479.87

No maintenance or service contracts have been entered into as of the filing date of the Plan. The budgeted amounts are based on estimates received from contractors where indicated and otherwise or the experience of Sponsor's budget expert, Able Management II Corp., in operating comparable buildings. While this Schedule B includes a reasonable allowance for possible increases in cost which may occur prior to and during the First Year of Condominium Operation, no warranty is made that the actual cost for these or other services will be in accordance with this projection.

9. Insurance: $35,000.00

The insurance premiums are based on the letter, dated March 2, 2009, from FOA & Son, setting forth the following proposed coverage to be maintained by the Condominium Board:

	Coverage	**Limits of Liability**
A.	Property	
	Blanket Real and Personal Property/Building Ordinance "All Risk" Agreed amount Replacement Cost Deductible - $10,000	$ 11,500.00
	Earthquake & Flood (TBD)	$1,000,000.00
	All Risk Business Income/Rents and Additional Expenses	
	Demolition/Increased Cost of Construction	$1,000,000.00
B.	General Liability	
	General Aggregate-Per Location	$2,000,000.00
	Each Occurrence	$1,000,000.00
	Personal & Advertising Injury	$1,000,000.00
	Products/Completed Operations Aggregated	$2,000,000.00
	Fire Damage Legal Liability	$ 50,000.00
	Medical Payments – each person	$ 5,000.00
	Hired Car/Non-Owned Automobiles	$1,000,000.00
	Water Damage Legal Liability	
	Notice and Knowledge of Occurrence	
	Unintentional Errors & Omissions	
C.	Commercial Umbrella Occurrence/Aggregate (Includes excess Directors & Officers Liability for Condominiums and Cooperatives)	$100,000,000.00
D.	Boiler & Machinery Comprehensive Form Blanket Combined Limit – Property Damage/Business Income including Rental Value Repair and Replacement, Service Interruption Deductible - $2,500 Property Damage	Included
E.	Directors & Officers Liability Retention - $1,000	$2,000,000.00

F.	Employee Dishonesty (Fidelity)	$100,000.00
The total premium for the above coverage is estimated at		$ 34,800.00

This coverage does not include claims for personal injury or property damage resulting from occurrences in individual Units or any Common Elements exclusive to such Units, nor does it include coverage of the furniture or personal property of Unit Owners. The property program excludes terrorism and mold coverage.

The cost of workers compensation and NYS Disability is not reflected above; it is to be found in cost projections for labor.

This coverage does not include claims for personal injury or property damage resulting from occurrences in individual Units or any Common Elements exclusive to such Units nor does it include coverage of the furniture or personal property of Unit Owners. The property program excludes terrorism and mold coverage.

This quotation is an indication of insurance premiums by FOA & Son are at current rates. Because conditions in the insurance marketplace are volatile, it is not possible to predict what the premiums will be for the first year of condominium operation. Purchasers should be aware of the possibility of rate increases.

Sponsor will procure, on behalf of the Board, on or before the date of the First Closing, the general liability insurance required to be carried by the Condominium. Unit Owners should consider procuring their own coverage for their contents and liability within their Unit and appurtenant Limited Common Elements.

10. Management Fee: $12,000

Based on the management agreement to be entered into with Able Management II Corp. (unaffiliated with the Sponsor or its principals) at or before the First Closing, it is expected that the Managing Agent will receive an annual fee of $12,000.00 for the first year. Reference should be made to "Management Agreement and Contracts" in Part I, Section Y, for further discussion of the terms of the Management Agreement.

11. Legal and Audit Fees: $5,000

Based upon the estimate of Raphael, Sanders, Goldberg, Nikpour & Cohen, as set forth in a letter dated February 27, 2009, $4,000 has been budgeted to provide for estimated auditing and accounting fees in connection with the preparation of the audited financial statements for the Condominium's First Year of Condominium Operation and its Federal, state and city income tax returns. The balance of the budgeted amount ($1,000) has been estimated to provide for minor legal services to be rendered in connection with the operation of the Building such as attendance at Board meetings, preparation of Board minutes and negotiation of minor agreements.

12. Reserve for Contingencies: $6,000

This amount, to be used at the discretion of the Board, is intended to benefit the Unit Owners by providing a fund for unanticipated expenses not included in the budget and for unanticipated expenses not included in the budget and for possible increases in one or more items of operating expense above the amounts projected. The budget may be modified from time to time prior to the commencement of, or during, the First Year of Condominium Operation to add or increase one or more items of operating expenses. The budget may be modified from time to time prior to the commencement of, or during, Condominium operation to add or increase one or more items of operating expense. If additional funds are required over and above these funds, it may be necessary to increase Common Charges or separately assess Residential Unit Owners.

This estimate does not include an estimate for income taxes payable by the Condominium. If 85% of the total square footage of all Units of the Condominium are used by individuals for residential purposes, the Condominium may be eligible to elect to be treated as a homeowners association which is not subject to Federal income tax on amounts received as membership dues, fees, or assessments from Unit Owners for its first taxable year. Absent such treatment, the status of the Condominium for tax purposes is uncertain. The Condominium may be treated as a conduit for the Unit Owners, rather than a separate entity. If treated as a separate entity, the Condominium may be subject to Federal corporate income tax, New York State Corporate Franchise Tax and New York City General Corporation Tax (if it is treated as a corporation) or New York City Unincorporated Business Tax (if it is treated as a partnership). (See the Sections of the Plan entitled, "Income Tax Deductions to Residential Unit Owners and Tax Status of Condominium" and "Opinion of Counsel" (Sections V and W below) for further discussion.)

Note: At the First Closing, Sponsor and the Board will adjust various items of income and expenses in accordance with the period that each owns or operates the Property. If the net credit is in favor of Sponsor, the same will be paid by the Board up to and including $10,000. The balance owing shall be paid in twelve equal consecutive monthly installments commencing on the first day of the second month subsequent to the First Closing, with interest at 8% per year, pursuant to a negotiable promissory note to be executed by the Board and delivered to Sponsor at the First Closing. Although these installments are not expressly included in this budget, payment of the note (but not the interest thereon) represents, in effect, payment of expenses reflected in this budget that have been prepaid by Sponsor. Interest payments will reduce the amount available in this "Other Expenses" or "Reserve for Contingency" category of the projected budget.

13. Miscellaneous Administrative Expenses: $1,700

This figure represents the estimated cost of miscellaneous administrative expenses such as stationary, postage, etc., that will be incurred by Board of Manager associated with the day to day expenses of the condominium.

14. Parking: $12,000

There is also one Parking Unit which is located in and is part of the North 10th Street Condominium, which is located at 128 north 10th Street, and which is across the street from 70 Berry Street. This Parking Unit is required by applicable regulations of the City of New York in order for

the 70 Berry Street Condominium to qualify for the issuance of a Certificate of Occupancy. In order to obtain such a Parking Unit, a lease was entered into for a Parking Unit in the North Tenth Street Condominium. The Lessor on that lease is the Sponsor of the North 10th Street Condominium, the principals of which are the same as the principals of the 70 Berry Street Condominium, and the Lessee on that lease is the 70 Berry Street Condominium. At the time of the first closing of a Unit in the North 10th Street Condominium, the lease will be assigned to the North 10th Street Condominium, which will then become the Lessor.

The terms of this lease require the Lessee (70 Berry Street Condominium) to pay to the Lessor (North 10th Street Condominium) a base rent of $1,000 per month plus a common charge of $X per month. The common charge for the Parking Unit will increase over time in accordance with increases in the common charges in that Condominium. The 70 Berry Street Condominium will be able to rent out the Parking Unit to any unit owner or renter who resides in 70 Berry Street, which will partially offset the cost of leasing the Parking Unit.

The term of the lease for the Parking Unit is 50 years, renewable for an additional 25 years, with the rent for the term of the renewal lease rising to $2,000 per month.

15. Total Expenses: $216,623.87

In the opinion of Able Management II Corp., Sponsor's Budget Expert, the projected income for the Condominium is adequate to meet the estimated expenses for the anticipated First Year of Condominium Operation, assuming that such first year is the fiscal year commencing November 1, 2009. The budget, however, is not intended, and should not be taken, as a guarantee by anyone that the annual Common Charges for the first or any subsequent year of operation of the Condominium will be as set forth in the budget. In fact, it is likely that the actual income and expenses for the First Year of Condominium operations will vary from the amounts shown in the budget.

SCHEDULE B-1

Projected Annual Electricity Cost

By letter dated February 26, 2009, TSF Engineering, PC, with offices at 200 Park Avenue South, Suite 1020, New York, New York 10003 provided the following estimate of annual electric energy costs for lighting, air conditioning, hot water heating and for operating the typical electrical appliances located in each apartment. The letter detailed specific costs of typical apartment sizes contained in the building.

The projected rates are not guaranteed and it must be expected that these rates will increase with the passage of time and may be affected by many factors, which are beyond the control of the Sponsor. Purchasers are advised that the projections are only estimates and actual consumption will be metered and will vary based on the personal needs of occupants and weather conditions.

SCHEDULE B-1

PROJECTED BUDGET FOR INDIVIDUAL ENERGY COSTS

BEGINNING NOVEMBER 1, 2009

70 Berry Street Condominium
70 Berry Street
Brooklyn, New York

Unit	Bedrooms/ Bath	Approximate Unit Square Footage	Approximate Terrace/Balcony Square Footage	Estimated Average Monthly Cost of Electricity for Individual Apartments	Total Estimated Monthly Utility Costs	Estimated Average Annual Cost of Electricity for Individual Apartments	Total Estimated Annual Utility Costs
2 A	1/1	729		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
2 B	1/1	718	350	$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
2 C	1/1	747		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
2 D	1/1	785		$ 175.00	$ 175.00	$ 2,100.00	$ 2,100.00
2 E	1/1	785		$ 175.00	$ 175.00	$ 2,100.00	$ 2,100.00
2 F	2/2	1154		$ 191.67	$ 191.67	$ 2,300.00	$ 2,300.00
2 G	1.5/1	880		$ 183.33	$ 183.33	$ 2,200.00	$ 2,200.00
3 A	1/1	729		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
3 B	1/1	718		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
3 C	1/1	747		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
3 D	1/1	785		$ 175.00	$ 175.00	$ 2,100.00	$ 2,100.00
3 E	1/1	785		$ 175.00	$ 175.00	$ 2,100.00	$ 2,100.00
3 F	2/2	1154		$ 191.67	$ 191.67	$ 2,300.00	$ 2,300.00
3 G	1.5/1	880		$ 183.33	$ 183.33	$ 2,200.00	$ 2,200.00
4 A	1/1	729		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
4 B	1/1	718		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
4 C	1/1	747		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
4 D	1/1	785		$ 175.00	$ 175.00	$ 2,100.00	$ 2,100.00
4 E	1/1	785		$ 175.00	$ 175.00	$ 2,100.00	$ 2,100.00
4 F	2/2	1154		$ 191.67	$ 191.67	$ 2,300.00	$ 2,300.00
4 G	1.5/1	880		$ 183.33	$ 183.33	$ 2,200.00	$ 2,200.00
5 A	1/1	729		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
5 B	1/1	718		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
5 C	1/1	747		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
5 D	1/1	785		$ 175.00	$ 175.00	$ 2,100.00	$ 2,100.00
5 E	1/1	785		$ 175.00	$ 175.00	$ 2,100.00	$ 2,100.00
5 F	2/2	1154		$ 191.67	$ 191.67	$ 2,300.00	$ 2,300.00
5 G	1.5/1	880		$ 183.33	$ 183.33	$ 2,200.00	$ 2,200.00
6 A	1/1	748		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
6 B	1/1	718		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
6 C	1/1	764		$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00
6 D	1/1	802		$ 175.00	$ 175.00	$ 2,100.00	$ 2,100.00
6 E	1/1	802		$ 175.00	$ 175.00	$ 2,100.00	$ 2,100.00
6 F	2/2	1184		$ 191.67	$ 191.67	$ 2,300.00	$ 2,300.00
6 G	1.5/1	880		$ 183.33	$ 183.33	$ 2,200.00	$ 2,200.00
PH A	2/2	1440	411	$ 195.83	$ 195.83	$ 2,350.00	$ 2,350.00
PH B	3/2	1766	1160	$ 233.33	$ 233.33	$ 2,800.00	$ 2,800.00
PH C	0/1	491	171	$ 166.67	$ 166.67	$ 2,000.00	$ 2,000.00

E. COMPLIANCE WITH REAL PROPERTY LAW SECTION 339(I)

F. COMPLIANCE WITH REAL PROPERTY LAW SECTION 339(I)

Phone: 718.388.0025

ABLE MANAGEMENT II

Fax: 718.388.0065

196 Bedford Ave.
Brooklyn, NY 11211
www.AbleManagement2.com

COMPLIANCE WITH REAL PROPERTY LAW SECTIONI 339(I)

May 18, 2009

Essex Brooklyn LLC
c/o Essex Capital Partners Ltd.
635 Madison Avenue, Suite 1300
New York, New York 10022

Re: 70 BERRY STREET CONDOMINUM
70 Berry Street, Brooklyn, New York 11211

Gentlemen:

The undersigned, Able Management II, Inc., is a licensed real estate brokerage firm in the State of New York. Able Management II, Inc. has been engaged in the management of over 80 condominium, cooperative and residential rental properties over the course of the past 25 years.

The undersigned has reviewed the allocation of common interests as shown on the Schedule A to be included in the Condominium described in the offering plan for the subject project.

The common interests among the Units have been allocated to each 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 New York State Real Property Law. This allocation utilizes measurements and calculations of net square footage made by Sponsor's Architect, KSQ Architects, PC,

Very truly yours,

ABLE MANAGEMENT II

By: _____

The foregoing document was acknowledged before me this ___ day of ___ by ___

Notary Public

HALINA J JANKOWSKI
NOTARY PUBLIC-STATE OF NEW YORK
No. 01JA6023485
Qualified In Kings County
My Commission Expires April 19, 2011

F. CHANGES IN PRICES

The purchase prices set forth in Schedule A and other terms of payment (but not other terms of sale) with respect to a particular Unit are negotiable and may be changed by Sponsor at any time and from time to time, both before and after the recording of the Declaration, without prior notice and without the consent of the Board, any Unit Owner or mortgagee. However, no such change with respect to any Unit for which an Agreement is then in effect may be made without the consent of the Purchaser thereunder, and no Agreement will be modified to waive any of the Purchaser's rights or abrogating any of Sponsor's obligations, under this Plan or Article 23-A of the New York General Business Law.

The Plan will be amended to disclose: (a) any increase (but not any decrease) in the Purchase Price of an offered Unit; (b) any changes in either Purchase Prices (whether increases or decreases) or other financial terms of sale that are across-the-board changes affecting one or more lines or types of Units; or (c) any changes in either Purchase Prices or other financial terms of sale that are to be advertised. Other than the changes described in (a) through (c) above, Purchase Prices and other terms of sale of one or more Units which are not subject to executed Agreements may be changed without either notice or amendment of the Plan.

If Sponsor changes the purchase price of a Unit, the Purchaser affected thereby may pay more or less than other Purchasers under the Plan for similar Units, but this will not affect any prior or subsequent sale of any other Units, nor will the Common Interest of any Unit be altered as a result of a price change for such Unit.

In order to meet the possible varying demand for number and type of different Units, or to meet particular requirements of prospective Purchasers, or for any other reason, Sponsor and its designees reserve the right (except to the extent prohibited by applicable Legal Requirements and subject to the Declaration and By Laws) at any time and from time to time, before and after the recording of the Declaration, without prior notice and without the consent of the Board, any Unit Owner or mortgagee, to: (i) make alterations, additions or improvements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon any Unsold Residential Unit; (ii) change the layout of, or number of rooms in, any Unsold Residential Unit; (iii) change the size and/or number of Unsold Residential Units by subdividing one or more such Units into two or more separate Units, combining separate Unsold Residential Units (including those resulting from a subdivision or combination or otherwise) into one or more Units, altering any boundary walls between any Unsold Residential Units, and/or incorporating within any Unsold Residential Unit the use of any portion of the Common Elements adjacent thereto (but only to the extent that such Common Elements are not required to be maintained as Common Elements based upon such alterations); (iv) if appropriate, reapportion among the Unsold Residential Units affected by such change, their Common Interests, provided, however, that after the recording of the Declaration, no change in any Unit's Common Interest will be made without obtaining the prior consent of all Unit Owners affected by such change; and (v) change the permitted use of some or all of the Unsold Residential Units. Any such change described in subsections (ii) through (v) in the immediately preceding paragraph and additionally any material adverse change in the size or quality of any of the Common Elements shall be disclosed by Sponsor in a duly filed amendment to the Plan and, when applicable, to the Declaration In the event of any such change after the Declaration is recorded, the Declaration and Floor Plans shall each be amended and such amendments duly recorded and

disclosed in a duly filed amendment to the Plan. As more particularly provided in the Declaration, Sponsor or its designee will have the right to (or to cause the Board to) so amend the Declaration and Floor Plans, to the extent required, in order to reflect any such change affecting Unsold Residential Units.

None of the foregoing changes will be made if the same would materially and adversely affect any Unit for which an Agreement has been countersigned by Sponsor and returned to Purchaser unless: (a) the applicable Purchaser consents or is in default; (b) such change has been dictated by construction conditions at the Property (such as coordination of Building systems, conflicts with structural members or elements, conforming with Legal Requirements, unforeseen events, etc.) and, in all cases, in good faith, reasonably necessary due to factors not within Sponsor's reasonable control, and where no practicable alternative (in the exercise of sound construction management practices) exists (and in such event, Sponsor will, in the amendment disclosing such material adverse change, offer the affected Purchaser(s) the right, for at least 15 days, to rescind their Agreement(s) and receive a refund of their Deposit(s), together with all interest earned thereon), and the Purchaser elects not to exercise such right of rescission.

Notwithstanding the foregoing, so long as the layout and dimensions of a Unit conform substantially to the Plan and Specifications, a Purchaser will not be excused from purchasing such Unit by reason of such minor, non-material deviation or change and will not have any claim against Sponsor as a result thereof. No material change will be made in the size and no material adverse change will be made in the quality of Common Elements, unless all Purchasers consent.

Sponsor will have no liability to any Purchaser, nor will any Purchaser be entitled to a credit, offset or reduction in the purchase price for his or her Unit or otherwise be relieved of any obligations under the Agreement, by virtue of a minor inaccuracy or error in the floor plans. With regard to size, such minor error would mean a decrease of 5% or less or any increase in the size of any Unit or room contained in a Unit.

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G. INTERIM LEASES

Sponsor will endeavor in good faith to sell, but nevertheless reserves the unconditional right, prior to the date of closing title to a Unit, to rent or lease, rather than sell, such Unit to Purchasers and others. As a result, a Purchaser of a Unit may be acquiring a Unit that has been previously occupied, but, unless otherwise specifically agreed to in writing by Sponsor and such Purchaser, such Unit will be delivered at the closing vacant and free and clear of all leases, tenancies and rights of occupancy. However, once an Agreement for a Unit is fully executed and for so long as the Agreement is in effect, such Unit may only be leased to its Purchaser. No Purchaser shall have the right to occupy any Unit prior to the closing unless Sponsor agrees to permit such occupancy under an interim lease or other written rental agreement.

Interim leases will not be subject to the New York City Rent Law (rent control), the Emergency Tenant Protection Act of 1974, the New York City Rent Stabilization Law, the New York City Rent Stabilization Code, any rent regulatory scheme or code, rule or regulation promulgated under any of the foregoing, or any other rental protection laws.

If Sponsor agrees to lease a vacant Unit, the lease will be for a rent and upon such other terms and conditions as may be agreed upon by Sponsor and the tenant; provided, however, that in the case of an interim lease to a Purchaser, such lease will provide that an uncured default by the Purchaser under the Agreement (that is, a default not cured within 30 days after the sending of written notice thereof) will constitute a default under the lease entitling the landlord (i.e., Sponsor), at its sole option, to immediately terminate such lease, whereupon the lessee must vacate the Unit within ten (10) days thereafter. The Agreement will contain a similar provision entitling Sponsor to terminate the Agreement and retain the Deposit (and any interest thereon) as liquidated damages, and not as a penalty, in the event the Purchaser fails to cure a default under such Purchaser's, if any, lease within the applicable grace period (if any) and either: (a) Sponsor has obtained an order of eviction or other judgment or order from a court or agency of competent jurisdiction against the Purchaser or (b) the Purchaser has vacated the Unit.

No portion of the rental paid under any lease will be credited towards the Purchase Price of a Unit unless the lease and the Agreement therefor expressly so provide.

In the event of any amendment to the Plan which discloses a material adverse change to the Plan and offers the Purchaser a right to rescind, if a Purchaser who is a tenant under an interim lease duly elects to rescind, the Purchaser's Deposit hereunder will be returned subject to the terms of the Plan and the interim lease made with such Purchaser shall be cancelled and possession of the Unit must be surrendered within 60 days thereafter free of all occupants and in broom clean condition. A Purchaser shall be liable to Sponsor for any and all damages, costs and expenses incurred by Sponsor by reason of any failure to vacate within said 60-day period. If such failure to timely vacate occurs prior to the First Closing, the Purchaser shall be liable for use and occupancy in an amount equal to twice the rent under the interim lease. If such failure to timely vacate occurs after the First Closing, the Purchaser shall be liable for twice the costs of carrying the Unit (such as Common Charges, real estate taxes and the allocable portion, based on such Unit's Common Interest, of debt service on any loan covering the Unsold Residential Units) as calculated by Sponsor. In addition, irrespective of when such failure to timely vacate occurs, such Purchaser shall be liable to Sponsor for loss of profit

and all costs and expenses incurred by Sponsor to obtain possession of the Unit, including the cost of litigation and reasonable attorneys' fees and expenses.

In the event the Plan is abandoned, a Purchaser who has entered into an interim lease will have no right to remain in occupancy as a tenant after the abandonment of the Plan.

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H. PROCEDURE TO PURCHASE

1. Execution of Documents

Any party desiring to purchase a Unit will be required to execute four original counterparts of an Agreement, in the form set forth as Exhibit 1 in Part II of the Plan, for each such Unit desired. The Agreement sets forth in detail the terms of sale with respect to the Units offered hereunder and should be read carefully by each prospective Purchaser.

In the event of any conflict or ambiguity between the Plan and the Agreement, the provisions of the Plan shall control. The Purchase Agreement and this Plan do not contain, nor may either be modified to contain, a provision waiving a Purchaser's rights or abrogating Sponsor's obligations under the provisions of Article 23-A of the General Business Law of the State of New York.

Unless waived in writing by a prospective Purchaser, no signed Agreement will be accepted from a prospective Purchaser for three business days following such Purchaser's receipt of a copy of the Plan, including all amendments thereto. For the convenience of some Purchasers, however, Sponsor will have the right, at its sole option, to accept an Agreement prior to the expiration of such period of three business days; and in such event, and only in such instance, such Purchaser will have the right to rescind such Agreement by written notice sent to Sponsor by certified or registered mail, return receipt requested, or by personal delivery within seven (7) days of such Purchaser's submission of the Agreement, whereupon Sponsor will refund, without interest (notwithstanding any provision of this Plan regarding interest to the contrary), the Deposit received by Sponsor from such Purchaser in connection with such Agreement.

A Purchaser shall deliver to Selling Agent, together with the four signed original counterparts of the completed Agreement, the following: three completed and signed copies of Form W-9 (Request for Taxpayer Identification Number and Certification), Form W 8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding), or other appropriate Form W-8, as applicable, in the form required by law (the forms currently required by law are reproduced as Exhibits 1A and 1B in Part II of this Plan); and an option payment as set forth below.

Agreements will not be binding on Sponsor until approved and executed by Sponsor. Sponsor will have thirty (30) days after delivery by the Purchaser of an executed Agreement, together with the amounts and other items described above within which to accept or reject such Agreement. Sponsor reserves the right to request thorough identification and financial information concerning any prospective Purchaser, subject to any limitations and requirements imposed by law. Each Purchaser shall and shall in all events be deemed to represent and warrant that the Deposit and all sums deposited by Purchaser pursuant to the Agreement are such Purchaser's own funds and that no other party has any right thereto. If an Agreement is not accepted by Sponsor within such 30-day period, the Agreement shall be deemed to have been rejected and cancelled and all sums deposited by such prospective Purchaser in connection therewith shall be promptly returned, together with any accrued interest. Sponsor reserves the right to reject any prospective Purchaser without cause or explanation, provided that such rejection is not based on race, creed, color, age, gender, sexual orientation, disability, marital status, national origin, ancestry, or any other ground proscribed by law, and to refuse to execute an Agreement for any Unit, or an Agreement or Agreements, as the case may be, for more than one Unit to any one person or entity.

The Purchaser(s) will be required to executed a Power of Attorney to the Condominium Board at the time of closing to title on that Purchaser(s)' Unit. (See paragraph 3 of Section M in this Plan.)

2. **Deposits/Escrow**

At the time a Purchase Agreement is executed, Purchaser is required to make an initial Deposit in an amount equal to 10% of the purchase price, and an additional Deposit equal to 10% of the purchase price upon the earlier to occur of three (3) months after Purchaser executes the Purchase Agreement or upon the Plan being declared effective. A Purchaser executing a Purchase Agreement on or after the date the Plan is declared effective is required to make the full Deposit in an amount equal to 20% of the purchase price, unless waived in writing by Sponsor. Notwithstanding the foregoing, if a Purchaser is a foreign government, a resident representative of a foreign government or other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity), such Purchaser will be required to make a Deposit equal to 50% of the applicable purchase price.

All such payments shall be made by unendorsed check drawn only on a member bank of the New York Clearing House Association made payable to "70 Berry Street Condominium Eiseman Levine Lehrhaupt & Kakoyiannis, PC, as escrow agent." All such checks shall be subject to collection and if any such check is returned for insufficient funds or for any other reason, Sponsor shall have the right, among other things, to deem such Agreement to be cancelled and of no further force or effect, and to retain any Deposit and other amounts previously deposited.

With respect to any check or other instrument that is dishonored or fails of collection, the Escrow Agent is authorized to deliver to Sponsor the dishonored or uncollected instrument and Sponsor will have the choice of remedies set forth in the Plan and in the Agreement with respect to an Event of Default (which includes suing on such dishonored or uncollected instrument or (at Sponsor's option) canceling this Agreement and returning the instrument to Purchaser without affording Purchaser a grace period to cure such default).

All deposits, Deposits or advances received by Sponsor will be held in escrow by Eiseman Levine Lehrhaupt & Kakoyiannis, PC (the "Escrow Agent") and placed in the Escrow Account (as hereinafter defined) in conformity with the procedure set forth herein. Sponsor will comply with the escrow and trust fund requirements of General Business Law Sections 352-e(2-b) and 352 h and the Attorney General's regulations promulgated pursuant thereto, and the provisions of Lien Law Section 71-a(3), as applicable.

All Deposits or advances made by Purchasers prior to closing of each individual transaction will be placed, within five business days after the Agreement is signed by all necessary parties, or within five business days after receipt, in the case of deposits, Deposits or advances made subsequent to the execution of the Agreement, in a segregated special escrow account (the "Escrow Account") of Eiseman Levine Lehrhaupt & Kakoyiannis, PC, the Escrow Agent, whose address is 805 Third Avenue, New York, New York 10022, and whose telephone number is 212-752-1000. The signatories on the Escrow Account authorized to withdraw funds are any one of Peter Kakoyiannis, Wayne Lehrhaupt, Eric Levine, Jonathan Eiseman and Stephen Weinstein. The name of the Escrow Account will be "70 Berry Street Condominium Attorney Escrow Account" or similar name, located

at Citibank, 800 Third Avenue, New York, New York 10022 (the "Bank"), or such other substitute bank and/or account type and/or title as may be designated in an amendment to the Plan. The Bank is covered by federal bank deposit insurance up to a maximum of $250,000 per individual depositor. Deposits made by a Purchaser in excess of $250,000 in the aggregate in connection with the purchase of a Unit or Units will not be federally insured.

The Escrow Account will be interest-bearing and, unless the Purchaser defaults, interest will be credited in part to the Purchaser shortly after the closing. The interest rate to be earned will be the prevailing rate paid by the Bank for such accounts from time to time (although no representation or guarantee is made as to the actual rate of interest that will be earned on such funds). Interest, if any, will begin to accrue within five (5) business days after the Agreement is fully executed by Sponsor and Purchaser and delivered to Purchaser and payment in respect of the Deposit is tendered to Escrow Agent, provided that the Purchaser has delivered the required number of completed and signed Forms W-9 (Request for Taxpayer Identification Number) in the form reproduced as Exhibit 1A in Part II of the Plan, Forms W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding) in the form reproduced as Exhibit 1B in Part II of the Plan, or other appropriate Forms W-8, as applicable, to Sponsor or Selling Agent at the time Purchaser tenders the Deposit and the Agreement. If a Purchaser does not deliver the Form W-9 or Form W-8BEN, as applicable, the Deposit will be deposited in a non-interest-bearing escrow account at the aforesaid bank until the Form W-9 or Form W-8BEN has been delivered, and neither Sponsor, Selling Agent, the Escrow Agent nor the Bank shall be liable for interest for the period prior to the delivery of such form. However, if Sponsor makes an application to the Department of Law to withdraw the Deposits from escrow, and secure such Deposits with a Letter of Credit or Surety Bond and such application is approved by the Department of Law, following such withdrawal, no interest will be earned on the Deposits.

Sponsor is required by law to submit a Form 1099-INT to the Internal Revenue Service reporting interest earned on the Deposit, if any. Purchaser will be taxed accordingly on such interest, whether or not Purchaser ultimately receives the interest in accordance with the terms of its Agreement or the Plan. 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 applicable escrow agreement as was originally provided. A bond, letter of credit or other security may be substituted for the Escrow Account only after the Attorney General approves in writing the use of such alternate form of security.

Within 10 business days after delivery by Sponsor of the Deposit to Escrow Agent, Escrow Agent will notify the Purchaser that such funds have been deposited into the Escrow Account and will provide the account number and the initial interest rate. If the Purchaser does not receive notice of such deposit within 15 business days after delivery by Sponsor of the Deposit to Escrow Agent, the Purchaser may cancel the purchase and rescind the Agreement so long as the right to rescind is exercised within 90 days after tender of the Deposit, or may apply to the New York Attorney General for relief. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited and requisite notice was timely mailed to the Purchaser in conformity with the Attorney General's regulations. Except as set forth above in this paragraph, the Escrow Agent will hold funds in escrow until otherwise directed in (i) a writing signed by both Sponsor and the Purchaser, (ii) a determination of the Attorney General

pursuant to the dispute resolution procedures contained in the Attorney General's regulations, or (iii) a judgment or order of a court of competent jurisdiction.

If there is no written agreement between the parties to release the escrowed funds, the Escrow Agent will not pay the funds to Sponsor until the Escrow Agent has given the Purchaser written notice of not fewer than 10 business days. Thereafter, the funds may be paid to Sponsor unless the Purchaser has already made application to the Department of Law pursuant to the dispute resolution provisions of the Attorney General's regulations and has so notified the Escrow Agent in accordance with such provisions.

Sponsor will not object to the release of the escrowed funds to: (i) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an amendment to the Plan; or (ii) all Purchasers after an amendment abandoning the Plan is accepted for filing by the Department of Law.

Purchasers and the Escrow Agent may apply to the Attorney General in the event of a dispute for a determination on the disposition of the escrowed funds and any interest thereon. Sponsor must avail itself of this procedure if there is a dispute that needs to be resolved. A form for this purpose is set forth in Part II of the Plan. The party applying for a determination must send all other parties a copy of the application. Pending the determination of the Attorney General to grant or deny the application, Sponsor, the Purchaser and the Escrow Agent shall abide by any interim directive issued by the Attorney General. If an application permitting release of the escrowed funds is granted, the escrowed funds and any interest 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. The Attorney General shall act upon the application within 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. If an application seeking the release of funds is denied, the Escrow Agent shall continue to hold the deposit and any interest earned thereon until: (i) both Sponsor and the Purchaser direct payment to a specified party in accordance with a written direction signed by both Sponsor and the Purchaser; (ii) a judgment or order of a court of competent jurisdiction is served on the Escrow Agent; or (iii) the Escrow Agent deposits the disputed amount into Court. In no event shall the Escrow Agent release funds in dispute, other than a payment of such funds into court, until such 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. Under no circumstances shall Sponsor apply for release of the escrowed funds of a defaulting Purchaser until after consummation of the Plan, and consummation of the Plan does not relieve Sponsor of its obligations pursuant to General Business Law 352-h. A copy of the escrow agreement which incorporates the terms of the Attorney General's regulations is set forth in Part II of the Plan.

Sponsor has agreed to indemnify and hold the Escrow Agent harmless from any and all losses, damages, claims, liabilities, judgments and other costs and expenses which may be claimed against or incurred by the Escrow Agent by reason of its acceptance of, and/or its performance under, the escrow agreement (other than those ultimately determined to have arisen out of the willful misconduct or gross negligence of the Escrow Agent), including, without limitation, attorneys' fees either paid to retained attorneys or amounts representing the fair value of legal services rendered to itself.

The Escrow Agent will maintain all records concerning the Escrow for seven years after the release of funds. The Department of Law may perform random reviews and audits of any records involving escrow accounts to determine compliance with statute and regulation.

The Escrow Agent shall be permitted to act as counsel to Sponsor in any dispute as to the disbursement of the Deposit or any other dispute between Sponsor and a Purchaser whether or not the Escrow Agent is in possession of the Deposit and continues to act as the Escrow Agent.

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

3. Date of the First Closing

In the event the actual or anticipated commencement date of the projected First Year of Condominium Operation is to be delayed by six months or more, Sponsor will amend the Plan to include a revised budget with current projections therefor, and if: (i) such amended budget exceeds the projected budget set forth herein by 25% or more; or (ii) the First Closing does not occur within 12 months after November 1, 2009, the date set forth in Schedule B as the commencement date for the projected First Year of Condominium Operation, then in either case Sponsor will offer all Purchasers (other than Purchasers who are then in default under their Agreements, if the Plan has been declared effective) the right to rescind their Agreements within not less than 15 days after the presentation date of the amendment containing such revised budget or such 12 month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Deposits and any interest accrued thereon returned. Purchasers' rights as described in the preceding sentence are in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of which shall be deemed to have been waived by all Purchasers.

After the Plan has been declared effective, Sponsor will from time to time set the date for closing for all Units for which purchase agreements have been executed by serving thirty (30) days written notice to said purchaser(s) of said closing such notice to be served by personal delivery, or by regular, registered or certified mail with or without return receipt requested. Sponsor, in its sole discretion, may permit Purchasers to waive said thirty (30) day notice.

By executing a Purchase Agreement, such Purchaser will be deemed to have waived any requirement of notice as to the date of the first closing.

4. Default

In the event that a Purchaser fails to close title on the date set for closing or otherwise fails to perform any other obligation under his or her Agreement, and such default is not cured within 30 days after Sponsor gives written notice to such Purchaser of the default, Sponsor, at its option, may cancel such Agreement and retain as liquidated damages the Deposit made by the Purchaser, together with all interest earned thereon, it being acknowledged and agreed by Sponsor and each Purchaser

that it would be impractical and/or extremely difficult to fix or establish the actual damage sustained by Sponsor as a result of such a default by a prospective Purchaser, and that the Deposit (including all interest) shall constitute and be deemed to be the reasonable and agreed upon liquidated damages of Sponsor in respect of the possible loss of a timely closing, the possible fluctuation of values, additional carrying costs of the Unit and other expenses that may be incurred, including, without limitation, attorneys' fees, and shall be paid by Purchaser to Sponsor as Sponsor's sole and exclusive remedy. In such case, all rights, obligations and liabilities of Sponsor and the Purchaser to each other shall cease and terminate and Purchaser shall have no further liability to Sponsor in respect of the Agreement (except for those matters expressly specified therein or herein to survive the termination thereof); however, such Purchaser shall not have any right whatsoever to the return of all or any portion of its Deposit (or any interest thereon). The payment of the deposit (including all interest) as liquidated damages is not intended to be a forfeiture or penalty, but is intended to constitute liquidated damages to Sponsor. (See "Deposits/Escrow" above within this Section of the Plan for further discussion regarding the Attorney General's dispute resolution for Deposits.)

Purchasers are advised that notwithstanding the foregoing, including, without limitation, Sponsor not having the right of specific performance, nothing herein shall be deemed to grant Purchaser any right of rescission and/or right to the return of all or any portion of a Deposit except as expressly set forth in the Plan. In the event Sponsor elects not to cancel the Agreement as a result of the failure of the Purchaser to close on the date specified by Sponsor, or if Sponsor approves a request from the Purchaser to adjourn the closing date, then Sponsor may require that: (a) the Purchaser pay Sponsor interest at a rate of 0.03% per day (or such lower daily rate which is the legal limit, if 0.03% per day exceeds the legal limit) on the total Purchase Price, computed from the original closing date until the transaction is actually closed; and (b) all apportionments between Sponsor and the Purchaser be made as of the original closing date; in addition, the Purchaser shall reimburse Sponsor for any additional costs incurred by Sponsor as a result of the Purchaser's delay.

Time is of the essence with respect to the Purchaser's obligation to close title on the date set for closing and to pay, perform or observe all of his or her other obligations under the Agreement, and to cure a default within 30 days after Sponsor gives notice to the Purchaser of such default. Therefore, a Purchaser who defaults under his or her Agreement and who does not cure such default within such 30-day period may not be permitted any additional time to cure such default.

As provided in the form of Agreement, which is set forth in Part II of the Plan as Exhibit 1, the following occurrences, without limitation of any other term or provision thereof or of the Plan, shall constitute an event of default under a Purchaser's Agreement: (a) Purchaser's assignment of any of Purchaser's property for the benefit of creditors, or Purchaser's filing a voluntary petition in bankruptcy; (b) the appointment of a non-bankruptcy trustee or receiver over Purchaser or Purchaser's property, or the filing of an involuntary petition in bankruptcy against Purchaser; or (c) the filing of a judgment or tax lien against Purchaser which Purchaser does not pay or bond within 30 days after the filing thereof.

5. **Risk of Loss**

The risk of loss to any Unit by fire or other casualty until the closing of title to such Unit (or an earlier taking of possession by the Purchaser) is assumed by Sponsor, but Sponsor has no obligation or liability to repair or restore any Unit. Prior to closing, a purchaser in possession

assumes the risk of losses not covered by insurance. If a Unit is damaged or destroyed by fire or other casualty prior to the closing of title, but after the signing of an Agreement, and Sponsor gives written notice to the Purchaser of Sponsor's election to repair or restore the Unit, then the Agreement shall continue in full force and effect, and the Purchaser shall not have the right to reject title or receive a credit against, or abatement in, the Purchase Price. Sponsor shall be entitled to a reasonable period of time within which to complete the repair or restoration, and any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss shall, subject to the rights, if any, of the Board, and other Unit Owners, belong entirely to Sponsor.

However, if Sponsor notifies the Purchaser in writing that it does not elect to repair or restore the Unit, or if the Unit Owners entitled to make such determination do not resolve to make such repair or restoration pursuant to the By Laws (see the Section entitled "Rights and Obligations of the Unit Owners and the Board of Managers" in Part I of the Plan), the Agreement shall be deemed terminated, Sponsor shall return to the Purchaser the entire Deposit, together with interest earned thereon, and the parties shall be released and discharged from all rights, obligations and liability under the Agreement and this Plan, except that if the Purchaser is then in default under the Agreement beyond any applicable grace period, Sponsor may retain such Purchaser's Deposit, together with interest earned thereon.

6. **Financing**

Although a Purchaser may obtain financing from any lending institution or any other source, the Purchaser's obligation pursuant to an Agreement to purchase a Unit shall not be contingent on the Purchaser obtaining a commitment for financing or actually obtaining financing for such purchase. In other words, a Purchaser shall remain obligated under an Agreement to purchase his or her Unit whether or not he or she is able to obtain financing. Neither Sponsor nor Selling Agent makes any representations as to the terms or availability of any mortgage financing. Prospective Purchasers are, therefore, advised to finalize their financing arrangements before signing an Agreement. However, prospective Purchasers should be aware that even if a loan commitment is obtained, its term may be limited, and it could expire before the closing date, and Sponsor shall have no liability as a result of any scheduling or adjournment of closing beyond the expiration of a loan commitment.

7. **Transfer (and Mansion) Taxes**

As described more fully in Section N below, Purchasers shall be responsible for the payment at closing of all New York City Real Property Transfer Tax and New York State Real Estate Transfer Tax, notwithstanding that these taxes are by law the primary obligation of the seller. For purposes of calculating the taxes payable, the amounts of such taxes will be included in the consideration subject to such tax.

8. **Foreign Missions; Required Notification and Waiver of Diplomatic or Sovereign Immunity**

Any Purchaser that is a foreign mission, as such term is defined under the Foreign Missions Act, 22 U.S.C. 4305, must notify the United States Department of State prior to purchasing a Unit and provide a copy of such notice to Sponsor. Sponsor will not be bound under any Agreement with a foreign mission unless and until the earlier to occur of: (i) receipt of a notification of approval from

the Department of State; or (ii) 60 days after receipt of such Purchaser's notice by the Department of State.

Any Purchaser that is a foreign government, a resident representative of a foreign government or other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity) shall expressly and voluntarily waive such immunity and consent to any suit action or proceeding arising out of or relating to the Agreement being brought in any state or Federal court in the State of New York. Any such purchaser shall designate Corporation Service Company's (CSC), having its offices, at the date hereof, at 1133 Avenue of The Americas, New York, New York 10036 as its duly authorized and lawful agent to receive process for and on behalf of Purchaser in any state or Federal suit, action or proceeding in the State of New York based on, arising out of or connected with the Agreement.

9. **Notice of Effectiveness**

After the Plan has been declared effective, Sponsor will from time to time set the date for closing for all Units as to which Agreements have been executed by serving thirty (30) days written notice to said purchaser(s) of said closing. Sponsor, in its sole discretion, may permit Purchasers to waive said thirty (30) day notice.

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I. ASSIGNMENT OF AGREEMENTS

An Agreement may not be assigned by the Purchaser thereunder. If a Purchaser desires to assign its rights under an Agreement or to take title in the name of an affiliate of, or entity related to, or controlled by, the Purchaser that differs from the name on the Agreement, or to add, delete or substitute the name of a member of the Purchaser's family, then, if such assignment, alteration, addition, deletion or substitution is permitted by Sponsor (in Sponsor's sole discretion), the Purchaser will be required to deliver to Selling Agent or Sponsor's Counsel, four signed assignments of the Agreement (to be prepared by Sponsor's Counsel at Purchaser's expense and in form and content acceptable to Sponsor, in its sole discretion), as well as three completed and signed copies of either Form W-9 (Request for Taxpayer Identification Number and Certification), Form W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding) or other appropriate Form W-8, as applicable, in the form required by law. Upon each assignment or other change permitted by Sponsor (in its sole discretion), the assignments and Forms W-9 or Forms W-8BEN, as applicable, must be delivered to the Selling Agent or Sponsor's Counsel, together with a personal certified check, or an official bank or cashier's check, in the amount of $1,000 made payable to "Eiseman Levine Lehrhaupt & Kakoyiannis, PC" (for services rendered in connection with the assignment), not less than 20 days prior to the date scheduled for the Purchaser's closing. In no event will the Purchaser (or its assignee or any added or substituted party) have the right to adjourn or postpone the closing as a result of such change or assignment. Sponsor is not obligated to consent to any such change or assignment and, if Sponsor refuses to consent, the Purchaser will not be excused from his or her obligations under the Agreement; and the prohibition against advertising or listing any Unit(s) for sale or resale with any broker or otherwise advertising, promoting or publicizing the availability of such Unit(s) for sale shall remain in effect.

In connection with the foregoing, if Purchaser is a corporation, any sale, assignment, transfer, pledge, encumbrance or other disposition of any of the stock of Purchaser, or if Purchaser is a partnership, a limited liability company or other entity, any sale, assignment, transfer, pledge, encumbrance or other disposition of any interest in such partnership, limited liability company or other entity shall be considered an assignment and shall be subject to the provisions, prohibitions and terms of the Plan concerning assignment, except that a sale of less than 50% of the stock, or in the case of a partnership, limited liability company or other entity, less than 50% of the ownership interests, of Purchaser which does not result in a change in control of Purchaser shall not be considered an assignment. For purposes of the preceding sentence only, "control" shall mean the ownership of all of the interests in such entity or possession of the power to direct the management and policies of such entity and the distribution of its profits.

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J. EFFECTIVE DATE

The offering by Sponsor of the Units offered hereunder is contingent upon the Plan being declared effective and upon compliance with the relevant conditions and time periods set forth in the Plan.

The Plan may be declared effective, at Sponsor's option, when bona fide Agreements, executed by Purchasers (including those executed by investors), have been executed and are in effect with respect to not less than six (6) Residential Units, which represent 15% of the Residential Units being offered for sale. The Plan must, however, be declared effective when bona fide Agreements have been executed and are in effect for at least thirty one (31) Residential Units, which represent 80 % of the Residential Units.

The Plan will not be declared effective based on an Agreement: (i) signed by a Purchaser who has been granted a right of rescission that has not yet expired or been waived; (ii) subject to the immediately preceding clause "(i)", signed by a Purchaser not afforded the three (3) business day period to review the Plan (prior to executing an Agreement) provided for in the Section entitled "Procedure to Purchase" above in Part I of the Plan; or (iii) entered into with a Purchaser who is Sponsor, Selling Agent or the Managing Agent, or who is a principal of any of the foregoing or who is related to any of the foregoing or any principal thereof by blood, marriage or adoption or as a business associate, employee, shareholder or limited partner, except that such a Purchaser (other than Sponsor or a principal of Sponsor) may be included if Sponsor submits proof satisfactory to the Department of Law establishing that such Purchaser is bona fide.

The Plan will be declared effective either by: (i) an amendment to the Plan; or (ii) mailing or delivering personally to each Offeree a written notice to such effect, in which event Sponsor will submit an amendment to the Plan to the Department of Law confirming that the Plan was declared effective on a specified date within five days after such mailing or delivery. The First Closing will not occur until the Plan is declared effective and the effectiveness amendment is accepted for filing by the Department of Law.

The Plan may be withdrawn or abandoned by Sponsor, at its option, for any reason whatsoever at any time prior to its being declared effective. Once the Plan has been declared effective, it may not be abandoned or withdrawn, except that prior to the First Closing, the Plan may be abandoned at the option of Sponsor in the event of: (i) the existence of one or more defects in title affecting any one or more Units and/or the Common Elements which cannot be cured, removed or complied with except through litigation or the expenditure of more than one-half of one percent of the total initial offering hereunder in the aggregate (as estimated by Sponsor); (ii) substantial damage to or destruction of the Building (or any portion thereof) by fire or other casualty which cannot be cured or repaired for an amount which is less than one-half of one percent of the total initial offering amount; or (iii) a taking of all or a material portion of the Property by condemnation or eminent domain. In calculating the costs referred to in clauses (i) and (ii) above, any defects in title (including violations or work orders) that existed on the date the Units were initially offered for sale under the Plan, and were either known to Sponsor or were a matter of public record, and attorneys' fees, shall be excluded.

In the event of a withdrawal or abandonment of the Plan, Sponsor will promptly submit an amendment to the Department of Law to such effect, together with form RS -3, as promulgated by the Office of the Attorney General.. Purchasers will be notified in writing of a withdrawal or abandonment of the Plan. All Deposits, together with any interest earned thereon, will be returned to Purchasers within 20 days following such withdrawal or abandonment, except that after the Plan has been declared effective, Sponsor may retain the Deposit, together with interest earned thereon, of any Purchaser who is then in default under his or her Agreement beyond the applicable grace period or whose Agreement has been cancelled due to such Purchaser's default, provided, however, that any requisite notice has been given to the Purchaser and any dispute with respect to the disposition of the Deposit has been determined in favor of Sponsor pursuant to the dispute resolution procedures provided by the regulations promulgated by the Department of Law. Upon the return or retention of the Deposit, together with interest earned thereon, the Agreement pursuant to which such Deposit was given will be null and void and Sponsor will have no further obligation or liability to the Purchaser under the Plan or such Agreement.

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K. TERMS OF SALE

1. Prerequisites to Closing of Title

The terms "closing" or "closing of title" as used in this Plan refer to Sponsor's conveyance of title to a Unit to a Purchaser by the delivery of a deed, upon payment by the Purchaser to Sponsor of the balance of the purchase price for such Unit. The closing of title to each Unit shall take place only after or concurrently with the satisfaction of the following prerequisites:

(a) the Plan has been declared effective in accordance with its terms and the amendment to the Plan disclosing same has been accepted;

(b) a temporary or permanent certificate of occupancy for the Unit is in effect (unless Sponsor and such Purchaser otherwise agree in writing or Sponsor is unable to obtain such temporary or permanent certificate of occupancy for the Unit as a result of special work being done in the Unit at the request of the Purchaser);

(c) the Declaration, By Laws, Floor Plans and such other documents as may be required by law have been filed or recorded, as the case may be, or have been submitted to Sponsor's title insurance company for filing or recording;

(d) at least 30 days' prior written notice of the initial time and place of the closing of title ("Initial Closing Notice") has been given to the Purchaser (unless a Purchaser chooses to waive such 30-day notice). After the Initial Closing Notice, Sponsor may, from time to time, adjourn and reschedule the date and hour for closing on not less than 3 business days notice to Purchaser, which new closing notice shall fix a new date, hour and place for the closing of title and which date shall not be earlier than the date set forth in the Initial Closing Notice;

(e) the Purchaser or Purchaser's designee has been given an opportunity to examine the Unit within the week prior to the closing; and

(f) the Unit and its appurtenant interest in the Common Elements have been released from the lien of all mortgages encumbering the Property.

2. Closing of Title; Payment of Balance of Purchase Price

At the closing of title to each Unit, Sponsor shall execute and deliver to the Purchaser a bargain and sale deed with covenant against grantor's acts, substantially in the form of the Unit Deed set forth as Exhibit 3 in Part II of the Plan, conveying title to the Unit and its appurtenant Common Interest, free and clear of all liens, encumbrances and other title exceptions other than the Permitted Encumbrances. The Purchaser shall also sign the Unit Deed. All personal property that was located in the Unit on the date the Purchase Agreement is signed, or that was located within the Common Elements on the date the Declaration is filed, which personal property is owned by the Sponsor or the owner of the property will be included in the conveyance, unless specifically excluded pursuant to the terms of this Plan or pursuant to terms of the Purchase Agreement.

Simultaneously with the delivery of the Unit Deed, the Purchaser shall pay the balance of the purchase price and the closing apportionments and costs described in "Unit Closing Costs and Adjustments" in Part I, Section N below. Payments shall be by official bank or cashier's check or unendorsed certified check drawn on or issued by a bank or trust company which is a member of the New York Clearing House Association, payable to the direct order of Sponsor or to such other party or parties as Sponsor notifies the Purchaser prior to the closing. Purchasers are advised that uncertified attorney escrow checks and other non-conforming checks may not be accepted by Sponsor. Any delay in closing occasioned by the presentation of such checks shall be deemed to have been caused by Purchaser and may, at the option of Sponsor, constitute a default under the Agreement and/or give rise to additional costs or expenses to be borne by Purchaser.

3. **Transfer Tax Returns and Power of Attorney**

Each Purchaser will also be required to execute and deliver at the closing: (i) a New York City Real Property Transfer Tax Return and New York State Real Estate Transfer Tax Return and Credit Line Mortgage Certificate, in the forms required to be filed by law; and (ii) a Unit Owner Power of Attorney substantially in the form set forth in Part II of the Plan as Exhibit 2 to the persons who shall from time to time constitute the Board, designating such Board as the Purchaser's attorney-in-fact, for the purpose of acquiring or leasing in the name of the Board or its designee on behalf of all Unit Owners any Residential Unit and to otherwise deal with the Condominium and the Common Elements, all in accordance with the provisions of the Declaration and the By Laws; and after any such acquisition or leasing of any Unit, to manage, convey, sell, lease, sublease, mortgage or otherwise deal with any such Unit so acquired or leased, as the case may be, all in accordance with the provisions of the Declaration and By Laws. The Unit Owner Power of Attorney, after execution by the Purchaser(s), must be submitted to the Sponsor at the closing to title for that Purchaser(s)' Unit. Failure so to submit such Power of Attorney shall constitute a default in closing and a forfeiture of the defaulting Purchaser(s)' rights to vote at Condominium Board meetings until such time as the execute Power of Attorney is received by the Sponsor.

4. **Tax-Deferred Exchanges**

The form of Agreement (Exhibit 1 in Part II of the Plan) provides that in the event a Unit is being acquired by a Purchaser as part of a tax-deferred exchange under §1031 of the Internal Revenue Code, Sponsor shall reasonably assist and cooperate in such tax-deferred exchange, provided, however, that: (i) any action taken in connection with such tax-deferred exchange or requested of Sponsor shall not result in any cost, expense or liability on the part of Sponsor or increased risk to Sponsor relating to the transaction (and, among other things, Purchaser acknowledges that a fee may be payable to Sponsor's Counsel in connection with the review of any documentation related to such tax-deferred exchange); (ii) no action or failure on the part of the Purchaser (or any other party to such tax-deferred exchange) or cooperation on the part of Sponsor in connection with or related to the tax-deferred exchange will frustrate the purpose of the Agreement or otherwise result in a reduction of Sponsor's rights, remedies and privileges under the Agreement or increase any of Sponsor's obligations or duties under the Agreement or otherwise; and (iii) Sponsor shall not be obligated, as part of such tax-deferred exchange, to convey any property (other than the applicable Unit), acquire any property, or accept any form of payment in respect of any of the amounts due under the Agreement other than as set forth therein or in the Plan. Purchaser shall indemnify, defend and hold Sponsor harmless from and against any and all costs, expenses, fees

(including, without limitation, reasonable attorneys' fees and expenses) or liabilities incurred by Sponsor in connection with or resulting from the tax-deferred exchange, and such indemnity shall survive the closing of title to the Unit. Notwithstanding the foregoing, Sponsor makes no representation and expresses no opinion with respect to the applicability of §1031 of the Internal Revenue Code to the purchase or acquisition of a Unit. Purchasers are advised to consult with a tax attorney of their choosing in order to determine whether they qualify for such a tax-deferred exchange and for additional information regarding tax-deferred exchanges.

5. **Existing Mortgages and Construction Loan**

Since the then existing mortgages and construction loans covering the Property will not be satisfied prior to the First Closing, at or prior to the First Closing, the mortgagee will either: (i) consent to the formation of the Condominium and acknowledge that its lien will be limited to Unsold Residential Units; or (ii) at each applicable closing, release its lien on the Unit then being conveyed and on the proportionate interest of such Unit in the Common Elements.

6. **Risk of Loss**

The risk of loss to any Unit by fire or other casualty until the closing of title to such Unit (or an earlier taking of possession by the Purchaser) is assumed by Sponsor, but Sponsor has no obligation or liability to repair or restore any Unit. Prior to closing, a purchaser in possession assumes the risk of losses not covered by insurance. If a Unit is damaged or destroyed by fire or other casualty prior to the closing of title, but after the signing of an Agreement, and Sponsor gives written notice to the Purchaser of Sponsor's election to repair or restore the Unit, then the Agreement shall continue in full force and effect, and the Purchaser shall not have the right to reject title or receive a credit against, or abatement in, the Purchase Price. Sponsor shall be entitled to a reasonable period of time within which to complete the repair or restoration, and any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss shall, subject to the rights, if any, of the Board, and other Unit Owners, belong entirely to Sponsor. See paragraph 5, Section J of this Plan for further information.

L. UNIT CLOSING COSTS AND ADJUSTMENTS

As more particularly set forth in the Agreement, in addition to the Purchaser's own legal fees, the Purchaser will pay the following closing costs at the time of the closing of title of such Purchaser's Unit:

Title Insurance: If the Purchaser elects to obtain fee title insurance, the Purchaser will pay the premium therefor, which premium will vary depending upon the amount of insurance purchased. A reduced rate for fee and mortgagee title insurance may be available if the Purchaser obtains a mortgage loan, and fee and mortgagee title insurance are ordered simultaneously. A Purchaser may obtain title insurance from any title insurance company selected by Purchaser. Sponsor makes no representation or warranty regarding the terms of any such insurance.

Title insurance premiums for fee and mortgage title policies (i.e., owner's policies and loan policies) are by law assessed based upon a uniform rate schedule by title insurance companies for New York transactions. Those premiums are calculated based on a fixed rate for the first $35,000 of coverage, with incremental additions to the premium amount for each additional $1,000 of coverage (or fraction thereof), as follows:

Fee Owner's Policy

Amount of Insurance	**Premium**
First $35,000 or less	$402.00
From $35,001 to $50,000	$6.67 per Thousand
From $50,001 to $100,000	$5.43 per Thousand
From $100,001 to $500,000	$4.63 per Thousand
From $501,000 to $1,000,000	$3.98 per Thousand
From $1,000,001 to $5,000,000	$3.66 per Thousand
From $5,000,001 to $10,000,000	$3.25 per Thousand
From $10,000,001 to $15,000,000	$3.07 per Thousand
From $15,000,001	$2.76 per Thousand

Note – The minimum premium for a fee policy is $402.

Loan Policy Amount of Insurance	**Premium**
First $35,000 or less	$344.00
From $35,001 to $50,000	$5.55 per Thousand
From $50,001 to $100,000	$4.54 per Thousand
From $100,001 to $500,000	$3.64 per Thousand
From $501,000 to $1,000,000	$3.31 per Thousand
From $1,000,001 to $5,000,000	$3.05 per Thousand
From $5,000,001 to $10,000,000	$2.71 per Thousand
From $10,000,001 to $15,000,000	$2.55 per Thousand
From $15,000,001 and up	$2.31 per Thousand

The above rates are the basic rates for title insurance in Zone 2 (which includes Kings County). Where an owner's policy and a loan policy are issued at the same time covering the same premises, the loan policy rate is 30% of the loan policy rate computed using the above schedule, up to the amount of the owner's policy. For a qualifying condominium first sale, the rates that will generally be charged by the title company will be a special reduced rate that works out to be 70% of the owner's policy rate computed using the table for Zone 2 owner's policies, and (effectively) 21% of the loan policy rate (for loans not in excess of the owner's policy) computed in accordance with the above table for loan policies.

Recording Charges: The fees charged by the City Register's Office for recording the Unit Deed, Unit Owner Power of Attorney and mortgage (if any), in the amount of $32.00 for each document, plus $5.00 per page (including the cover page), shall be payable by Purchaser, plus the filing fee, if any, for the RP-5217 form shall be payable by the Purchaser. In addition, a Purchaser's title insurance company may charge various fees and service charges in connection with such recordings and filings, which shall be payable by Purchaser.

Transfer Taxes and Mansion Tax: The New York City Real Property Transfer Tax ("RPT Tax"), which currently, for the purchase of a single Residential Unit, is 1% of the Purchase Price of a Unit if such Purchase Price is $500,000 or less and 1.425% of the Purchase Price if such Purchase Price is over $500,000; and the New York State Real Estate Transfer Tax ("NYS Tax"), presently $2 for each $500 (or part thereof) of the Purchase Price of a Unit. For purposes of calculating the taxes payable, the amounts of such taxes which are the primary obligation of the seller but are paid by Purchaser will be included in the consideration subject to tax. Therefore, the steps to compute the taxes payable are:

(i) multiply the Purchase Price by the RPT Tax rate to compute the tentative RPT Tax;

(ii) multiply the Purchase Price by the NYS Tax rate to compute the tentative NYS Tax;

(iii) add the tentative RPT Tax and tentative NYS Tax to the Purchase Price;

(iv) multiply (iii) by the RPT Tax rate to determine the actual RPT Tax payable; and

(v) multiply (iii) by the NYS Tax rate to determine the actual NYS Tax payable.

As an example, in respect of a Residential Unit with a purchase price of $873,600.00 the transfer tax calculation is as follows:

Tentative City Tax:

Consideration:	$873,600
Tax Rate	x 1.425%
Tentative Tax	$12,449

Tentative State Tax:

Consideration:	$873,600

Rounded to the next highest $500	$874,000
Tentative Tax ($2 per $500)	$3,496

City Tax:

Consideration:	$873,600
Tentative Taxes:	+15,945
Taxable Consideration	$889,545
Tax Rate	x 1.425%
City Tax	$12,676

State Tax:

Net Consideration:	$873,600
Tentative Taxes:	+ 15,943
Taxable Consideration	$889,545
Rounded to the next highest $500	$890,000
State Tax ($2 per $500)	$3,560.00

Under the current policies of the City of New York Department of Finance, where a purchaser purchases two or more Residential Units that have not been physically combined into a single residence before the transfer, the RPT will be imposed at non-residential rates, i.e., where the consideration is $500,000 or less, the rate will be 1.425%, and where the consideration is in excess of $500,000, the rate will be 2.625%. This may be the case even if the Residential Units are transferred to the purchaser pursuant to separate sales contracts with separate closing dates. The City of New York Department of Finance has taken the position that the consideration for the transfer of a Unit under a deed is not aggregated with the consideration for the transfer of other Units under separate deeds for purposes of determining total consideration. There is no guarantee that The City of New York will not change its position with respect to the foregoing. In such event, Purchasers may be obligated to pay additional transfer taxes plus applicable interest and penalties.

Mortgage Tax Credit. In order to reimburse Sponsor for the mortgage recording tax previously paid in connection with any existing mortgage(s), if the Purchaser: (a) obtains a mortgage loan, the Purchaser will pay to Sponsor an amount equal to the partial mortgage tax credit which may be available pursuant to Section 339-ee(2) of the New York State Condominium Act; or (b) assumes or consents to the continuation of a mortgage lien encumbering only such Purchaser's Unit and as a result is entitled to an exemption of all or a portion of the mortgage tax otherwise payable, the Purchaser will pay to Sponsor an amount equal to such exemption, but in no event will the amount payable by the Purchaser to Sponsor exceed the amount of mortgage tax which would have been payable by the Purchaser to the taxing authority if such mortgage tax credit or exemption had not been available to the Purchaser.

Mortgage and Related Costs: If the Purchaser obtains a mortgage loan, the Purchaser will be responsible for the payment of all mortgage recording taxes (taking into account however any

payments made pursuant to subparagraph (4) above) and closing costs and expenses in connection therewith, in amounts determined by Purchaser's lender, which closing costs may include, but are not limited to, the fees of such lender's counsel, recording charges and mortgage title insurance. Currently, the mortgage recording tax in New York City applicable to individual residential condominium Units is 2.05% with respect to mortgages of less than $500,000 and 2.175% with respect to mortgages in the amount of $500,000 or more (less, in each case, a $30.00 credit). Mortgage lenders may require borrowers to pay the additional tax levied in the amount of 0.25% on all mortgages affecting residential condominium Units (which amount is included in the rates set forth above); and in addition, deposits for Common Charges, real estate taxes, fire and casualty insurance premiums, assessments and water charges and sewer rents may be required by the Purchaser's lender. No representation or warranty is made with respect to the amounts of such closing costs and expenses or the availability or cost of mortgage financing from any sources. As previously stated in subparagraph 4 above, if a mortgage tax credit becomes available pursuant to Section 339-ee(2) of the Condominium Act, such credit will inure solely to the benefit of Sponsor and such Purchaser will cooperate with Sponsor in obtaining such credit. Accordingly, at Closing, each Purchaser utilizing mortgage financing will pay the full amount (but not in excess thereof) of the mortgage recording tax chargeable on the entire amount being financed and Sponsor will be reimbursed by Purchaser to the extent of any mortgage tax credit allowed.

Closing Fees: For each Unit, the sum of $1,750 payable to Sponsor's Counsel to reimburse Sponsor for a portion of its legal fees incurred in connection with the closing of title of the Purchaser's Unit. If Purchaser obtains financing and the lender is unwilling to close at the offices of Sponsor's Counsel, or if the Purchaser otherwise requests the Closing to occur other than at the office of Sponsor's Counsel (or such other place as Sponsor may designate in its closing notice), the closing may be held elsewhere in New York City, provided that an additional travel fee is paid to Sponsor's Counsel equal to: (a) $500 if the closing is held elsewhere in Manhattan; and (b) $750 if the closing is held in a borough other than Manhattan. In addition: (i) if the closing is adjourned through no fault of Sponsor, the Purchaser will be required to pay to Sponsor's Counsel an additional fee of $600 for each adjournment to help defray the cost of preparing for and coordinating the new closing; (ii) $250 for the preparation of ACRIS transfer documents required by the City of New York; (iii) if Sponsor, in its sole discretion, consents to a Purchaser's request for an assignment of the Agreement, or for the addition, deletion or substitution of names on the Agreement, a fee of $1,000, payable in advance, for preparation of an assignment agreement and; (iv) if Purchaser obtains mortgage financing, then Purchaser shall pay Sponsor's Counsel an additional fee of $500 to defray the additional costs associated therewith. Purchaser may be required to pay more than one fee pursuant to the preceding provisions of this paragraph with respect to a single Unit. Other additional charges may apply. At Sponsor's option (in its sole discretion), any one or more of the foregoing fees to be paid to Sponsor's Counsel shall be paid by Purchaser prior to closing upon notice to Purchaser.

Working Capital: A contribution to the Working Capital Fund in an amount equal to one (1) month's months' Common Charges then in effect for the Unit pursuant to the budget in accordance with Schedule A hereto, as the same may be amended from time to time.

Common Charges: In addition to the contribution to the Working Capital Fund as described above, Purchaser will pay to the Board the Common Charges for the Unit for the first full month following the month in which title closes. If Purchaser is a foreign government, a resident representative of a foreign government or other person or entity otherwise entitled to the immunities

from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity), Purchaser shall pay to the Board an amount equal to the Common Charges for such Unit for a period of two years as security for the faithful observance by such Unit Owner of the terms, provisions and conditions of the By Laws. In the event that such Unit Owner defaults in respect of the terms, provisions and conditions of the By Laws, the Board may use, apply, or retain the whole or any part of the security so paid in advance to the extent required for the payment of any Common Charges or any other sum as to which such Unit Owner is in default; and such Unit Owner shall, within 30 days after notice from the Board, deposit with such Board the amount so applied or retained so that at the option of the Board, such Board shall have the full amount of said security on hand at all times.

The following table illustrates the projected closing costs (based on current rates) for a typical Residential Unit purchased by a Purchaser at a Purchase Price of $873,600.00, assuming such Purchaser finances 80% (i.e., $698,000) of the purchase price:

Fee Title Insurance (if purchased simultaneously with mortgage title insurance)	$3,406.00
Fee for recording Unit Deed (7 pages) and Unit Owner's Power of Attorney (5 pages)	$130.00
Mortgage Loan Closing Costs	
- recording mortgage (assuming 20 pages)	$135.00
- mortgage recording tax (at 2.175% of $698,000, less $30.00 credit and 0.25% to be paid by lending institution) (Purchaser may be required to pay a portion of such tax directly to Sponsor)	$15,083.62
- mortgage title insurance (if purchased simultaneously with fee insurance)	$830.00
- other bank charges ("assuming points" of 1% of mortgage amount, an appraisal fee of $400 and legal fees of $800 and assuming further that the lender does not require Purchaser to deposit funds to establish a real estate tax escrow)	$8,180.00
New York City Real Property Transfer Tax and New York State Deed Stamps	$16,236.00
New York State Mansion Tax	$0.00
Working Capital Payment	$865.66

Closing Fee (assuming the closing occurs at the offices of Sponsor's Counsel) and, other than in respect of a mortgage, Purchaser has not incurred any additional fees as set forth above)	$1,750.00
ACRIS Transfer Document Preparation Fee	$250.00
Mortgage Closing Coordination Fee	$500.00
Total	$47,366.28

The projected closing costs referred to above are approximate and are not guaranteed. The mortgage loan closing costs vary widely among different lenders and also will vary depending on the loan program chosen.

At the closing, adjustments will be made between Sponsor and the Purchaser with respect to: (a) real estate taxes and assessments, if any (including water charges and sewer rents if separately assessed) on the basis of the period for which assessed; (b) Common Charges for the month in which title closes; and (c) accrued rent and any other charges pursuant to any interim lease or occupancy or other rental agreement affecting the Unit, if the Purchaser had been allowed to lease, occupy or rent such Unit prior to the closing. Real estate taxes will be adjusted at closing between Sponsor and each Purchaser based on the period for which real estate taxes have been prepaid by Sponsor either directly to the taxing authority or as part of the Common Charges to the Board. If real estate taxes have been separately assessed to each Unit as of the closing, then the adjustment shall be based on the Unit's actual taxes for such period. If the real estate taxes have not been separately assessed against each Unit as of the closing, then the adjustment shall be determined by allocating to the Unit a prorated portion of the actual taxes for the entire Property for such period determined as provided in the By Laws.

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M. RIGHTS AND OBLIGATIONS OF SPONSOR

1. Construction

Sponsor will perform such work and supply such materials, or will cause the same to be performed and supplied, as is necessary in order to complete the construction of the Building with a quality of construction comparable to the currently prevailing local standards and in accordance with all applicable codes, and substantially in accordance with the Plans and Specifications for the work filed with the Department of Buildings of The City of New York and other appropriate governmental authorities.

Construction financing is firmly committed as of the date of submission of this Plan to the Department of Law. Sponsor has obtained a construction mortgage from Madison Realty Capital, L.P. ("Lender") to finance the project (the "Construction Loan"). The terms of the Construction Loan in part, provide that the Sponsor may create the condominium regime contemplated by the within offering and Units being sold will be released from the lien of the Construction Loan upon payment of a release price, which for each such Units shall be the greater of (i) Eighty Percent (80%) of the Gross Sale Proceeds realized from the last sale and (ii) the Net Sale Proceeds realized from a sale, with respect to such individual Condominium Unit (as those terms more particularly defined in the Construction Loan documents).

Based upon the current construction schedule, Sponsor presently contemplates that, unless delayed by weather, casualty, labor difficulties (including work stoppages and strikes), late delivery and/or the inability to obtain on a timely basis or otherwise, materials or equipment, governmental restrictions, acts of god or other events beyond its reasonable control, construction of the Building will be sufficiently completed to permit closings of title to Residential Units to begin on or about November 1, 2009. Prospective Purchasers should note, however, that the Residential Units will be completed at differing times over a period that may begin prior to and/or extend significantly beyond such date. Sponsor will have no liability to any Purchaser, nor will a Purchaser be entitled to any credit, offset or reduction in the purchase price for his or her Residential Unit or otherwise be relieved from any obligations under the Agreement, in the event that the First Closing occurs earlier or later than the targeted date or the time to complete or to close title to such Purchaser's Residential Unit is accelerated, delayed or postponed by Sponsor, provided, however, that in the event the actual or anticipated commencement date of the projected First Year of Condominium Operation is to be delayed by six months or more, Sponsor will amend the Plan to include a revised budget with current projections and if: (i) the amended budget exceeds the projected budget set forth herein by 25% or more; or (ii) the First Closing does not occur within 12 months after November 1, 2009, the date set forth in Schedule B as the commencement date for the projected First Year of Condominium Operation, then in either case Sponsor will offer all Purchasers (other than Purchasers who are then in default beyond any applicable grace period under their Agreements, if the Plan has been declared effective) the right to rescind their Agreements within not less than 15 days after the presentation date of the amendment containing such revised budget or after such 12-month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Deposit and any interest accrued thereon returned. Purchasers' rights as described in the preceding sentence are in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of which shall be deemed to have been waived by all Purchasers. As set forth in the

Section of this Plan entitled "Effective Date," no closing of title to any Unit will take place prior to the Plan being declared effective.

Sponsor reserves the right, without prior notice to Purchasers or amendment of this Plan (but subject to obtaining any required approval(s) of any governmental authorities having jurisdiction), to: (a) amend from time to time any of the Plans and Specifications (including changes in layouts and designs and changes affecting the materials, appliances, equipment, fixtures and other construction details); and/or (b) substitute materials, appliances, equipment and fixtures that are of equivalent or better quality and design in place of those described in the Plans and Specifications. Any such change, if material (for example, variations in square footage in excess of 5%), shall be disclosed by Sponsor in a duly filed amendment to the Plan and, when applicable, to the Declaration. No such change will be made if the same would materially adversely affect any Purchaser under an Agreement which has been countersigned by Sponsor and returned to the Purchaser unless the same is dictated by construction conditions at the Property (such as coordination of Building systems, conflicts with structural members or elements, conforming with Legal Requirements, unforeseen events, etc. and, in all cases, in good faith, reasonably necessary due to factors not within Sponsor's reasonable control, and where no practicable alternative (in the exercise of sound construction management practices) exists, and in such event, Sponsor will, in the amendment disclosing such material adverse change, offer the affected Purchaser(s) the right, for at least 15 days, to rescind their Agreement(s) and receive a refund of their Deposit(s), together with all interest earned thereon. However, as long as the layout and dimensions of a Residential Unit conform substantially to the Plans and Specifications, a Purchaser will not be excused from purchasing a Unit by reason of a minor, non-material deviation or change and will not have any claim against Sponsor as a result thereof.

The issuance of a temporary or permanent Certificate of Occupancy for the entire Building shall be deemed presumptive evidence that the construction of the Building and its appurtenances and all of the Units have been substantially completed in accordance with this Plan and the Plans and Specifications. However, notwithstanding the foregoing, Sponsor or its representatives will correct, repair or replace all defects in the construction of the Building and its appurtenances and the Units offered hereby, or in the installation or operation of any appliances, fixtures or equipment in the same, or will cause the same to be corrected, repaired or replaced, but only if such defects are due to improper workmanship or material substantially at variance with the Plans and Specifications, and Sponsor is notified by the Board or the affected Unit Owner, as applicable, in writing of such defect: (i) as to any patent defect with respect to a Unit or any Common Element which affects such Unit, within six months from the earlier of the closing of title to such Unit or the commencement date of an interim lease for such Unit, (ii) as to any latent defect with respect to a Unit or to any Common Element which affects such Unit, provided in each case that such defect can only be detected through occupancy of the Unit, within one year from the earlier of the closing of title to such Unit or the commencement date of an interim lease for such Unit, or (iii) as to any defect with respect to all other Common Elements, within one year from the earlier of the issuance of a temporary Certificate of Occupancy for the portion of the Building subject to such defect or the date of substantial completion of the portion(s) of the Common Elements which is/are claimed to be defective. Notwithstanding the foregoing, Sponsor will not be responsible for correcting any defects in construction or installation or operation of any appliances, equipment or fixtures with respect to which assignable warranties or other undertakings (however denoted) from contractors, materialmen or others are assigned to the Board or Unit Owners; or for any condition resulting from normal wear and tear or natural

deterioration or from normal settling or shifting of the Building, or for defects of an insubstantial nature, such as, without limitation, partial or total demise of any landscape improvements, nail pops, ridging on gypsum board or sheet rock walls, lumber shrinkage, doors or windows sticking due to weather, door warpage, grouting cracks, scratches in formica or porcelain surfaces, bath and kitchen tile grouting cracks, adjustment of any bi-fold doors, walls not square, electrical plates not straight, discolorations or shrinkages, normal settlement and deflection or any consequential damage resulting therefrom including, without limitation, cracks in any concrete roof pavers, or concrete cracks which do not impair the structural soundness of the Building, ceiling imperfections, slight separation in joints of kitchen tile or wood flooring, warping, cupping or creaking of wood flooring or any nicks, scratches, gouges, imperfections or discolorations thereof, floors out of level, variations in width, length or tone of wood floor strips or other flooring or floor finishes, also, normal shrinkage or expansion of wood flooring due to changes in moisture content of wood, ceiling imperfections, painting defects, alignment of bathroom finishes, air infiltration from windows, any consequential damage resulting from settling (including, without limitation, concrete or drywall cracks which do not impair the structural soundness of the Building), normal plumbing, heating and air conditioning noises, or carpet discoloring and stretching; or for paint touch-ups or for repair of chips, mars, breaks or other defects in windows, and window sashes, sliding glass doors, lighting fixtures and globes, interior painted surfaces, sinks, tubs, bowls, shower doors, kitchen cabinets, counter tops, vanity tops and bases, medicine cabinets, doors, mirrors, saddles, appliances, woodwork, doors, hardware, flooring and appliance cabinets, salting, or color variation in exterior colored mortar and deep colored brick, ponding and/or controlled drainage on the roof surface, or cracks in any pressure treated wood or redwood used or intended for use outside the Building. Sponsor shall be obligated to repair only abnormally chipped stone, formica and porcelain surfaces, which repair shall be made by filling the stone or formica or refinishing the porcelain, but Sponsor shall not be obligated to replace such stone, formica or porcelain surfaces. Except as expressly set forth herein, Sponsor has no obligation to make any repairs of any kind. In no event shall Sponsor be liable for special or consequential damages (whether based on negligence, breach of contract, warranty, or otherwise), it being intended that Sponsor's sole obligations under the Plan shall be to repair or, at Sponsor's option, replace any defective item of construction (whether arising as a result of defects in material or improper workmanship or material substantially at variance with the Plans and Specifications), subject to the terms and conditions set forth in this paragraph, provided, however, that nothing contained herein is intended to relieve Sponsor of liability for actual damages resulting from property damage or personal injury arising as a result of negligence of Sponsor or its authorized agents or employees in connection with the transactions contemplated in the Plan.

Sponsor shall not be obligated to correct and will not be liable to any Purchaser as a result of: (i) any insubstantial variations from the Plans and Specifications or the description of the Building or a Unit set forth in the Plan; or (ii) variations from the Plans and Specifications or the description of the Building or a Unit set forth in the Plan which are neither in violation of applicable building codes, nor require the approval of any governmental authority having jurisdiction, provided such variations are of substantially similar or better quality than as set forth in the Plans and Specifications or description in this Plan. Any such variation which is material will be disclosed in a duly filed amendment to the Plan.

Each Unit offered hereby and the fixtures and personal property contained therein, are being sold and delivered "AS IS," as described in the Plan at the time of transfer of title to such Unit, unless Sponsor and the Purchaser of such Unit otherwise agree in writing. The Purchaser of a Unit shall

inspect such Unit prior to the closing date and shall execute at such time an inspection statement acknowledging the Purchaser's acceptance of the Unit in good condition and in accordance with the terms of the Plan. However, if a Purchaser finds that Sponsor's improvements as described in the Plan or in the Agreement for such Unit or other writing duly executed and delivered by Sponsor, have not been fully completed, although such improvements have been substantially completed, then Sponsor or its designated representative and the Purchaser will at the time of such execution agree upon and set forth in the inspection statement a list of the incomplete work to be completed in the Unit by Sponsor following the closing for such Unit.

The Housing Merchant Implied Warranty Law (New York State General Business Law Article 36-B) does not apply to this offering, since the Building is more than five stories.

Unless expressly provided to the contrary herein, the obligations of Sponsor under the Plan shall survive the delivery of the deeds to the Unit Purchasers.

2. **Real Property Law §339-kk**

Section 339-kk of the Real Property Law ("RPL"), a copy of which is set forth in Part II of the Plan, applies to all condominiums in the State of New York, and provides additional financial protection for a condominium association if the sponsor or other non-occupant Unit Owner of a Unit fails to make monthly payments for common charges, assessments and late fees due in connection with such owner's Units.

With respect to unsold Units of a condominium owned by a sponsor or by any other non-occupant Unit owner and occupied by a tenant, RPL §339-kk provides as follows:

(a) If payment of common charges, assessments or late fees by any non-occupant Unit owner is more than 60 days late after the expiration of any grace period within which they are due, payments from a tenant of such Unit may become directly payable to the condominium upon written notice by the condominium to the tenant and the non-occupant Unit owner. Where a majority of the condominium board has been elected by Unit owners who are in occupancy of their respective Units, the condominium board may elect not to require that the rental payments be paid to the condominium. Once the common charges, assessments and late fees of the non-occupant Unit owner have been brought current, the condominium board must notify the non-occupant Unit owners and tenant within three business days and thereafter the rental payments will be payable to the non-occupant Unit owner or a designated agent.

(b) Payment by a tenant of rent or the amount required pursuant to the tenant's lease or statutory tenancy to the condominium pursuant to the RPL §339-kk, relieves the tenant from the obligation to pay rent to the non-occupying Residential Unit owner.

(c) Any rights existing under any other laws are not limited by RPL §339-kk.

(d) A non-occupant Unit owner who disputes a condominium's claim to rental payments is entitled to present facts supporting such owner's position at the next scheduled meeting of the condominium board, which must be held within 30 days after receipt of notice that the Unit owner seeks to dispute the condominium's claim.

Sponsor makes no representation or guarantee that any Unit Owner (other than Sponsor), any tenant, or the Condominium, will in fact comply with RPL §339-kk, and Sponsor shall have no liability for their failure to do so.

In addition, Sponsor makes no representation as to (i) RPL §339-kk's effect on the lien priority of a loan heretofore or hereafter made to a non-occupant Owner and secured by a Unit, or whether RPL §339-kk's enactment or compliance therewith by a tenant constitutes a default by the Unit Owner under said loan, (ii) RPL 339-kk's effect on assignments of leases and rents given by a non-occupant Owner to mortgagee in connection with purchase-money financing or otherwise, (iii) the Condominium's remedies if a tenant fails or refuses to make rental payments to the Board after notice from the Board (in accordance with RPL §339-kk) to do so, (iv) the consequence of the Board's failure to give notice to a tenant, or (v) who is responsible for designating an agent to whom rental payments are to be made after the non-occupant Unit Owner is brought current in payment of Common Charges, assessments and late fees.

No representation is made about the tax effects of RPL §339-kk.

Prospective Purchasers should review RPL §339-kk to determine its effect on their own situation.

3. **Payment of Expenses**

All costs and expenses in connection with the construction of the Building and its appurtenances (including all sums properly due to contractors, subcontractors, suppliers and all others involved in such construction for work performed and fixtures, material and equipment supplied or installed) will be paid by Sponsor. Sponsor will cause all mechanic's liens arising out of the construction of the Building to be bonded or discharged promptly after Sponsor receives notice of the filing of the same. Alternatively, Sponsor will cause the Title Company or the title insurance company insuring a Purchaser's title to a Unit to affirmatively insure against collection of such liens out of, or enforcement of the same against, such Unit by posting a bond or bonds or escrowing a sum of money. However, if a Purchaser's title insurance company refuses to grant such affirmative insurance and the Title Company would have been willing to grant the same at its regular rates without additional premium, neither such lack of affirmative insurance nor the existence of the liens in question will constitute a valid objection to title.

Sponsor will bear all costs and expenses incurred by it in connection with the creation of the Condominium and the preparation of the Plan and all selling expenses and compensation payable to sales or other personnel of Sponsor.

4. **Assignment of Warranties**

Upon the recording of the Declaration, Sponsor will deliver, assign or otherwise grant to the Board, on behalf of all Unit Owners, the right to proceed under any assignable warranties and other undertakings received by Sponsor from its contractors, suppliers or others in connection with the construction and equipping of the Building, except that warranties and undertakings received by Sponsor which relate to appliances, equipment or fixtures located in any Residential Unit shall be assigned to the Purchaser of such Unit on the date of closing of title thereto. Certain warranties with

respect to the Building will be held by the Board on behalf of all Unit Owners and/or certain Non-Residential Unit Owners as to whose Units such warranties pertain.

5. **Certificate of Occupancy**

If, as of the First Closing, only a temporary Certificate of Occupancy has been issued for the Building, Sponsor will use all reasonable diligence to cause the New York City Department of Buildings to continuously renew the temporary Certificate of Occupancy until a permanent Certificate of Occupancy for all of the Units has been issued. Sponsor will, at its sole expense, do and perform, or cause to be done and performed, all such work (subject to events and circumstances beyond Sponsor's reasonable control, e.g., casualty, strikes, governmental restrictions, acts of god, etc.), and will supply, or cause to be supplied, all such materials, and will submit or cause to be submitted all such documentation, and shall pay all applicable fees required by the New York City Department of Buildings that shall be necessary in order to cause the temporary Certificate of Occupancy to be continuously renewed until a permanent Certificate of Occupancy for the Building has been issued, as well as to obtain any requisite certificates or permits relative to the electrical work, plumbing, heating and air-conditioning facilities and elevators at the Building. Prospective Purchasers are advised that permanent Certificates of Occupancy are required for permanent use of the Building, and that a temporary Certificate of Occupancy may be renewed only for a total of two years from the first date of issuance.

In the event that a permanent Certificate of Occupancy has not been issued for the Building as of the First Closing, Sponsor is required to maintain all Deposits and funds paid on account of the Purchase Price (but not any payments given for special work ordered by Purchasers) in the special escrow account required by General Business Law Section 352-e(2 b) unless Sponsor's engineer, architect, construction manager or other qualified expert certifies that a lesser amount will be reasonably necessary to complete the work remaining to be done by Sponsor in order to obtain such permanent Certificate of Occupancy, in which case the sum exceeding the amount so certified by Sponsor's engineer, architect, construction manager or other qualified expert may be released from the special escrow account. Alternatively, Sponsor may place in escrow with Sponsor's Counsel an unconditional, irrevocable letter of credit, a surety bond from an institutional lender or recognized bonding company acceptable to the Department of Law, or cash, in each case in an amount that, when added to the Deposits being maintained in the special escrow account, will equal not less than the amount so certified. Sponsor may also use as collateral to similarly secure its obligation to obtain a permanent Certificate of Occupancy, the unfunded portion of a construction loan (if any) or other collateral acceptable to the Department of Law and disclosed in an Amendment to this Plan. If Sponsor has placed cash in escrow, such funds will be held by Sponsor's Counsel in escrow in a separate bank account. All interest and income on such escrowed funds will be paid to Sponsor, as and when earned and collected.

As the work progresses, Deposits held for Units conveyed to Purchasers may be released to Sponsor by Sponsor's Counsel from time to time, provided the remaining Deposits maintained in the special escrow account, together with said unfunded construction loan (if any) or other acceptable collateral, shall be not less than the amount then so certified to be reasonably necessary to complete all remaining work in order to obtain a permanent Certificate of Occupancy. Sponsor's Counsel will rely entirely upon such certificate in releasing such funds or other collateral and will not make any independent inquiry or evaluation. Any remaining balance of the escrow funds and/or other collateral

will be released to Sponsor upon the issuance of a permanent Certificate of Occupancy for the Building. If Sponsor has deposited a letter of credit or surety bond, it will be subject to periodic reduction in amount upon the same terms as described above for the reduction and release of a cash deposit.

Following the issuance of a permanent Certificate of Occupancy for the Building, Sponsor will deliver to the Board a complete set of architectural drawings and a complete set of mechanical, electrical, plumbing and sprinkler "as-built" drawings for the entire Building.

6. **Architect's Inspection and Certification**

In accordance with Section 339-p of the New York Condominium Act, a registered architect or licensed professional engineer shall certify within reasonable tolerances that the Floor Plans are an accurate copy of portions of the plans of the Building as filed with appropriate governmental authorities. In addition, such architect or professional engineer shall make periodic inspections at various stages of construction to determine that the Building is constructed in accordance with such plans. The inspection reports shall be available at Sponsor's Office and the Department of Law for examination by the Board for a period of six years from the date of the Plan.

7. **Payment of Common Charges and Real Estate Taxes**

Sponsor will pay all Common Charges, real estate taxes and special assessments attributable to the Unsold Residential Units in accordance with the provisions of the By Laws. Sponsor expects to have the financial resources to meet the aforesaid obligations with respect to Unsold Residential Units and fund same from income from projected sales, the rental or leasing of Unsold Residential Units and Sponsor's other financial resources. No bond or other security has been posted by Sponsor to secure its obligation to pay Common Charges, special assessments or real estate taxes with respect to Unsold Residential Units.

8. **Insurance**

Sponsor will initially procure on behalf of the Board, to take effect on or before the date of the First Closing, the insurance relating to the Condominium which is required to be maintained by the Board in accordance with the provisions of the By Laws (see "Rights and Obligations of the Unit Owners and the Board of Managers" in Part I, Section R), the cost of which insurance has been reflected in the Projected Budget set forth as Schedule B in Part I. Such required coverage(s) may be satisfied by any so-called builder's risk policy obtained by Sponsor in connection with the construction of the Building, provided the limits and terms of coverage set forth in Schedule B are provided under such policy , including fire and casualty insurance pursuant to an agreed amount replacement value policy, as reflected in Schedule B. To the extent any such policy obtained and paid for by Sponsor shall satisfy the insurance requirements of the Board for the Condominium in respect of any period following the First Closing, the Board shall reimburse Sponsor for its prorated share of the cost of such coverage.

9. **Right of Access**

Sponsor and its contractors, subcontractors, agents and employees will have a right of access to each Unit and to all of the Common Elements for the purpose of fulfilling Sponsor's obligations under the Plan, performing certain alterations and repairs in or about the Unsold Residential Units and exercising its other rights or performing its other obligations under the Plan. Sponsor will repair any damage caused as a result of such access and will use reasonable efforts to exercise such access in such a manner as will not unreasonably interfere with the use of any Unit for its permitted purposes.

10. **Dissolution**

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, to a single Purchaser, 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 and applicable laws or regulations (including, without limitation, Sponsor's representation that will endeavor in good faith to sell the Units offered hereunder but subject to the reservation of the unconditional right to rent or lease, rather than sell, such Units).

11. **General**

Sponsor's has an obligation under the Plan to build and complete the Condominium in accordance with the building plans and specifications identified in the Plan and Sponsor's right to substitute equipment or materials and make modifications of layout or design, provided however, Sponsor may not: (i) substitute equipment or materials of lesser quality or design; or (ii) change the size, of Units, other improvements or Common Elements if such changes materially (defined as being in excess of 5%) affect the percentage of Common Interests or materially and and adversely affect the value of any Unit to which title has closed or for which a Purchase Agreement has been executed and is in effect, unless all affected Unit Owners or contract vendees consent in writing to such material change.

Sponsor's representations, warranties and covenants under this Section of the Plan will survive the delivery of the deeds to the respective Units only for the time periods set forth above. The obligations of Sponsor to pay Common Charges and to perform its other duties as a Unit Owner with respect to any Unsold Residential Units will survive for as long as Sponsor owns the same.

Sponsor agrees to indemnify the Board and the Residential Unit Owners against, hold them harmless from and defend on their behalf any suits, proceedings, or claims arising out of any default by Sponsor in performing its obligations under this Plan or any breach of any representation expressly made by Sponsor in this Plan and resulting: (a) as to any Unit, from any occurrence taking place prior to the closing of title to such Unit; or (b) as to the Common Elements, from any occurrence taking place prior to the First Closing. However, Sponsor will not be liable for, or obligated to defend, any suits, proceedings or claims arising out of any occurrence taking place from and after the respective dates set forth above, except those arising out of any negligence or violation of Article 23A of the New York State General Business Law by Sponsor or as explicitly stated in this Plan.

The obligations of Sponsor hereunder shall be enforceable by the Board on behalf of all Unit Owners. Obligations of Sponsor shall be enforceable by individual Unit Owners if either: (i) the Board fails to take reasonable action to enforce such obligations within 90 days following the giving of notice of such claim by any Unit Owner to the Board; or (ii) the applicable statute of limitations with respect to any claim by a Unit Owner which would otherwise be enforceable by the Board will expire during the aforesaid 90 day period.

Sponsor has not furnished any bond or other security for the performance of the obligations of Sponsor under the Plan. Sponsor's ability to perform its obligations under the Plan will depend on its financial condition from time to time. No warranty is made that Sponsor will be financially able to perform all or any of such obligations.

12. **Use of Unsold Residential Units**

Sponsor and its designee reserve the right to use or occupy or to rent, hire or lease any Unsold Unit to any Purchaser or non-purchasers at any time, both before and after the First Closing (provided that a permanent or temporary Certificate of Occupancy covering each such Unit has been obtained). Sponsor will endeavor in good faith to sell, but nevertheless, reserves the unconditional right, to rent or lease such Unit to Purchasers and others. As a result, Purchaser may be acquiring a Unit that has been previously occupied, but, unless otherwise specifically agreed to in writing by Sponsor and such Purchaser, such Unit will be delivered at closing free and clear of all leases and tenancies and rights of occupancy. Moreover, once an Agreement is signed for a Unit, and for so long as such Agreement is in effect, such Unit may be leased only to the Purchaser listed on the Agreement.

Notwithstanding the foregoing or anything contained herein, in the Declaration, By Laws or the Rules and Regulations to the contrary, Sponsor or its designee may, without the permission of the Board, use or grant permission for the use of any Unsold Residential Unit (as hereinafter defined) for any purpose, including, but not limited to, the use of any Unsold Residential Units as models and sales and/or promotion offices in connection with the sale or rental of the Units or for any other purpose, subject only to compliance with applicable governmental laws and regulations as to any such use.

13. **Alterations of Unsold Residential Units**

Sponsor shall have the right, pursuant (and subject) to the terms of the Declaration and the By Laws, as the same may be amended from time to time, without the approval of the Board or any other Unit Owner or any Mortgagee, to make any alterations, additions, improvements or repairs in or to any Unsold Residential Units, whether structural or non-structural, interior or exterior, ordinary or extraordinary (including, without limitation, the right to combine two or more Unsold Residential Units, or to add more Units by subdividing Unsold Residential Units or to change the number of rooms in, as well as the size, layout and square foot area of any Unsold Residential Unit). An initial purchaser of an Unsold Residential Unit shall have the right, without the approval of the Board, but subject to By Laws provisions regarding the same, to make any alterations, additions, improvements or repairs in or to such Unit, provided that such purchaser obtains all necessary approvals required by law and that Sponsor has consented to the same in writing at or prior to the closing of title to such Unit, which consent Sponsor may withhold or condition in its sole and absolute discretion. Absent Sponsor's consent thereto, Purchasers shall have rights in respect of alterations as are set forth in

Article 6 of the By Laws and described generally in the Section of the Plan entitled "Rights and Obligations of Residential Unit Owners and the Board" below.

14. **Successors to Sponsor**

Sponsor reserves the right to sell a block of six (6) or more Units and to designate the purchaser of such block(s) of Units as a "sponsor" under this Plan. The party so designated as a "sponsor" will have those additional rights and obligations (including the obligation to comply with all applicable Legal Requirements) applicable to a "sponsor" as more fully described in the Plan, and in 12 NYCPR 20.1(c)(1).

15. **Miscellaneous**

Sponsor and its designees shall have the right, until the tenth anniversary of the First Closing, to use portions of the Building, without charge, for exhibitions or for other promotional functions with respect to Sponsor's sales program or otherwise.

16. **Risk of Loss**

The risk of loss to any Unit by fire or other casualty until the closing of title to such Unit (or an earlier taking of possession by the Purchaser) is assumed by Sponsor, but Sponsor has no obligation or liability to repair or restore any Unit. Prior to closing, a purchaser in possession assumes the risk of losses not covered by insurance. If a Unit is damaged or destroyed by fire or other casualty prior to the closing of title, but after the signing of an Agreement, and Sponsor gives written notice to the Purchaser of Sponsor's election to repair or restore the Unit, then the Agreement shall continue in full force and effect, and the Purchaser shall not have the right to reject title or receive a credit against, or abatement in, the Purchase Price. Sponsor shall be entitled to a reasonable period of time within which to complete the repair or restoration, and any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss shall, subject to the rights, if any, of the Board, and other Unit Owners, belong entirely to Sponsor.

However, if Sponsor notifies the Purchaser in writing that it does not elect to repair or restore the Unit, or if the Unit Owners entitled to make such determination do not resolve to make such repair or restoration pursuant to the By Laws (see the Section entitled "Rights and Obligations of the Unit Owners and the Board of Managers" in Part I of the Plan), the Agreement shall be deemed terminated, Sponsor shall return to the Purchaser the entire Deposit, together with interest earned thereon, and the parties shall be released and discharged from all rights, obligations and liability under the Agreement and this Plan, except that if the Purchaser is then in default under the Agreement beyond any applicable grace period, Sponsor may retain such Purchaser's Deposit, together with interest earned thereon.

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N. CONTROL BY SPONSOR

The 'Initial Control Period", during which time the Sponsor will be in control of the Board of Managers will extend until the later to occur of the following: (a) the fifth anniversary of the First Closing; (b) the closing of title to 75% of the units, in number and in percentage of common elements.

Until the second anniversary of the first closing, the Board will consist of three members, all of whom will be appointed by the Sponsor and all of whom will be related to the Sponsor. On or about the second anniversary of the First Closing, a meeting of unit owners will be convened for the purpose of constituting a new Board of Managers. The new Board will consist of three members appointed by the Sponsor, who may be Sponsor affiliates, and two members elected by all of the unit owners including the Sponsor. This procedure will be repeated annually until the end of Initial Control Period, after which time five members of the Board will be elected by all Unit Owners, including the Sponsor; provided that if the Sponsor does not have sufficient votes to elect a Board member, the Sponsor shall have the right to appoint one Board member for so long as the Sponsor owns one or more units.

After the Initial Control Period, Sponsor shall have the right to designate at least one (1) member to the Condominium's board of managers (the "Board" or "Condominium Board") for so long as Sponsor continues to own at least one (1) Residential Unit.

The Board shall consist of three members designated by Sponsor from time to time until the end of the Initial Control Period. However, at elections of members to the Board held annually during the Initial Control Period commencing not later than two years after the First Closing, Sponsor shall have the right to designate not more than three members of the Board, in the aggregate, who are related to or affiliated with Sponsor, such designee or other Unsold Residential Unit Owner(s), and Sponsor and all other Unit Owners shall have the right to elect the remaining two members of the Board who shall not be related to or affiliated with Sponsor.

As a result of the foregoing, there is no provision in the By Laws for a majority of the Board to be owner-occupants or members of an owner-occupant's household who are unrelated to the sponsor and its principals. Owner-occupants and non-resident owners, including Sponsor, may have inherent conflicts on how the Condominium should be managed because of their different reasons for purchasing, i.e., purchase as a home as opposed to as an investment. (See Sections P and Q in Part I of the Plan for further discussion.)

In addition, because Sponsor reserves the unconditional right to rent or lease the Units, there is no commitment to sell more Units than the fifteen percent (15%) necessary to declare this Plan effective and Unit Owner-occupants may never gain effective control of the Condominium.

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O. THE CONDOMINIUM BOARD

1. General

The 'Initial Control Period", during which time the Sponsor will be in control of the Board of Managers will extend until the later to occur of the following: (a) the fifth anniversary of the First Closing; (b) the closing of title to 75% of the units, in number and in percentage of common elements.

Until the second anniversary of the first closing, the Board will consist of three members, all of whom will be appointed by the Sponsor and all of whom will be related to the Sponsor. On or about the second anniversary of the First Closing, a meeting of unit owners will be convened for the purpose of constituting a new Board of Managers. The new Board will consist of three members appointed by the Sponsor, who may be Sponsor affiliates, and two members elected by all of the unit owners including the Sponsor. This procedure will be repeated annually until the end of Initial Control Period, after which time five members of the Board will be elected by all Unit Owners, including the Sponsor; provided that if the Sponsor does not have sufficient votes to elect a Board member, the Sponsor shall have the right to appoint one Board member for so long as the Sponsor owns one or more units.

After the Initial Control Period, Sponsor shall have the right to designate at least one (1) member to the Condominium's board of managers (the "Board" or "Condominium Board") for so long as Sponsor continues to own at least one (1) Residential Unit.

The Board shall consist of three members designated by Sponsor from time to time until the end of the Initial Control Period. However, at elections of members to the Board held annually during the Initial Control Period commencing not later than two years after the First Closing, Sponsor shall have the right to designate not more than three members of the Board, in the aggregate, who are related to or affiliated with Sponsor, such designee or other Unsold Residential Unit Owner(s), and Sponsor and all other Unit Owners shall have the right to elect the remaining two members of the Board who shall not be related to or affiliated with Sponsor.

As a result of the foregoing, there is no provision in the By Laws for a majority of the Board to be owner-occupants or members of an owner-occupant's household who are unrelated to the sponsor and its principals. Owner-occupants and non-resident owners, including Sponsor, may have inherent conflicts on how the Condominium should be managed because of their different reasons for purchasing, i.e., purchase as a home as opposed to as an investment. (See Sections P and Q in Part I of the Plan for further discussion.)

The term of office of each of the five members comprising the Board elected or designated at the First Annual Meeting shall be fixed at such meeting as follows: (a) one member will serve for a term of approximately three years; (b) two member will serve for a term of approximately two years; and (c) two members will serve for a term of approximately one year. Those members of the first five-member Board who receive the highest number of votes by Residential Unit Owners will serve for the longest terms of office, but except as set forth in the By-Laws, any members elected or designated by the Sponsor or its designee as the owner of Unsold Residential Units shall serve for the shortest terms of office. At each annual meeting of Unit Owners subsequent to the first such

meeting, the Unit Owners shall elect (or, in the case of the Non-Residential Unit Owners, designate) Board members to replace the Board members whose terms of office are then expiring, each to serve a term of office fixed at three years. Notwithstanding the expiration of the term of office of a member of the Board or anything contained herein to the contrary, each member of the Board (including any member designated by Sponsor or its designee as the owner of Unsold Residential Units) shall serve until a successor has been elected and qualified. Subject to the requirements described in the Section of the Plan entitled "Control by Sponsor", there shall be no limit on the number of terms of office, successive or otherwise, that a Board member (including any member of the Board designated by Sponsor may serve.

Except for Board members elected or designated by Sponsor or its designee, all members of the Board shall be: (i) individual Unit Owners or Permitted Mortgagees of Units; (ii) partners or employees of a partnership owning, or holding a mortgage encumbering, a Unit; (iii) officers, directors, stockholders or employees of corporate owners or corporate Permitted Mortgagees of Units; (iv) members or employees of a limited liability company owning, or holding a Permitted Mortgage encumbering, a Unit; (v) fiduciaries or their beneficiaries who are owners or Permitted Mortgagees of Units (or officers, directors, employees or stockholders of corporate fiduciaries or partners or employees of partnership fiduciaries); (vi) adult family members or spouses of any of the foregoing individuals; or (vii) individuals designated by a sovereign government, consulate or other similar entity that is a Unit Owner or a mortgagee of a Unit. Other than Board members elected or designated by Sponsor or its designee, no Board member shall continue to serve after he or she ceases to be qualified as set forth above.

Prospective Purchasers are advised that Unit Owners, Unit occupants and non-resident Unit Owners, including Sponsor, may have inherent conflicts on how the Condominium should be managed because of their different reasons for purchasing, i.e., for use as a home as opposed to as an investment.

In no event shall any Unit Owner (or its proxy) or another interested party be eligible for election to the Board, and any such Unit Owner (or its proxy) or other party may be removed as a Board member by a majority vote of the other Board members, if such Unit Owner is then in arrears, beyond any applicable grace period, in the payment of Common Charges or any other amounts required by the Board to be paid. In addition, no member of the Board (or his or her proxy) may continue to participate as a member thereof after the Board has perfected a lien against his or her Unit, for so long as such lien remains unsatisfied.

Members of the Board shall serve without compensation. All officers, Board members and employees of the Building will be bonded at all times from and after the First Closing under fidelity bonds in favor of the Condominium. The cost of the bonds has been provided for in the estimate of the Common Charges contained in Schedule B in Part I, Section E.

2. **Powers and Duties of and Determination by Board of Managers**

The Board shall have the powers and duties necessary for or incidental to the administration of the affairs of the Condominium. As more fully set forth in the By Laws, all determinations required to be made by the Board shall be by majority of the votes cast at any meeting at which a quorum is present, unless otherwise expressly provided in the By Laws.

3. **Meetings and Votes of Unit Owners**

After the First Annual Meeting as described above, annual meetings of Unit Owners will be held within approximately four weeks of the anniversary of the First Annual Meeting on a date to be set by the Board. At each such meeting, the Unit Owners shall elect or Sponsor or its designee shall designate, depending on whether those members of the Board whose terms have expired are elected by the Unit Owners or by Sponsor or its designee, members to replace those members of the Board whose terms have expired. In addition, special meetings may be held from time to time pursuant to the By Laws. At all meetings of Unit Owners, the presence in person or by proxy of more than 30% of the Common Interests attributable to all Units shall constitute a quorum and, except as otherwise provided in the By Laws or Declaration, a majority of votes cast at any such meeting at which a quorum is present or is not required shall be binding on all Unit Owners.

Each Unit Owner, upon obtaining title, will in accordance with Section 339 e of the Real Property Law, automatically have the right to vote at all meetings of the Unit Owners, based upon the Common Interest appurtenant to each of the Unit or Units owned by such Unit Owner, and at all such meetings, each Unit Owner (or his or her proxy) entitled to vote thereat (including Sponsor or its designee with respect to Unsold Residential Units) shall be entitled to cast one vote for each .0001% of interest in the Common Elements attributable to his or her Unit or Units.

4. **Officers**

The principal officers of the Condominium will be the President, Vice President and Secretary/Treasurer, all of whom shall be elected by the Board. The Board may also appoint additional officers as the Board in its judgment may deem advisable.

None of the officers of the Condominium need be Unit Owners or have any interest therein or be members of the Board; except that, from and after the first organizational meeting of the Board after the First Annual Meeting, the President of the Condominium must be a member of the Board.

Upon the affirmative vote of a majority of the members of the Board, present in person or by proxy at a regular meeting of such Board, or at a special meeting of such Board called for such purpose, at which a quorum is present or is otherwise not required, any officer may be removed, either with or without cause, and his or her successor shall be elected.

5. **Liability of the Board and the Unit Owners**

To the extent permitted by applicable law, Board members shall have no liability to the Unit Owners, except that a Board member shall be liable for his or her own bad faith or willful misconduct. The Board may contract or effect any other transaction with any Board member, any Unit Owner, Sponsor or its designee, or any affiliate of any of them without incurring any liability for self-dealing, except in cases of bad faith or willful misconduct. The Board members shall disclose their dealings with the Sponsor, its designee or affiliate, to the Unit Owners. All Unit Owners shall severally, to the extent of their respective interests in their Units and their appurtenant Common Interests, indemnify each Board member against any liability or claim except those arising out of the bad faith or willful misconduct of such member.

P. RIGHTS AND OBLIGATIONS OF THE UNIT OWNERS AND THE BOARD OF MANAGERS

1. Sales and Leases of Units

Each Residential Unit Owner may sell his or her Unit or lease his or her Unit, provided, in each case, such Unit Owner first gives the Board notice of intention to sell or lease such Unit, accompanied by a fully executed copy of the contract of sale or lease, as the case may be. The Board shall then have the right to purchase or lease the Unit at the same price or rental and on the same terms as were offered in good faith by a prospective purchaser or lessee, as more specifically set forth in Article 8 of the By Laws. If the Board does not elect to purchase or lease the Unit within 20 days after receipt of the notice, or waives such election in writing, the Unit Owner will have 60 days thereafter to consummate the transaction set forth in the contract of sale or lease with the prospective purchaser or lessee, as the case may be, as more particularly set forth in Section 8.1 of the By Laws. In the event that such sale or lease is not consummated, or if such contract or lease is renegotiated or modified in any way (whether orally, in writing or by a side agreement) to be on terms less favorable to the Unit Owner, the Unit Owner will be required again to offer the same first to the Board. The Board may not exercise its option to purchase or lease any Unit without prior approval of a majority in interest of Unit Owners present in person or by proxy and voting at a meeting at which a quorum is present. Any such lease shall be in the form and substance then approved by the Board (as the same may be changed from time to time), including provisions such as a prohibition on assignment or subletting. The Board shall have the right to release or waive such option without the prior approval or a vote of the Unit Owners.

In connection with the foregoing, the Board may not discriminate against any person on the basis of race, creed, color, national origin, gender, sexual orientation, age, disability, marital status or other grounds prohibited by law.

If a Residential Unit Owner is a corporation, any sale, assignment, transfer or other disposition of any of its stock, or if a Residential Unit Owner is a partnership, limited liability company or other entity, any sale, assignment, transfer or other disposition of any interest in such partnership, company or other entity, in each case other than through any recognized national securities exchange or "over-the-counter" market, which results in a change in the majority beneficial or legal ownership of such entity, shall also subject the Unit owned by such entity to the requirement that the Unit first be offered to the Board for purchase or lease, as described above.

Notwithstanding the foregoing, without complying with the foregoing restrictions, a Residential Unit Owner may sell, lease or convey his or her Unit, and the owner of any interest in a Unit Owner which is a corporation, partnership, limited liability company or other entity, may sell, lease or convey such interest, to an affiliate or one or more family members, as hereinafter defined, or convey a Unit or interest in a Unit Owner, as the case may be, by gift, or devise it by will, or have it pass by intestacy. (An "affiliate" is defined for purposes hereof as a person or entity that owns 50% or more of the legal and beneficial interest of such Unit Owner or owner of an interest in a Unit Owner, as the case may be, or an entity with respect to which such Unit Owner or owner of an interest in a Unit Owner owns 50% or more of the legal and beneficial interest, and "family member" is defined for purposes hereof as a spouse, domestic partner, adult child, parent or adult sibling, or a trust for the benefit of any one or more of the foregoing and/or one or more minor children of any of

the foregoing.) Article 8 of the By Laws more specifically describes the right of first refusal and those situations in which a Unit Owner may sell or convey his or her Unit to a related or controlled individual or entity.

The restrictions upon the sale or lease of Residential Units shall not apply to Sponsor or its designee, to the Board, to any Units acquired by a mortgagee in foreclosure or by deed in lieu of foreclosure, or the Commercial Unit; such Units may be sold to anyone without first being offered for sale to the Board.

Each conveyance of a Unit by the Owner thereof shall include as part of the property to be conveyed, such Unit Owner's (i) undivided interest in the Common Elements, (ii) undivided interest in any Unit or Units acquired by the Board from Unit Owners (or the proceeds received at a foreclosure or other judicial sale of a Unit) and (iii) undivided interest in any other asset of the Condominium. No part of a Unit Owner's interest in the Common Elements may be sold, transferred or otherwise disposed of, except as part of a sale, transfer or other disposition of the Unit to which such interest appertains or as part of a sale, transfer or other disposition of the specific interest in the Common Elements by all affected Unit Owners.

A Unit may not be conveyed unless all unpaid Common Charges and liens against such Unit (other than Permitted Mortgages) are paid and satisfied at or prior to closing. In addition, the Board may establish reasonable fees for the processing of such offers for sale or lease, which shall be payable by the selling or leasing Unit Owner to the Managing Agent.

2. **Use of Residential Units**

A Residential Unit may be used only as a residence and, subject to compliance with the By-Laws, for a lawful home occupation. Each such Residential Unit may only be occupied by: (i) any individual who is a Residential Unit Owner or permitted lessee; (ii) any officer, director, shareholder or employee of any corporation which is a Residential Unit Owner or permitted lessee; (iii) any partner or employee of any partnership which is a Residential Unit Owner or permitted lessee; (iv) any member or employee of any limited liability company which is a Residential Unit Owner or permitted lessee; (v) the fiduciary or beneficiary or employee of any fiduciary which is a Residential Unit Owner or permitted lessee; (vi) any principal or employee of any other entity (including, but not limited to, embassies and consulates of foreign governments) which is a Residential Unit Owner or permitted lessee; provided that in each instance in clauses (ii) through (vi) above: (A) the designated officer, director, shareholder, partner, member, fiduciary, beneficiary, principal or employee is designated as the primary occupant of the Residential Unit and is not being designated to use the Residential Unit on a transient basis or as other than the primary occupant; and (B) such use is not, in fact or in effect, part of or in furtherance of an Occupancy Plan; and (vii) family members, domestic partners, domestic employees and/or non-paying guests of any of the foregoing. Subject to the foregoing, Residential Units may only be leased in accordance with the By-Laws and the Rules and Regulations. An "Occupancy Plan" means a program, plan, agreement or other arrangement for the use, occupancy, marketing, advertising or promotion of one or more Residential Units under short-term, timeshare, fractional or shared ownership, interval exchange (whether the program is based on direct exchange of occupancy rights, cash payments, reward programs or other point or accrual systems) or other membership plans or arrangements through which a participant in the plan or arrangement acquires a direct or indirect ownership interest in the Unit(s) in question with attendant

rights of periodic use and occupancy or acquires contract rights to such periodic use and occupancy of such Unit(s) or a portfolio of accommodations including such Unit(s).

There is no limit on the number of Unit Owners who may purchase a Unit for investment, rather than for personal occupancy, purposes. As such, there may always be a substantial percentage of Unit Owners who are non-residents of the Condominium. Sponsor, its principals or designees reserve the right to own, use or occupy or to rent, hire or lease the Community Facility Unit.

3. **General Provisions with Respect to Use**

No portion of a Residential Unit, other than the entire Residential Unit, may be leased. No nuisance or offensive or unlawful use shall be allowed in the Condominium or any portion thereof. All Legal Requirements relating to any portion of the Property, shall, pursuant to the Declaration and/or By-Laws or otherwise, have the obligation to maintain or repair such portion of the Property.

The Rules and Regulations concerning the use of the Residential Units may be amended from time to time by the Board, provided that copies thereof are furnished to each Residential Unit Owner prior to the time that they become effective. Further provisions with respect to the use of the Units are set forth in the By Laws and the Rules and Regulations. However, no amendment of the Rules and Regulations will apply to Sponsor, the Non-Residential Units or the Unsold Residential Units, unless agreed to by all the owners of same who are affected by such amendment.

Each Residential Unit Owner shall notify the Managing Agent in writing when a child or children under the age of eleven years lives or resides (even temporarily) in the Unit. Each such Residential Unit Owner shall install, at such Unit Owner's expense, the required window guards in all windows of the Residential Unit. The Residential Unit Owner shall maintain all window guards installed in the Unit and shall not remove same until permitted by applicable Legal Requirements and in any event, without full knowledge of the Managing Agent.

4. **Mortgage of Units by Unit Owners**

Each Unit Owner may mortgage his or her Unit, in accordance with the provisions of Article 7 of the By Laws, which requires that the Board be notified in writing of the making of such mortgage and receive a conformed copy of the note and mortgage and that the Unit Owner first satisfy all unpaid liens against the Unit, other than Permitted Mortgages. The Owner of Non-Residential Unit shall have the right to mortgage or otherwise encumber its Non-Residential Units without any restriction or limitation.

5. **Common Charges: Determination and Assessment**

At least once per year, the Board will prepare or cause to be prepared a budget setting forth its projections of the Common Expenses for the next fiscal year and will allocate and assess the Common Expenses among the Residential Units. The Common Charges payable by each Residential Unit Owner will be in proportion to the Unit's percentage Common Interest compared to the total of all Residential Units.

The respective Common Interests of the Units, as estimated by Sponsor, have been allocated to each Unit 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 New York State Real Property Law.

The Board will furnish copies of the budgets to all Unit Owners and advise each Unit Owner of the amount of Common Charges payable. Unless otherwise determined by the Board, Common Charges will be payable in monthly installments, in advance, on the first day of each month.

Sponsor agrees to pay all common charges, special assessments and real estate taxes with respect to Unsold Units. Sponsor will utilize income from sales of Units, as well as other cash and assets owned by it, to meet these obligations with respect to Unsold Units. Sponsor has not posted any bond or other security to secure these obligations. See Special Risk 12 in this Plan.

6. **Collection and Lien for Non-Payment of Common Charges**

Unit Owners may not exempt themselves from liability for Common Charges by waiving use of any of the Common Elements or by abandoning their Units. No Unit Owner, however, will be liable for the payment for any part of the Common Charges assessed against his or her Unit subsequent to a permissible sale, transfer or other conveyance by him or her of such Unit. In addition, as more specifically set forth in Section 6.2 of the By Laws, a Unit Owner, by conveying his or her Unit (without consideration) to the Board and provided that such Unit is free and clear of liens and encumbrances other than the statutory lien for unpaid Common Charges (provided no amounts are owing under any such lien) and that no violation of the Declaration, the By Laws or the Rules and Regulations then exists with respect to such Unit, may be exempt from Common Charges thereafter accruing.

On a resale of any Unit, the purchaser will be liable for the payment of any unpaid Common Charges against such Unit; except that, to the extent then permitted by law, a Permitted Mortgagee acquiring a Residential Unit at a foreclosure sale will not be liable for a lien for the payment of Common Charges assessed against such Residential Unit for the period following the recording of the Permitted Mortgage and prior to such Residential Unit's acquisition by the Permitted Mortgagee. However, such Permitted Mortgagee or purchaser at a foreclosure sale shall be liable for payment of all Common Charges after the acquisition of title to such Unit. In the event of a foreclosure by the Board of its lien on any Unit for unpaid Common Charges, or otherwise, if the net proceeds of the foreclosure sale are insufficient for the payment of such unpaid charges, or if a Unit is acquired by a mortgagee or purchaser in foreclosure, the original Unit Owner can be sued for the unpaid balance. The Board will also have the right to assess such unpaid balance as a Common Charge among all Unit Owners.

Pursuant to Section 339-z of the Real Property Law and under the provisions of the By Laws, the Board, on behalf of all Unit Owners, will have a lien on each Unit for unpaid Common Charges together with interest thereon, assessed against such Unit. All such liens, however, to the extent permitted by applicable Law, will be subordinate to the lien of any first Permitted Mortgage of record and to liens for real estate taxes on the particular Unit. Pursuant to Section 339-aa of the Real Property Law, any lien for unpaid Common Charges against a Unit will be effective from and after filing of a verified notice thereof in the City Register's Office until all sums secured thereby with interest accrued thereon shall have been fully paid, or until six years from the date of filing (unless

foreclosure of such lien is started within such six-year period), whichever shall occur sooner. Such liens may be foreclosed by a suit brought in the name of the Board (acting on behalf of all Residential Unit Owners) in the same manner as the foreclosure of a mortgage on real property, or an action may be brought by the Board to recover unpaid Common Charges without foreclosing such lien. In addition, the Board may assess Unit Owners a late charge of $.04 for each dollar of Common Charges which remains unpaid for more than 10 days after the date when due, and interest at the rate of 1.3% per month (or such lesser rate as may be the maximum permitted by law) on such unpaid amounts (plus any "late charges" theretofore collected), plus all expenses of collection. Sponsor obligates itself to cause any members of the Board related to or affiliated with Sponsor to vote in favor of filing a lien against any Unsold Residential Units owned by Sponsor with respect to which payments of Common Charges have not been made within 30 days after the date when due.

7. **Borrowing by Board**

The Board may, at any time, borrow money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of, or the making of repairs, replacements, restorations, additions or improvements to, or alterations or replacements of, the General Common Elements or Residential Limited Common Elements, respectively; provided, however, that: (A) except as otherwise provided in the By Laws, the consent of at least 66-2/3% in common interest of all Unit Owners or all Residential Unit Owners, as the case may be, shall be required for any borrowings for such purposes with respect to the General Common Elements or Residential Limited Common Elements, respectively, if such borrowings are in excess of $100,000 (subject to increase by the CPI Increase Factor) in total any one fiscal year or $250,000 (subject to increase by the CPI Increase Factor) in the aggregate (including borrowings from prior periods) at any one time; (B) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements (except to the extent permitted by applicable law) without the prior written consent of the owner of such Unit; and (C) no Unit Owner other than the Residential Unit Owners shall be liable for the repayment of any such borrowing with respect to the Residential Limited Common Elements exclusively, and the loan documentation in such case shall so provide. Any such debt may be secured by future income and Common Charges in which event the Common Charges shall be deemed trust funds for the purpose of paying such debt. The Board cannot secure such debt by a lien on the Common Elements without the consent of all Unit Owners.

In addition to the debt described above, the Board, without approval of the Unit Owners may, at any time, incur, or refinance, debt from time to time secured by a lien on any Unit acquired by the Board pursuant to the Declaration and/or By Laws; provided, however, that no such financing or refinancing may be secured by an encumbrance or hypothecation of any portion of the Property other than the Unit to be purchased together with its appurtenant interest in the Common Elements. If any sum borrowed by the Board is not repaid by the Board, a Unit Owner who pays to the creditor such proportion thereof as his or her interest in the Common Elements bears to the interest of either all Unit Owners or all Residential Unit Owners (depending on whether the borrowing was made on behalf of all Unit Owners or only the Residential Unit Owners, respectively), in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor has filed or has the right to file against such Unit Owner's Unit, and all loan documentation entered into by or on behalf of the Board shall specifically so provide. The dollar amounts set forth above and all other dollar amounts referenced elsewhere in the By Laws, shall be

adjusted to reflect any increase in the cost of living, as reflected by an increase in the CPI Increase Factor (as described in the By Laws).

8. **Repairs to and Maintenance of Units and Common Elements**

Except as may otherwise be provided in the By Laws, generally, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, or ordinary or extraordinary (a) in or to any Unit (other than, in general, to the Common Elements included therein) will be made by the Owner of such Unit at his or her expense, (b) in or to the General Common Elements will be made by the Board and the expense thereof will be charged to the Unit Owners as a Common Expense, (c) in or to the Residential Limited Common Elements will be made by the Board and the expense thereof will be charged to all Residential Unit Owners in the proportion that their respective Common Interest bear to the aggregate Common Interest of all Residential Units or (d) in or to the Non-Residential Limited Common Elements will be made by the Board and the expense thereof will be charged to the Non-Residential Unit Owners in the proportion that their respective Common Interest bear to the aggregate Common Interest of all Non-Residential Units. Without limiting the foregoing, Unit Owners shall be responsible for all maintenance, repairs and replacements of all plumbing, appliances and lighting fixtures, and heating and air conditioning units in their respective Units. Notwithstanding the foregoing, each Residential Unit Owner shall be responsible for all ordinary maintenance (e.g., sweeping and snow removal, and cleaning of each Terrace appurtenant to its Residential Unit); however, the costs and expenses of any capital repairs or replacements (including replacement at the end of the Terrace's useful life), structural or otherwise with respect to each such Terrace (unless caused by or attributable to the applicable Unit Owner), shall be charged to all Residential Unit Owners as a Common Expense.

Each Unit Owner shall promptly comply with all Legal Requirements applicable to his or her Unit. No Unit Owner shall use or permit the use of Hazardous Materials (as defined in the By Laws) on, about, under, or in his or her Unit or the Property. Each Unit Owner agrees to indemnify and hold harmless the Board and each other Unit Owner from and against any and all claims or demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including, but not limited to, costs of investigation, remedial response, and reasonable attorneys' fees and cost of suit, arising out of or resulting from any Hazardous Material used or permitted to be used by such Unit Owner on, about, under or in his or her Unit or the Property.

The washing and cleaning of exterior and interior glass surfaces of windows in the Residential Units shall be the responsibility of the respective Residential Unit Owners. Residential Unit Owners are prohibited from cleaning or allowing to be cleaned any window from the outside in violation of Section 202 of the New York State Labor Law, any other applicable Legal Requirements, any insurance policy or requirement or otherwise.

Subject to the foregoing, the washing and cleaning of the interior side of Unit windows shall be the responsibility of the respective Unit Owners. All window interiors and exteriors shall be cleaned a minimum of two times per calendar year. The Board may from time to time enforce the responsibility of Unit Owners to wash and clean the interior surfaces of windows located in their respective Units and charge the defaulting Unit Owner therefor.

If any repairs or replacements to the Common Elements, whether structural or non-structural, ordinary or extraordinary, or any replacement of glass windows in any Residential Unit because of breakage or otherwise, are necessitated by the negligence, misuse or abuse of a Residential Unit Owner or such Residential Unit Owner's agents, workers, guests, etc., such maintenance, repairs or replacements will be made by the Board, and any portion of the cost thereof which is not covered by the insurance maintained by the Board shall be paid by such Unit Owner.

In order to promote a consistent appearance of the Building from the outside, any window treatments or shades installed and maintained in any Residential Unit must have a neutral-colored backing on the sides facing the windows in its Unit, which window treatments and backings must conform to any specifications (including a new color) established from time to time by the Board. Neither the interior nor the exterior glass surfaces of any windows located in any Residential Unit may be altered, colored or painted.

The By Laws provide that each Unit and all portions of the Common Elements shall be kept in a clean and sanitary condition, and in good working order (and all portions thereof exposed to public view shall be kept in a neat appearance and in first-class condition in accordance with the high quality, character and dignity of the Building), in each case, by the Unit Owner or the Board, whichever is responsible, under the By Laws, for the maintenance thereof. In the event that any Unit Owner fails to keep his or her Unit in such condition, the Board, at the expense of such Unit Owner, may enter such Unit and perform such acts as are necessary to cure such default. (See subsection entitled "Rights of Access" below.)

Any alteration, addition, improvement or repair in or to a Unit or any Common Elements must comply with all legal requirements.

9. **Alterations and Improvements of Units**

No Residential Unit Owner, other than the Sponsor, its successors, affiliates or designees, may make any alteration, addition, improvement or repair in or to such Unit Owner's Unit that affects the structure of the Building and/or the Building's systems without the prior written approval of the Board but, as more fully set forth in the Declaration and By Laws, this provision does not apply to an Unsold Residential Unit. Except as otherwise permitted in the Declaration and By Laws, no Unit Owner may make any alteration, addition, improvement or repair in or to the Common Elements without the prior written approval of the Board. The Board may impose fees upon such Unit Owner to reimburse the Condominium for costs incurred in connection with the review or supervision of such Unit Owner's work.

The Board, at its option, may require a Residential Unit Owner to execute an agreement in form and substance satisfactory to the Board setting forth the terms and conditions under which such alteration, addition, improvement or repair may be made. Any Unit Owner making or permitting an alteration, addition, improvement or repair in its Unit is required by the By Laws to (i) obtain such insurance as the Board or the Managing Agent may require, (ii) indemnify the Board, all other Unit Owners and the Managing Agent against any liability arising from the work, (iii) reimburse the Board for its architectural, engineering and legal fees incurred in connection with such work, (iv) employ such architects, engineers, contractors, workers, suppliers and other laborers who are reasonably acceptable to the Board and Managing Agent; and (v) perform such work in a manner which will not

interfere with, or cause any labor disturbances or stoppages (which may result from, among other things, the use of non-union labor) in, the work of Sponsor, the Board, the Non-Residential Unit Owners, or other contractors or subcontractors employed by such parties or otherwise in the Building. In addition, no work or change by or on behalf of a Residential Unit Owner will be permitted without the consent of the Board (which consent may be withheld or conditioned in the sole discretion of such Board) if such work or change would result in a delay in obtaining a temporary or permanent Certificate of Occupancy for the Building, or any amendment to, or extension of, the same if theretofore issued.

The foregoing restrictions affecting Residential Units shall not apply to Sponsor or its designee in respect of the Unsold Residential Units, the Commercial Unit or the Community Facility Unit. There are no restrictions on the ability of Sponsor or its designee to alter or improve any Unsold Residential Unit (including, without limitation, dividing, subdividing and combining one or more Unsold Residential Units or portions of same). Additionally, to the extent permitted by law, and subject to certain restrictions set forth in the Declaration and By Laws, the Non-Residential Unit Owners will have the right with regard to its Unit, without the consent of the Board, the Managing Agent, other Unit Owners, or any other party, to mortgage or otherwise hypothecate its Unit, and to subdivide or combine the Non-Residential Units into one or more newly constituted Non-Residential Units.

Furthermore, an initial purchaser of an Unsold Residential Unit shall have the right, without the approval of the Board, to make any alterations, additions, improvements or repairs in or to such Unit, provided that such purchaser obtains all necessary approvals required by law and that Sponsor has consented to the same in writing at or prior to the closing of title to such Unit, which consent Sponsor may withhold or condition in its sole and absolute discretion.

Any alteration, addition, improvement or repair in or to a Unit or any Common Elements must comply with all Legal Requirements.

10. Alterations and Improvements of Common Elements

Generally, all alterations, additions or improvements in or to the Common Elements will be made by the Board. Except as otherwise provided in the By Laws, the costs of alterations, additions or improvements to the General Common Elements will be charged to all Unit Owners as a Common Expense. Whenever, in the judgment of the Board, the Common Elements require additions, alterations, improvements, or repairs which are capital in nature and would cost more than $250,000 (subject to increase by the CPI Increase Factor), in the aggregate, in any calendar year, such additions, alterations, improvements or repairs may not be made unless the same have been approved by the Unit Owners owning a majority of the Common Interests of all Units liable for the cost thereof pursuant to the preceding sentence, including Sponsor, if it then owns any Unit, at a duly constituted meeting of Unit Owners and by the representatives of institutional mortgagees of Units, if any, appointed pursuant to the By Laws (the "Mortgagee Representatives"), or unless the same is a non-capital repair or necessary to comply with applicable Legal Requirements, to remedy any violation imposed against the Property, to comply with a proper work order of an insurer of the Property, or for the health or safety (but not the general comfort or welfare) of the residents or occupants of the Property. In any such event, the Board may, in its discretion, assess each Unit Owner liable therefor

for his or her pro-rata share of the cost of such additions, alterations, or improvements, according to his or her Common Interest, as part of the Common Charges.

Any additions, alterations, or improvements costing $250,000 (subject to increase by the CPI Increase Factor) or less, in the aggregate, in any calendar year or which is a non-capital repair may be made by the Board without the approval of the Unit Owners.

In addition, as set forth in the By Laws and to the extent permitted by law, the Owner or Owners of any one or more Residential Units, if such Unit or Units are the only Unit or Units serviced or benefited by any Common Elements adjacent or appurtenant thereto (for example, that portion at the end of a hallway that is directly adjacent to the Unit or Units located at the end of such hallway) and not affecting access or service (including, without limitation, heating, ventilating and air-conditioning) to any other Unit or to any other portion of the Common Elements shall, with the consent of the Board (which consent shall not be unreasonably withheld or delayed and shall not be required if the Unit Owner or Owners shall be Sponsor or its designee), have the right to use such Common Elements exclusively (including the right, in the above example of a portion of a hallway, to enclose such portion), and no amendment to the Declaration or reallocation of Common Interests shall be made by reason thereof. In such an event, however, such Unit Owners shall, at their sole expense, (i) operate, maintain and repair such Common Element for so long as such Owners exercise such exclusive right of use and (ii) restore such Common Element to its original condition, reasonable wear and tear excepted, after such Owners cease to exercise such exclusive right of use.

In addition, Sponsor (or its designee or other owner of Unsold Residential Units) and the Non-Residential Unit Owners shall have such rights as are described in the Declaration, to erect, maintain, repair and replace, or permit their tenants to erect, maintain, repair or replace, from time to time, one or more signs on the Property for the purpose of advertising the availability for sale or rental of any Unsold Residential Unit or Non-Residential Units or the operation of any business of Sponsor, a tenant, occupant managing agent or operator of the Non-Residential Units.

11. **Rights of Access**

As more fully set forth in the Declaration and By Laws, the Board and any managing agent, manager and other persons authorized by the Board will have a right of access to any Residential Unit for the purposes, among others, of: (a) making inspections of, or removing violations of governmental laws or regulations against, any part of the Property; (b) curing defaults under the By Laws, Declaration or Rules and Regulations by the owner of such Unit; (c) performing maintenance, installations, alterations, repairs or replacements to the mechanical plumbing or electrical systems, or other portions of the Common Elements, located within such Unit or elsewhere in the Building; or (d) correcting any conditions originating in any Unit and threatening another Unit or any Common Element.

In the event that the Board or any Unit Owner fails to maintain or repair parts of the Building required to be maintained or repaired by the Board or Unit Owner, or in the event of any breach of the Declaration, By Laws or Rules and Regulations, Article 6 of the By Laws provides for certain specified rights to perform such maintenance or repairs or cure such breach.

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

Each Unit Owner must strictly comply with the provisions of the Declaration, By Laws and Rules and Regulations. Pursuant to Section 339(j) of the Condominium Act, failure so to comply will be grounds for an action for damages or injunctive relief, or both. The By Laws, together with the initial form of Rules and Regulations, will be recorded with the Declaration in the City Register's Office.

13. **Repair or Reconstruction after Fire or other Casualty**

In the event that the Building or any part thereof is damaged or destroyed by fire or other casualty (unless three-fourths or more of the Building is destroyed or substantially damaged and 75% or more in Common Interest of all Unit Owners do not duly and promptly resolve to proceed with repair or restoration), the Board will arrange for the prompt repair and restoration thereof (including each Unit, but excluding appliances, fixtures, furniture, furnishings and other personal property not constituting a part of such Unit).

If the insurance proceeds are insufficient to cover the cost of repairs or restoration, Unit Owners may be assessed for such deficiency. If there is a surplus of insurance proceeds, the surplus shall be paid to Unit Owners, except that no payment shall be made to a Unit Owner until there has first been paid out of his or her share, such amounts as may be necessary to reduce unpaid liens on his or her Unit, other than Permitted Mortgages, in the order of priority of such liens.

If said damage or destruction by fire or other casualty affects the General Common Elements, then any deficit or surplus in insurance proceeds shall be borne or shared by all Unit Owners, or by the Unit Owners of the affected portions of the Building, as appropriate, in proportion to their respective Common Interests.

In the event of a loss for which the proceeds of all policies of physical damage insurance maintained by the Board exceed $1,000,000, the proceeds shall be payable to a New York City bank or trust company designated by the Board as insurance trustee pursuant to the provisions of Sections 5.5 of the By Laws. The insurance trustee shall hold all such proceeds in accordance with Section 254-(4) of the New York Real Property Law.

Notwithstanding any of the foregoing, if three fourths or more of the Building is destroyed or substantially damaged and if 75% or more in Common Interest of all Unit Owners do not duly resolve within 60 days from the date of such damage or destruction to proceed with the repair or restoration thereof, the Building (or so much thereof as remains) will not be repaired and the Property shall be subject to an action for partition instituted by any Unit Owner or lienor, as if owned in common, in which case the net proceeds of sale, together with the net proceeds of insurance policies, shall be divided among all Unit Owners : (i) first, by apportioning such proceeds in the aggregate among each class of Unit (i.e., Residential and Commercial) pursuant to an appraisal of fair market values to be performed by a panel of three independent appraisers (one of whom shall be selected by the Board, one of whom shall be chosen by the Non-Residential Unit Owners, and the third chosen by the other two appraisers); and (ii) then among the Unit Owners of each class of Unit in proportion to the respective Common Interests of such Units; provided, however, that no payment shall be made to a Unit Owner until there has first be paid out of his or her share of such funds, such amounts as may

be necessary to discharge all unpaid liens on his or her Unit (other than mortgages that are not Permitted Mortgages) in the order of the priority of such liens.

14. Insurance

Under Section 5.5 of the By Laws, until payment in full of the debt under the mortgage (the "Construction Mortgage") which secures or will secure Sponsor's construction loan for the construction of the Building (the "Construction Loan") or assignment of such Construction Mortgage by the lender under such Construction Loan to Sponsor's designee, whichever occurs first, the Board must comply with the obligations of the Construction Mortgage with respect to the coverages required to be obtained and maintained with respect to the Building. However, all such policies will include coverage of at least the types and in at least the limits as are set forth in the Notes to Schedule B, the Projected Budget for the First Year of Condominium Operations.

Furthermore, under Section 5.5 of the By Laws, subject to the provisions of the preceding paragraph, the Board is required to obtain and maintain, to the extent obtainable at commercially reasonable premiums and to the extent determined by the Board to be appropriate, the following insurance: (a) property insurance with all risk extended coverage (excluding terrorism and mold coverage), vandalism and malicious mischief endorsements, insuring the entire Building (including each Unit, but excluding fixtures, furniture, furnishings, decorations, appliances and other personal property not constituting part of the Unit), together with all service machinery contained therein, and covering the interests of the Condominium, the Board and all Unit Owners and Permitted Mortgagees, as their respective interests may appear, in an amount equal to the full replacement value of the Building (exclusive of foundation and footings), without deduction for depreciation; (b) rent insurance in an amount equal to Common Charges for one year; (c) workers' compensation and New York State disability benefits insurance; (d) boiler and machinery insurance; (e) plate glass insurance to the extent, if any, determined by the Board; (f) water damage insurance to the extent, if any, determined by the Board; (g) elevator liability and collision insurance; (h) fidelity insurance covering all Board members, officers, directors and employees of the Condominium and of the Managing Agent who handle funds of any of the foregoing; (i) directors' and officers' liability coverage; and (j) such other insurance as the Board may from time to time determine. The Board will not be required to obtain or maintain terrorism or mold coverage but may do so, and in such event, the cost thereof shall be a Common Expense as described in the By Laws.

Any of the coverages required to be maintained by the Board may be satisfied by any so-called builder's risk policy obtained by Sponsor in connection with the construction of the Building, provided the limits and terms of coverage set forth in Schedule B are provided under such policy. To the extent any such policy obtained and paid for by Sponsor shall satisfy the insurance requirements of the Board for the Condominium in respect of any period following the First Closing, the Board shall reimburse Sponsor for its prorated share of the cost of such coverage.

The amount of fire insurance and all risk extended coverage to be maintained with respect to the Condominium (including each Unit, but excluding such items noted in subsection 6.4.1 to be excluded) until the first Board meeting following the First Annual Meeting of Unit Owners shall be 100% of the full replacement cost of the Property (or such lesser amount as may be provided for in the Notes to Schedule B, the Projected Budget for the First Year of Condominium Operations).

All such policies of physical damage insurance which the Board is required to maintain shall contain, to the extent obtainable at commercially reasonable premiums, waivers of subrogation and waivers of any defense based on (i) co-insurance, (ii) other insurance, (iii) invalidity arising from any acts of the insured, or (iv) pro rata reduction of liability, and shall provide that such policies may not be cancelled or substantially modified without at least 30 days' prior written notice to all of the insureds, including all Unit Owners and Permitted Mortgagees, who have requested the same from the Board in writing. Duplicate originals or certificates of insurance of all policies of insurance and of all renewals thereof, if obtainable, together with proof of payment of premiums, shall be delivered to all Unit Owners and Permitted Mortgagees who have requested the same from the Board in writing. Renewals shall be obtained at least 10 days prior to the expiration of the then current policies.

The Board shall also be required to obtain and maintain, to the extent obtainable, comprehensive general liability insurance against claims for personal injury, death or property damage occurring upon, in or about the Property, in such amounts as from time to time are carried by prudent owners of comparable properties in the City of New York, and in such limits as the Board, from time to time, may determine, covering (i) the Board, the Managing Agent, each Board member, each officer and employee of the Condominium, and (ii) each Unit Owner and their agents and Permitted Mortgagees, if any, except that such policy will not cover liability of a Unit Owner arising from occurrences within or about its own Unit or within or about the Common Elements, if any, exclusive to its Unit. The Board shall review such limits once each year. Until the first meeting of the Board following the first annual meeting of Unit Owners, such liability insurance with respect to any occurrence, as well as umbrella coverage, shall be in at least the respective amounts provided for in the First Year's Budget and at no time and in no event shall such comprehensive general liability insurance afford protection to the limit of less than such amounts (to the extent then reasonably obtainable by the Board). The Board shall also be required to obtain and maintain fidelity insurance covering the Board, the Managing Agent, each Board member and each officer and employee of the Condominium in respect of the maintenance and/or operation of the Building or any part thereof. The insurance required in accordance with this paragraph shall also cover cross-liability claims of one insured against another.

Any insurance maintained by the Board may provide for such deductible amounts as the Board may determine. The premiums for all insurance referred to above shall be a Common Expense and shall be borne by the Unit Owners in such proportions as are equitable (as determined by the insurance carriers thereof or their agents, brokers or such other parties designated by the Board).

The Board is not required to obtain or maintain any insurance with respect to any property contained in any Unit or any liability with respect to occurrences in or about each Unit or the Common Elements, if any, exclusive and/or appurtenant thereto. Consequently, all Unit Owners are required to obtain and maintain comprehensive general public liability insurance against claims for personal injury, death or property damage occurring in, on or about such Unit Owner's Unit and the Common Elements, if any, exclusive and/or appurtenant to his or her Unit. Further requirements with respect to such insurance are more particularly set forth in the By Laws. In addition, all Residential Unit Owners are urged to obtain casualty insurance with respect to the fixtures, furniture, furnishings and other personal property located within their respective Units. Purchasers are also advised that the insurance policies to be maintained by or on behalf of the Board will be on a "replacement cost" basis and will not cover losses to the extent that "market value" of a Unit may

exceed its insured replacement cost. All insurance policies required to be maintained by the Board will be on a "replacement cost" and will not cover losses to the extent that market value may exceed such replacement cost.

All insurance policies required or permitted to be maintained by Unit Owners hereunder shall be primary with respect to the risks insured thereunder and shall contain waivers of subrogation, if available, and further provide that the liability of the carriers issuing insurance obtained by the Unit Owner shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. Further, as a result of current fluctuations in the insurance market, the Board will not be required to obtain or maintain terrorism or mold coverage but may do so, and in such event, the cost thereof shall be a Common Expense as described in the By Laws.

15. Liability of Board of Managers and Unit Owners

Every contract made by the Board, any officer of the Condominium, or the Managing Agent shall state that (a) it is being executed by such party only as agent for all Unit Owners (or, if only for the Residential Unit Owners, as agent for the Residential Unit Owners), and such Board members, officer or Managing Agent shall have no personal liability thereon (except in its or their capacities as Unit Owners) and (b) the liability of any Unit Owner with respect to such contract shall be limited to (i) such proportionate share of the total liability as the Common Interest of such Unit Owner bears to the aggregate Common Interests of all Unit Owners (or to all Residential Unit Owners, in the case of a contract made solely for the benefit of the Residential Unit Owners) and (ii) to the extent permitted by applicable Legal Requirements, or as otherwise determined by the Board in its sole and absolute discretion, such Unit Owner's interest in his or her Unit and its appurtenant Common Interest.

To the extent permitted by applicable Legal Requirements, Board members shall have no liability to Unit Owners, except that a Board member shall be liable for his or her own bad faith or willful misconduct. The Board may contract or effect any other transaction with any Board member, any Unit Owner, Sponsor or its designee, or any affiliate of any of them without incurring any liability for self-dealing, except in cases of bad faith or willful misconduct. The Board members shall disclose their dealings with the Sponsor, its designee or affiliate to the Unit Owners. All Unit Owners shall severally, to the extent of their respective interests in their Units and their appurtenant Common Interests, indemnify, defend and hold harmless each Board member against any liability or claim except those arising out of the bad faith or willful misconduct of such member.

16. Amendments to Condominium Documents

Generally, subject to certain exceptions concerning, among other things, the Sponsor, the Non-Residential Units, and Unsold Residential Units, any provision of the Declaration, the By Laws or the Rules and Regulations affecting: (a) only the Residential Units, or the Unit Owners thereof, may be amended, modified, added to or deleted by the affirmative vote of at least 66-2/3% in number and in Common Interest of all Residential Unit Owners; (b) only the Non-Residential Units or the Non-Residential Unit Owners may be amended, modified, added to or deleted by the affirmative vote of the Non-Residential Unit Owners; and (c) the General Common Elements or all Unit Owners, may be amended, modified, added to or deleted by the affirmative vote of at least 66-2/3% in number and in Common Interest of all Unit Owners; provided, however, that the use of Units or the Common

Interest appurtenant to each Unit as expressed in the Declaration shall not be altered without the written consent of all Unit Owners affected thereby.

Notwithstanding the foregoing and subject to the provisions contained in the By Laws or in the Declaration with respect to amendments, modifications, additions or deletions affecting Sponsor or its designee, any Unsold Residential Units and the Non-Residential Units: (i) no amendment, modification, addition or deletion pursuant to the provisions of clause (a) or (c) above shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of the Sponsor, its designee or holder of Unsold Units, if any; and (ii) no amendment, modification, addition or deletion pursuant to the provisions of clause (b) above shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of the Commercial Mortgagee Representative, if any.

Notwithstanding any provision contained herein or the Declaration or By Laws to the contrary, no amendment, modification, addition to or deletion of the Declaration, the By Laws or the Rules and Regulations shall be effective in any way against Sponsor or its designee, for so long as Sponsor or its designee is the owner of one or more Units, or any Unsold Residential Unit, unless Sponsor or its designee, as applicable, has given its prior written consent thereto, and no such amendment, modification, addition or deletion may in any manner adversely affect the Non-Residential Units or the rights, benefits, easements, privileges or exemptions of such Non-Residential Unit, without the consent of the affected Non-Residential Unit Owners.

It is possible that amendments, modifications, additions or deletions of or to the Declaration, By Laws and Rules and Regulations may be necessary, appropriate or desirable in connection with the operation of the Non-Residential Units, the subdivision of the Non-Residential Units into individual commercial condominium units and/or the offering for sale or lease of all or any portion of the Non-Residential Units. In connection therewith, the Non-Residential Unit Owners may, subject to compliance with all applicable Laws, if any, cause the Declaration, By Laws and Rules and Regulations to be amended, modified, added to or deleted from and the resulting provisions thereof may be similar or dissimilar to those affecting the Residential Units and Residential Unit Owners.

Notwithstanding anything to the contrary contained herein, in the Declaration or in the By Laws, if any Unit Owner is notified in writing that its consent to a proposed amendment or modification to the Declaration, the By Laws or the Rules and Regulations is requested, then, provided that such notice contains a copy of the proposed amendment or modification (and a statement in bold capital letters to the effect that if such Unit Owner does not notify the sending party in writing within ten (10) Business Days after such Unit Owner receives such notice (together with a copy of such amendment or modification), that such Unit Owner disapproves such proposed amendment or modification, then such Unit Owner shall be deemed to have approved such amendment or modification), if such Unit Owner does not notify the sending party in writing within ten (10) Business Days after such Unit Owner receives such notice (together with a copy of such amendment or modification), that such Unit Owner disapproves such proposed amendment or modification, then such Unit Owner shall be deemed to have approved such amendment or modification. The foregoing shall not apply to notices given to Sponsor or any other holder of Unsold Residential Units requesting the Sponsor's or such holder's consent to a proposed amendment or modification.

17. Termination of Condominium

The Condominium shall continue and the Property shall not be subject to an action for partition (unless the Condominium shall be terminated by casualty loss, condemnation or eminent domain as provided in the By Laws) until such time, if any, as the Property shall be withdrawn from the provisions of the New York Condominium Act as a result of the vote to do so of at least 80% in both number and aggregate Common Interests of all Unit Owners as set forth in the Declaration and the By Laws.

In the event of withdrawal of the Property from condominium ownership, and only to the extent the waiver of the right of partition shall be inapplicable or unenforceable, the Property shall be subject to an action for partition by any Unit Owner or any lienor as if the Property were owned in common, in which event the net proceeds of the sale shall be divided among all Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of its share of such funds, such amounts as may be necessary to discharge all unpaid liens on its Unit (other than mortgages which are not Permitted Mortgages) in the order of the priority of such liens.

18. Units Acquired by the Board

All Units (including the Non-Residential Units) acquired or leased by the Board or its designee shall be held by the Board, or its designee, on behalf of all Unit Owners. The rent or purchase price, closing costs and adjustments payable in connection therewith shall be assessed against all Unit Owners. No Units held by the Board shall carry any voting rights.

The purchase of any Unit by the Board or its designee, on behalf of all Unit Owners, may be made from the funds deposited in the capital and/or expense accounts of the Board by or on behalf of Unit Owners. If the funds in such accounts are insufficient to effectuate any such purchase, the Board may levy an assessment against each Unit in proportion to its respective Common Interest, as a Common Charge, and/or the Board may, in its discretion, finance the acquisition of such Unit and thereafter refinance the same; provided, however, that no such financing or refinancing may be secured by an encumbrance or hypothecation of any portion of the Property other than the Unit to be purchased or refinanced, as the case may be, together with its appurtenant interest in the Common Elements.

19. Procedure to Review Real Estate Tax Assessments

The Board, on behalf of and as agent for all Unit Owners will be authorized to commence, pursue and settle certiorari proceedings to obtain reduced real estate tax assessments with respect to the Units owned by such Unit Owners. All such Unit Owners will share, and indemnify the Board as to, the costs in connection with such proceedings and the benefits derived therefrom.

In the event any Unit Owner individually seeks to have the assessed valuation of his or her Unit reduced by bringing a separate certiorari proceeding, the Board, if necessary for such proceeding, will execute any documents or other papers required for, and otherwise cooperate with such Unit Owner in pursuing such reduction, provided that such Unit Owner indemnifies the Board from all claims, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) resulting from such proceedings.

The Non-Residential Unit Owners shall pursue any such proceedings separately and not as part of the proceedings described in this paragraph in respect of the Residential Units.

20. Mechanics' Liens

Under the current provisions of the New York Condominium Act, no lien of any nature may arise or be created against the Common Elements, except with the unanimous consent of all Unit Owners. Liens may arise or be created against only the several Units and their respective Common Interests. Labor performed on, or materials supplied to, a Unit may not be the basis for a mechanic's lien against the Unit of a Unit Owner not expressly consenting to or requesting such work, except in the case of emergency repairs. No labor performed on, or materials furnished to, the Common Elements shall be the basis for a lien thereon but all Common Charges received by the Board shall constitute trust funds for the purpose of paying the cost of labor performed or materials furnished at the request or with the consent of the Board or the Managing Agent acting on its behalf.

21. Easements

In order to facilitate the operation and maintenance of the Building and the sale or leasing of Units therein, each of the Units will be subject to certain easements, including easements in favor of Sponsor, other Unit Owners and the Board. These easements, which are more particularly set forth in Articles 10 and 11 of the Declaration, include an easement in favor of each Unit Owner to use, operate, maintain, repair, alter, rebuild, restore and replace Common Elements and, generally, an easement of support and of necessity in favor of all Units and the Common Elements. These easements shall be exercised in a manner that will not unreasonably interfere with the normal conduct of business of the tenants and occupants of the Non-Residential Units or with the use of any of the Residential Units for their permitted purposes.

Sponsor and the owner of any Unsold Residential Units shall have an easement to erect, maintain, repair and replace any signs, awnings, marquees, canopies, banners, flags, pennants, aerials, antennas or the like (each a "Sign") permitted by law on the Property (including, without limitation, on its roof and exterior walls) for the purposes of advertising the sale of any Unit, the leasing of space in any Unit and the operation of any business of a tenant or occupant of any Unit. All normal maintenance and repairs of the roof of the Building will be made by the Board and chargeable to all Unit Owners as a Common Expense; except that if the holders of the aforementioned easement utilize the roof of the Building pursuant to such easement, then such party/ies will be responsible for the normal maintenance and repair of the portion of the roof(s) it utilizes. Capital repairs and replacements to such roofs, other than normal maintenance and repairs, will be charged to all Unit Owners as a Common Expense except to the extent such costs are attributable to the use of areas utilized pursuant to the above-described easements or are necessitated by the exercise of such easements, in which case the holders of such easement shall be responsible for such costs.

22. Signage

There will be signs, notices, advertisements and illuminations (collectively "Signage") on various exterior portions of the Building, on or at windows and in interior public spaces of the Building, which may be affixed by Sponsor, the Board and/or one or more of the Non-Residential

Unit Owners, all as and to the extent provided in the Declaration and/or By Laws. Sponsor makes no representation and shall have no liability whatsoever with respect thereto.

23. **Pets**

No pets other than dogs, caged birds, cats and fish (which do not cause a nuisance, health hazard or unsanitary condition) may be kept in a Unit without the consent of the Condominium Board. Each Unit Owner who keeps any type of pet will be required to: (a) indemnify and hold harmless the Condominium, all Unit Owners and Managing Agent from all claims and expenses resulting from acts of such pet; and (b) abide by any and all Rules and Regulations of the Condominium Board adopted with respect thereto.

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Q. REAL ESTATE TAXES

The projection of the real estate taxes that will be payable for each of the Units during the projected First Year of Condominium Operation is based upon an estimate made by Jerome Mazursky, Sponsor's real estate tax consultant, that the aggregate real estate taxes for the Units following the substantial completion of construction of the Building for such first year will be approximately $264,471. This estimate is based upon: (a) the Property is currently assessed in Tax Class 4 (which includes most properties which have uses other than residential); (b) following the substantial completion of construction of the Building and the establishment of the Condominium, the Residential Units will be assessed in Tax Class 2 (which is comprised of residential rental, cooperatives or condominiums with 11 or more units.); and (c) New York City's assessment ratio policy for properties in Tax Classes 2 and 4 is to assess such properties at 45% of market value based upon the value as an income-producing property. The increases to value are unlimited, but except for increases due to physical changes, are required to be phased-in over a five-year period. The taxable value is the lower of the actual or transitional values. The projected taxable value for the Property, based upon the assessed valuation of the Property during and after completion of construction of the Building, for the 2009/2010 tax year is estimated to be approximately $1,916,100.00 and for the 2010/2011 tax year is estimated to be approximately $3,140,600. The estimated tax rates for the 2009/2010 and 2010/2011tax years are $12.45 per $100 for Class 2.

No guaranty or assurance is given that (i) any of the assumptions described above will be valid, (ii) any projected or estimated amount set forth above (including, without limitation, the estimates of the Property's assessed valuations during the First Year of Condominium Operation, the estimates of the portions of such assessed valuations that will be allocable to the Units and the projection of the average real estate tax rate that will be in effect during such first year) will approximate the actual amount, (iii) the estimated or actual amount of assessed value of the Property following the projected First Year of Condominium Operation and the taxes payable based upon such assessment (which may be significantly higher to the extent that a portion of the Property is not fully assessed during such First Year) or (iv) the Real Estate Tax Assessment Bureau of the New York City Department of Finance will allocate the Property's aggregate assessed valuation between the Units or classifications of Units in accordance with the values used by Sponsor's real estate tax consultant for such purpose, or that such bureau will allocate the aggregate assessed valuation attributable to the Units among the different Units as described above. Sponsor will amend the Plan promptly to disclose the same if it discovers that any of such assumptions are invalid as well as after the Units have been assessed and the applicable tax rate determined.

Prospective purchasers should note that the real estate taxes that will be payable by the Unit Owners for future years will vary in accordance with the amounts of the Unit's assessed valuation (transitional and actual) and of the real estate tax rate. Increases in a property's assessed valuation resulting from changes in its market value (other than changes resulting from new construction or alteration of an existing improvement) are phased in over five fiscal tax years in annual increments of twenty percent each. Any further increase in assessed valuation during such five-year period resulting from a still higher market value is similarly phased in over an additional five-year period from the date of such increase. The full increased assessed valuation targeted to be in effect after the end of the five-year period is called the "actual" assessed valuation, and the amount of the incremental assessed valuation upon which taxes are actually computed for each fiscal tax year during such five-year period is called the "transitional" assessed valuation.

Until the Units are separately assessed, each Unit Owner will pay to the Condominium Board his or her Unit's pro rata share of the Property's real estate taxes for the period in question. The share of the Property's taxes so allocated to each individual Unit will then be determined based upon the proportion that the respective Unit's initial offering price bears to the total initial offering price for all similar type of Units as set forth in Schedule A. The Condominium Board will pay such real estate taxes timely to the Department of Finance of The City of New York or directly to Sponsor if Sponsor has paid such taxes, so that no lien will be placed on the Property or any Unit. If Sponsor fails to pay real estate taxes attributable to any Unsold Residential Unit in a timely manner and as a result of such failure a lien is placed on the Property and/or any other Unit, Sponsor will immediately cause such lien to be removed at its sole cost and expense. If Unit Owners fail to pay their pro rata share of Real Estate Taxes as set forth above, the Board will be entitled to assess late charges and/or place a lien on their Units as if such unpaid share were Common Charges. (See "Collection and Lien for Non-Payment of Common Charges" in Part I, Section R, for further discussion.) A Unit Owner will not be responsible for the payment of, and will not be subject to any lien arising from the non-payment of real estate taxes assessed against any other Units. At such time as a Unit is separately assessed and separate tax bills are issued, the Unit Owner will pay such taxes directly to the taxing authority.

There is no assurance that the proration of taxes described in the paragraph above will equal the actual amount of real estate taxes which will be assessed against the Units, and the actual amounts may vary considerably from the method set forth above.

Real estate taxes will be adjusted between Sponsor and each Purchaser at the closing of title to each Unit based on the period for which real estate taxes have been prepaid by Sponsor either directly to the taxing authority or as part of the Common Charges to the Board. If real estate taxes have been separately assessed to each Unit as of the closing, then the adjustment shall be based on the Unit's actual taxes for such period. If the real estate taxes have not been separately assessed to each Unit as of the closing, then the adjustment shall be determined by allocating to the Unit a prorated portion of the actual taxes for the entire Property for such period determined as provided in the By Laws.

R PARTIAL REAL ESTATE TAX EXEMPTION (SECTION 421-A)

Sponsor intends to apply, on behalf of the Residential Unit Owners, to the New York City Department of Housing Preservation & Development ("HPD") for a partial, 15-year phased in, real estate tax exemption under Section 421-a of the New York Real Property Tax Law ("Section 421-a").

NEITHER SPONSOR, SPONSOR'S COUNSEL, THE SELLING AGENT, THE MANAGING AGENT NOR ANY OTHER PERSON MAKES ANY REPRESENTATION OR WARRANTY THAT A PARTIAL TAX EXEMPTION FROM REAL ESTATE TAXES UNDER SECTION 421-A WILL BE GRANTED OR, AS TO THE AMOUNT, IF ANY, OF THE MINIMUM TAX WHICH WILL BE ASSESSED AGAINST THE RESIDENTIAL UNITS OR THE AMOUNT OF REAL ESTATE TAXES PAYABLE AT ANY TIME BY ANY RESIDENTIAL UNIT OWNER.

There is no guaranty or assurance that the criteria for Section 421-a benefits will be satisfied and neither Sponsor nor Sponsor's Counsel offers any opinion with respect to the eligibility of the Residential Units for Section 421-a benefits. If, for any reason, the application is not approved by HPD, the Units will be subject to full taxation and will receive no benefits under Section 421-a. See Schedule A included in Part I, Section D of the Plan for projected monthly real estate taxes for each Residential Unit with and without the benefits under Section 421-a.

Prospective purchasers should note that, assuming the exemption from real estate taxes pursuant to Section 421-a is maintained, the real estate taxes payable by the Unit Owners will in any event increase periodically over the twenty five years of condominium ownership. Subject to a minimum required tax ("the mini-tax"[1]), Section 421-a exemption, if granted, may be up to a 100% of the Building value during the first twenty-one years of the operation of the Continuum and it will decrease by 20% each of the following four years. The property will be fully taxed thereafter.

Sponsor will keep all records required by HPD and will make them available to HPD whenever requested to do so. HPD routinely conducts audits which can result in the reduction or revocation of benefits if proper documentation is not provided. Upon recording of the Condominium Declaration, Sponsor will make all tax benefit documents available to the Condominium Board for inspection and copying for the life of the benefits and Sponsor will file all applications and timely comply with all procedures required to properly process and maintain the tax benefits.

The Sponsor's tax consultant, Jerome Mazursky, has estimated that, in the event that 421-a tax benefits are granted, the tax liability for the first year of operation will be approximately $26,175.

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[1] The "mini-tax" is the minimum tax paid each year that the property receives 421-a benefits. It is based upon the taxable assessed value in the tax year preceding the tax year in which construction started. The 421-a exemption generally applies to the entire taxable assessed value, over and above the "mini-tax".

S. INCOME TAX DEDUCTIONS TO RESIDENTIAL UNIT OWNERS AND TAX STATUS OF CONDOMINIUM

The following discussion of certain income tax consequences of the Plan was prepared by Sponsor based, in part, upon the opinion of Sponsor's Counsel, a copy of which opinion is included herein in Part I, Section V of the Plan. Prospective Purchasers should refer to such opinion letter itself for a more detailed discussion of the tax consequences summarized below.

Prospective Purchasers should note that the opinion letter addresses the tax consequences that would result from the ownership of a Residential Unit by an individual resident of New York for use as a qualified residence, as further described therein. It does not address, among other things, the tax consequences that might result from the ownership of a Residential Unit by a taxpayer that is not an individual or who is a foreign person. It also does not address the tax consequences that might result from the ownership of a Residential Unit that is held by an individual taxpayer in connection with his or her trade or business, for investment, or for the production of income. Further, the opinion letter does not address the tax consequences that might result from the ownership of the Non-Residential Units.

EISEMAN LEVINE LEHRHAUPT & KAKOYIANNIS, PC IS COUNSEL TO SPONSOR AND NOT TO ANY PURCHASER UNDER THE PLAN. EACH PURCHASER SHOULD CONSULT WITH HIS OR HER OWN TAX COUNSEL, ACCOUNTANT OR OTHER FINANCIAL ADVISOR AS TO THE TAX CONSEQUENCES OF THE OWNERSHIP OF A RESIDENTIAL UNIT.

1. Deductibility of Real Estate Taxes and Mortgage Interest

Subject to certain restrictions, each Residential Unit Owner may mortgage his or her Residential Unit, and thereby become individually liable for the payment of the principal and any finance charges or interest on such mortgage indebtedness. Additionally, each Residential Unit will be a separate tax lot for purposes of New York City real estate taxes and assessments. As a result, each Residential Unit Owner will be individually liable for the real estate taxes and assessments levied against his or her Residential Unit.

Generally, it is the opinion of Sponsor's Counsel that each Residential Unit Owner will, under the present income tax laws and regulations, for Federal, New York State and New York City income tax purposes, subject to certain qualifications and limitations discussed below, be entitled to a deduction for:

(a) the real estate taxes assessed against his or her Residential Unit and paid by such Residential Unit Owner; and

(b) "qualified residence interest" paid by such Residential Unit Owner with respect to such Residential Unit.

Qualified residence interest includes interest paid by the Residential Unit Owner on: (i) debt used to acquire, construct or substantially improve any "qualified residence," as defined below, and secured by such residence, up to $1,000,000 in the aggregate ($500,000 in the case of a married individual filing a separate return); and (ii) in general, other indebtedness secured by a qualified

residence, up to $100,000 in the aggregate ($50,000 in the case of a married individual filing a separate return). Interest on home mortgage indebtedness in excess of these limitations is not deductible.

A "qualified residence" means: (i) the "principal residence" of the Residential Unit Owner and (ii) one other residence selected by the Residential Unit Owner.

Prospective Purchasers should note that no deduction will be allowed to a cash basis taxpayer in the year of payment for prepaid interest (except in the case of "points" paid under certain circumstances), and that the deductions for real estate taxes and qualified residence interest may be subject to the overall limitation on the allowance of itemized deductions. No deduction for real estate taxes is permitted for purposes of the federal alternative minimum tax and interest deductions may be limited for such purposes. New York State and New York City limitations on deductions may also apply.

2. **Taxation of the Condominium**

In certain circumstances, a condominium board may elect to be treated as a "homeowners association" within the meaning of Internal Revenue Code Section 528(c) and, therefore, could elect to be exempt from Federal income tax on Common Charges received from Residential Unit Owners ("exempt function income"). In order for the Board to qualify to make such an election, Section 528 and the Treasury Regulations promulgated thereunder require, among other things, that at least 85% of the total square footage of all the Units within the Condominium be used by individuals for residential purposes and that the Board meets certain gross income and expenditure tests. As it is currently anticipated that more than 85% of the total square footage of all the Units in the Condominium will be used by individuals for residential purposes, the Board may be eligible to make this election if the other requirements of Section 528 are met. For any taxable year for which the Board elects to be treated as a homeowners association under Section 528, it will be subject to tax at a 30% rate on the excess of its non-exempt function income over the allowable deductions (computed with certain modifications) directly connected with the production of such income.

Absent the application of Code Section 528, the status of the Board for Federal, New York State and New York City income tax purposes is uncertain. If the Board is deemed to be merely a conduit for the Unit Owners, all income earned by the Board, less the expenses incurred in earning such income, would be deemed to constitute income to the Unit Owners and be taxable to them. However, under this analysis, Common Charges might not be considered income to the Board.

If the Board were to be treated as a separate entity, it is unclear whether it would be taxable as a corporation or treated as a partnership. If the Board is taxable as a corporation, it would be considered a separate taxpayer with respect to income and deductions and return filing requirements and would be subject to Federal corporate income tax, the New York State Corporation Franchise Tax and the New York City General Corporation Tax. If the Board is treated as a partnership, the Unit Owners (but not the Board) would be subject to Federal and New York State income tax on the taxable income of the Board. In addition, in that instance the Board may be subject to the New York City Unincorporated Business Tax. In determining the taxable income of the Board, the deductions attributable to furnishing services to Unit Owners may be limited to membership income. Certain amounts expended for the benefit of Residential Unit Owners, and possibly rebates, if any, to

Residential Unit Owners of excess membership dues, fees or assessments, may be treated as distributions to them.

No warranties are given that the Internal Revenue Service, the New York State Department of Taxation and Finance or the New York City Department of Finance will allow any of the deductions mentioned in this Section U or that the tax laws or the regulations or rulings issued thereunder, or any judicial interpretation thereof, upon which counsel to Sponsor bases its opinion, will not change. In addition, no warranties are given by Sponsor, counsel to Sponsor, the Selling Agent, the Managing Agent or any other person connected with this offering, with respect to the tax consequences of the Plan or the tax consequences of ownership of any Residential Units offered under the Plan, and no one has been authorized to give any such warranties.

Internal Revenue Service Circular 230 Disclosure. This discussion was written to support the promotion or marketing of the sale of Residential Units. To ensure compliance with requirements imposed by the Internal Revenue Service, Purchasers are advised that this discussion was not intended or written to be used, and cannot be used, by any taxpayer, including purchasers of Residential Units, for the purpose of avoiding tax-related penalties that may be imposed on the taxpayer under the Code. Purchasers of Residential Units should seek advice based on their particular circumstances from an independent tax advisor.

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T. OPINION OF COUNSEL
TAX OPINION OF SPONSOR'S COUNSEL

May 14, 2009

Essex Berry Street LLC
c/o Essex Capital Partners Ltd.
635 Madison Avenue
New York, New York 10022

Re: Condominium Offering Plan for
70 Berry Street Condominium (the "Condominium")

To Whom It May Concern:

You have requested our opinion concerning (i) the deductibility, for Federal, New York State and New York City income tax purposes, of mortgage interest and real estate taxes paid by individual residents of New York who purchase Residential Units pursuant to the above-referenced Offering Plan (the "Plan"), and (ii) the income tax treatment to the Board of Managers of the Condominium (the "Condominium Board") of the assessments payable by Residential Unit Owners to meet common expenses of the Condominium ("Common Charges").

In connection with rendering this opinion, we have reviewed the Plan (including the exhibits thereto), 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 deemed relevant. The opinions expressed herein are based upon the assumptions that (1) the Plan becomes effective and is consummated in accordance with its terms, (2) condominium ownership of Residential Units located in the premises known as 70 Berry Street, Brooklyn, New York 11211 is established under applicable law and (3) the legal consequences of the Plan are as described therein. Except where otherwise indicated, the terms used in this opinion have the same meaning as in the Plan.

The Plan provides for the establishment of condominium ownership of the land and building, and appurtenances thereto, comprising 70 Berry Street Condominium, situated at 70 Berry Street, Brooklyn, New York 11211. The Condominium will be comprised of Residential Units, Parking Units and Common Elements. This opinion addresses certain of the Federal, New York State and New York City income tax consequences that would result from the ownership of a Residential Unit by an individual resident of New York for use as a qualified residence. It does not address, among other matters, the tax consequences of ownership of the Non-Residential Units by any person or entity, and does not address the tax consequences of the ownership of Residential Units by corporations, other entities, or foreign persons or by an individual taxpayer in connection with his or her trade or business, for investment, or for the production of income.

Deductibility of Mortgage Interest and Real Estate Taxes

Each Residential Unit Owner will own his or her Residential Unit and an undivided interest in the Common Elements in fee simple and, under New York State Law, each Residential Unit (including its undivided interest in the Common Elements) will be taxed as a separate parcel for real estate tax purposes. Each Residential Unit Owner may mortgage his or her Residential Unit and become individually liable for the payment of the principal and any finance charges or interest on such mortgage indebtedness, and will be liable to the local tax authority for the tax assessment with respect to his or her interest in the Residential Unit. Under these circumstances, the Internal Revenue Service has ruled that the owner of a residential condominium unit who itemizes deductions in filing his or her Federal income tax returns may deduct interest paid on his or her mortgage indebtedness and the real estate taxes assessed and paid on his or her interest in the property. Rev. Rul. 64-31, 1964-1 (Part I) C.B. 300.

Based on the foregoing, and subject to the limitations expressed herein, it is our opinion that each individual Residential Unit Owner who itemizes deductions will be entitled under current law to deduct from his or her gross income for Federal, New York State and New York City income tax purposes, real estate taxes assessed against his or her Residential Unit and paid to the local authority, subject to an overall limitation on itemized deductions as set forth in Section 68 of the Code and applicable New York State and New York City limitations. However, no deduction for real estate taxes is permitted for purposes of the Federal alternative minimum tax. Residential Unit Owners should consult their tax advisers regarding the applicability of the limitation on itemized deductions to the deductibility of real estate taxes, and the effect of the alternative minimum tax.

A taxpayer generally is entitled to a deduction for Federal income tax purposes for interest paid during the taxable year on "acquisition indebtedness" or "home equity indebtedness" with respect to a "qualified residence" of the taxpayer. A "qualified residence" means the principal residence of the taxpayer and one other residence of the taxpayer selected by the taxpayer for the taxable year. "Acquisition indebtedness" means any indebtedness which is secured by any qualified residence of the taxpayer and which is incurred in acquiring, constructing or substantially improving the qualified residence (or which constitutes a refinancing thereof, to the extent that such indebtedness does not exceed the amount of the refinanced debt). The aggregate amount treated as acquisition indebtedness for any period cannot exceed $1,000,000 ($500,000 in the case of a married individual filing a separate return). "Home equity indebtedness" means any indebtedness (other than acquisition indebtedness) secured by a qualified residence, up to the excess of the fair market value of such qualified residence over the amount of acquisition indebtedness with respect to such residence. The aggregate amount treated as home equity indebtedness for any period cannot exceed $100,000 ($50,000 in the case of a married individual filing a separate return). Accordingly, an owner of a Residential Unit who itemizes deductions and who uses such Residential Unit as a qualified residence will be entitled, under current law, to deduct from his or her gross income, subject to an overall limitation on itemized deductions as set forth in Section 68 of the Code, for Federal income tax purposes, interest paid by him or her on (i) acquisition indebtedness incurred with respect to such Residential Unit to the extent that such indebtedness, when added to the amount of acquisition indebtedness incurred with respect to a second qualified residence (if any), does not exceed $1,000,000 ($500,000 in the case of a married individual filing a separate return) and (ii) home equity indebtedness with respect to such Residential Unit to the extent that such indebtedness, when added to the amount of home equity indebtedness incurred with respect to a second qualified residence (if

any), does not exceed $100,000 ($50,000 in the case of a married individual filing a separate return). Since the rules and limitations regarding the deductibility of home mortgage interest are complex, purchasers are urged to consult their tax advisers regarding the application of such rules to them, as well as regarding the deductibility of interest with respect to their Residential Units for alternative minimum tax purposes (which at present is subject to rules different from those described above for regular tax purposes). In addition, owners of Residential Units should consult their tax advisers regarding potential limitations on the deductibility of points and prepaid interest, if any, on their mortgage loans and on the overall limitation on the allowance of itemized deductions.

Each owner of a Residential Unit who uses such Residential Unit as a residence will generally be entitled to the same deduction for interest and real estate taxes paid or accrued with respect to such Residential Unit for New York State and New York City income tax purposes as is allowed for Federal (regular) income tax purposes. However, under New York State and New York City income tax law, itemized deductions, such as interest and real estate tax deductions, are subject to further reduction by as much as 50% in the case of individuals having income exceeding certain prescribed levels. Furthermore, purchasers should consult their tax advisers to determine the application, if any, of the New York State and New York City minimum tax to the deduction for interest and real estate taxes with respect to their Residential Units.

Common Charges

Under the Plan, the Condominium Board will, from time to time, assess Common Charges against the Residential Unit Owners generally in proportion to their respective percentage interests in the Common Elements in order to pay the costs and expenses of operating, repairing, and maintaining the Common Elements.

In certain circumstances, a condominium management association may elect to be treated as a "homeowners association" within the meaning of Code Section 528(c) and, therefore, could elect to be exempt from Federal income tax on its exempt function income. In order for the Condominium Board to qualify to make such election, Code Section 528 requires, among other things, that substantially all of the Units in the Condominium be used by individuals for residences. The Treasury Regulations promulgated under Code Section 528 state that substantially all of the condominium units will be considered as used by individuals for residences if at least 85 percent of the total square footage of all the units within the project is used by individuals for residential purposes. As it is currently anticipated that more than 85 percent of the total square footage of all the Units in the Condominium will be used by individuals for residential purposes, the Condominium Board may be eligible to elect to be treated as a homeowners association, provided that the other requirements of Code Section 528 are met. Among such requirements are that 60 percent or more of the gross income of the Condominium Board for the taxable year be exempt function income, and that 90 percent or more of the expenditures of the Condominium Board for the taxable year be qualifying expenditures for the acquisition, construction, management, maintenance, and care of association property. "Exempt function income" means amounts received as membership dues, fees, or assessments from Residential Unit Owners in their capacity as such, if such amounts are used by the Condominium Board for qualifying purposes.

For any taxable year for which the Board elects to be treated as a homeowners association under Code Section 528, it will be subject to Federal taxation only on its homeowners association

taxable income for such year. Such tax will be imposed at the rate of 30 percent. For this purpose, "homeowners association taxable income" is defined as an amount equal to the excess (if any) of the gross income for the taxable year (excluding any exempt function income) over allowable deductions that are directly connected with the production of the gross income (excluding exempt function income). Such allowable deductions are computed with certain modifications, including the disallowance of the net operating loss deduction and special deductions otherwise allowable to corporations, including the deduction for dividends received and the amortization of organizational expenditures.

Absent the application of Code Section 528, the present state of the law is uncertain as to the proper reporting and tax treatment of the income of the Condominium Board derived from Unit Owners ("membership income") and others ("nonmembership income") in excess of appropriate deductions and credits. It is possible that the Condominium Board could be viewed as an agent or conduit for Unit Owners, in which case each Residential Unit Owner would be required to report his or her proportionate share of nonmembership and possibly membership income (and the deductions attributable thereto) directly on his or her own tax return. Alternatively, the Internal Revenue Service may take the position that the Condominium Board should be treated as a separate entity. In that case, it is unclear whether the Condominium Board would be taxable as a corporation or treated as a partnership. If the Condominium Board is taxable as a corporation, it would be considered a separate taxpayer with respect to income and deductions and return filing requirements and would be subject to Federal corporate income tax, the New York State Corporation Franchise Tax and the New York City General Corporation Tax. If the Condominium Board is treated as a partnership, the Unit Owners (but not the Condominium Board) would be subject to Federal and New York State income tax on the taxable income of the Condominium Board. In addition, in that instance the Condominium Board may be subject to the New York City Unincorporated Business Tax. In determining the taxable income of the Condominium Board, the Condominium Board's deductions attributable to furnishing services to Unit Owners may be limited to its membership income. Certain amounts expended for the benefit of Residential Unit Owners, and possibly rebates, if any, to Residential Unit Owners of excess membership dues, fees or assessments, may be treated as distributions to them.

We express no opinion concerning (a) any Federal, New York State or New York City tax consequences not explicitly discussed in this opinion, (b) any other aspects of the Plan other than those consequences and aspects explicitly discussed in this opinion, or (c) the tax status and tax consequences of the Plan under the laws of any other state, local or foreign jurisdiction. Except as explicitly provided, this opinion does not address (i) tax consequences which may result with respect to any Residential Units held in connection with a trade or business, or any Residential Units held for purposes of investment or for the production of income, (ii) tax consequences of the ownership of Residential Units by corporations or other entities, (iii) tax consequences which may result to a foreign Residential Unit Owner by reason of his or her foreign status or (iv) tax consequences which may result from the purchase of the Non-Residential Units. This opinion also does not discuss the tax consequences which may arise if Units or Common Elements are acquired and/or leased by the Board or the issue of whether a Residential Unit Owner may be deemed to be a resident of the United States, New York State, or New York City as a result of the ownership of a Residential Unit and the attendant income, estate or other tax consequences. We advise, therefore, that each person contemplating the purchase of a Residential Unit consult his or her own tax adviser concerning all such tax matters, as well as with respect to the matters discussed in this opinion.

It should be noted that this opinion is based solely on the facts and documents referred to above and is not binding on the Internal Revenue Service, the New York State Department of Taxation and Finance, or the New York City Department of Finance. Moreover, the Federal, New York State and New York City tax laws and regulations and the rulings and decisions thereunder 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 in the event of any such change in applicable law, although we have advised Sponsor that it is obligated to do so.

This opinion is not a guarantee; it is based on existing rules of law applied to the facts and documents referred to above. No assurances can be given that the tax laws upon which we base this opinion will not change. In no event will Sponsor, we, the Condominium Board, the Selling Agent, the Managing Agent or any other person be liable if there are changes in the facts on which we relied in issuing this opinion or if there are changes in the applicable statutes, regulations, rulings or decisions on which we relied which cause the Residential Unit Owners not to be entitled to the income tax deductions described above or which affect the tax treatment of the Condominium Board as described herein.

Internal Revenue Service Circular 230 Disclosure. This opinion was written to support the promotion or marketing of the sale of Residential Units. To ensure compliance with requirements imposed by the Internal Revenue Service, we are informing you that this opinion was not intended or written by us to be used, and cannot be used, by any taxpayer, including purchasers of Residential Units, for the purpose of avoiding tax-related penalties that may be imposed on the taxpayer under the Code. Purchasers of Residential Units should seek advice based on their particular circumstances from an independent tax advisor.

We hereby authorize the use of this opinion, or a reproduction thereof, in the Plan and references to our name in the Plan.

Very truly yours,

Eiseman Levine Lehrhaupt & Kakoyiannis

OPINION OF SPONSOR'S 421-A COUNSEL REGARDING 421-A ELIGBILITY

Unger Realty Services, Inc.
CONSULTING

1372 CONEY ISLAND AVENUE
BROOKLYN, NEW YORK 11230
(718) 859-3101
FAX NO (718) 421-0812

OCTOBER 7, 2008

Mr. Peter Papamicahel
Essex Berry Street, LLC
c/o Essex Capital Partners
635 Madison Avenue,
New York, NY 10022

Re: 70 Berry Street
Brooklyn, New York
Block: 2303 Lot: 19

Dear Mr. Papamichael,

You have requested our opinion as to the eligibility of the proposed development of the aforementioned parcel for real estate tax exemption benefits, pursuant to 421-A of the Real Property Tax Law, Section 11-245 and Section11-245.1 of the administrative code.

You have advised us of the following, that a new residential building containing 48,711 square feet will be constructed on the aforementioned lot. The construction is being completed under a New Building permit. Upon completion a Certificate of Occupancy for a building containing 38 residential units will be issued. All of the new units will be part of a new condominium ownership.

You have assured us that you will comply with all requirements and regulations of the Administrative Code, Department of Buildings, and all Governmental Agencies having jurisdiction over the project.

Section 6-02(c) of the Rules bars benefits for projects situated on land mapped as a public park or utilized for ten or more consecutive years immediately prior to October 1,1971 as a private park. You have advised us that this project is not located on land falling into either category.

Unger Realty Services, Inc.
CONSULTING

1372 CONEY ISLAND AVENUE
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Section 6-02(f) of the Rules states that for a project to be eligible for benefits, the land on which it is located must have been previously under-utilized. Mr. Armand Quadrini, AIA, of KSQ Architects, PC has forwarded documentation indicating that the size of the previous structure does not exceed seventy-five percent of the square footage of the proposed new structure. Based on the aforementioned, the prior usage can be deemed as under-utilization of the lot and eligible for 421-A benefits.

Based on the above, it is our opinion that the Department of Housing Preservation and Development (HPD) may consider the property eligible for real estate tax benefits under the 421-A program.

Pursuant to Section 6-02(d) 3, a fifteen-year post construction exemption of increases in assessment due to the newly constructed space – is awarded for projects completed in the boroughs of Brooklyn, the Bronx, Queens, Staten Island and in Manhattan North of 110th Street. If 421-A benefits will be granted, the award will be based on the schedule listed below.

Year	***Percent of Increased Assessed Valuation Which is Exempt***
Construction (maximum of 3 years)	100%
First through eleventh	100%
Twelfth	80%
Thirteenth	60%
Fourteenth	40%
Fifteenth	20%
Sixteenth	0%

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The NYC Department of Finance and HPD will determine the eligibility of the premises for tax benefits and the amount of exemption to be granted. This determination will be based upon the prior usage of the lot, satisfaction of all construction requirements, pursuant to The Code, and submission of all documentation required by the 421-a Unit and the New York City Department of Finance.

This letter was prepared at the request of Mr. Peter Papamichael, owner's representative, and is based upon documentation submitted by Mr. Peter Papamichael and Mr. Armand Quadrini, AIA. The exemption award is subject to variations and approval by the Department of Finance and HPD. No representation is made by this firm that the provision of the law will apply at the time the construction of the building is completed, and if it does apply that the HPD will deem that the property is entitled to benefits covered under the 421-A program.

This letter is being sent to you with the express understanding that our firm assumes no liability for our opinions that were presented. The opinions have been presented only for your assistance in preparation of the offering plan. No warranty is or can be made by this firm that the Department of Finance, HPD, the Real Property of the City of New York and any other agency having jurisdiction will approve the applications for tax benefits. The writer of this letter shall not be liable if, because changes in the laws and / or regulations, interpretation of the laws and regulations or if the facts represented by Mr. Peter Papmichael, the owner's representative, and Mr. Armand Quadrini, AIA, prove incorrect, the property fails to obtain in whole or in part 421-A benefits.

Sincerely,

Steven Unger

Real Estate Tax Projection

for

70 Berry Street

Brooklyn, New York

Prepared for:
Essex Berry Street LLC
c/o Essex Capital
635 Madison Avenue
New York, NY 10022

September 22, 2008

The Mazursky Group, inc.
Real Estate Tax Consultants and Appraisers

September 22, 2008

Essex Berry Street LLC
c/o Essex Capital
635 Madison Avenue
New York, NY 10022

Attention: Mr. Peter Papamichael

Re: 70 Berry Street, Brooklyn

I, JEROME MAZURSKY, CERTIFY:

THAT I am a real estate appraiser and have many years of experience in the assessment of real estate for tax purposes both as an Assessor in the Borough of Manhattan and as the Department of Finance's Assistant Commissioner of the Real Property Assessment Division;

THAT I have been retained by the sponsor to estimate for inclusion in an Offering Plan to be submitted to the Attorney General, the assessed valuation of the above-captioned property after completion of construction of a new 7-story residential condominium;

THAT in estimating the assessed valuation of the property, I am aware of the construction costs, rental values and offering prices of the units;

THAT I have consulted with personnel in the Property Division of the Department of Finance regarding the current practice in assessing newly constructed residential condominium buildings. Specifically, discussions centered around appropriate land and building factors and income projections for properties similar to the subject in type and location.

42 Broadway, Suite 1744, New York, NY 10004 (212) 344-8586

I have discovered the following:

1) The subject property is located at 70 Berry Street in the Williamsburg section of the borough of Brooklyn. The sponsor is in the process of constructing a new 7-story elevator apartment house on the site. After completion of construction and the establishment of a condominium, it will contain thirty-eight (38) residential units and eighteen (18) licensed parking spaces. According to Department of Finance records, prior to construction, the property was improved with a 2-story industrial (F9) building, which has since been demolished.

The site has 66' frontage on the northerly side of Berry Street and extends 148' in depth. It is irregularly-shaped and contains 11,400 square feet of ground area. It is identified on the city's tax records as Block 2303 Lot 19.

2) After completion of construction, scheduled for August 2009, the building will contain the following approximate square foot areas and uses:

FLOORS	AREA	USE
1	9,719	Lobby, Vestibule, Mechanical and Meter Rooms, Storage, 18- Licensed Parking Spaces, Recreation Room, etc.
2-5	27,480	4-2BR, 24-1BR Apartments
6	6,973	1-2BR, 6-1BR Apartments
7	4,282	1-Studio, 1-2BR, 1-3BR Apartments

3) The property is currently assessed in Tax Class 4. After completion of the construction and the establishment of a condominium, the units will be assessed in Tax Class 2 under the classification system adopted by the State Legislature in its revision of the Real Property Tax Law (Section 305, Article 1802, and Section 581, applicable to the assessment of cooperative apartments and condominiums.)

Tax Class 4 includes vacant land and most properties other than residential. Tax Class 2 is comprised of primarily residential rental, cooperatives and condominiums containing more than ten units. The City's assessment ratio policy for properties in Tax Class 2 is to assess at 45% of market value based upon value as an income-producing property. Increases to value are unlimited, but except for increases due to physical changes, are required to be phased-in over a five-year period. The taxable value is the lower of the actual or transitional values.

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3) continued

The 2008/09 Class 2 rate is $12.139 per $100. I estimate the tax rates for 2009/10 and 2010/11 at $12.45 per $100.

4) The recent history of assessed valuation of 70 Berry Street is as follows:

2006/07	Land	Total
Actual:	$67,050	$ 220,500
Transitional:	$71,010	$ 210,240

2007/08	Land	Total
Actual:	$102,600	$102,600
Transitional:	$ 76,140	$ 76,140

2008/09	Land	Total
Actual:	$153,900	$ 153,900
Transitional:	$ 91,530	$ 91,530

5) It is my judgment that after construction is completed, the property will be assessed as follows:

2009/10	Land	Total
Actual:	$200,000	$ 2,000,000
Transitional:	$116,100	$ 1,916,100

2010/11	Land	Total
Actual:	$200,000	$ 3,200,000
Transitional:	$140,600	$ 3,140,600

2011/12	Land	Total
Actual:	$200,000	$ 3,200,000
Transitional:	$165,300	$ 3,165,300

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6) The tax liability during the first year of operation is estimated at $264,471. During the second year, it is estimated at $391,528. The calculations are as follows:

First Year of Operation

9/1/09 - 6/30/10
$ 1,916,100 [1] x .1245 [2] x .83 [3] = $ 198,000

7/1/10 - 8/31/10
$ 3,140,600 [4] x .1245 [2] x .17 [3] = 66,471

Total: $ 264,471

Second Year of Operation

9/1/10 - 6/30/11
$ 3,140,600 [4] x .1245 [2] x .83 [3] = $ 324,534

7/1/11 - 8/31/11
$ 3,165,300 [5] x .1245 [2] x .17 [3] = 66,994

Total: $ 391,528

Each unit will be given a separate tax lot number. Individual tax liability for each unit may be estimated by apportioning the total tax among the unit owners in proportion to their percentage of common interest as indicated in the Offering Plan.

1. Estimated 2009/10 Taxable Assessed Value
2. Estimated Class 2 Tax Rate
3. Part of year
4. Estimated 2010/11 Taxable Assessed Value
5. Estimated 2011/12 Taxable Assessed Value

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7) It is my understanding that the sponsor is seeking 421-a real estate tax exemption benefits. If granted, the benefits provide a varied exemption of increases in assessed value over the 2006/07 base tax year. There may be up to a 100% exemption of building value during the construction period (not to exceed three years) and the first eleven years of operation. In the twelfth year, the exemption decreases to 80%, in the thirteenth year it is reduced to 60% and to 40% in the fourteenth. In the fifteenth year, the exemption is further reduced to 20%, after which the property will be fully taxed.

The 421a exemption generally applies to the entire taxable assessed value, over and above the "mini-tax."[6] In the first year of operation, I have estimated the tax with 421a exemption benefits at $ 26,175. The calculation is as follows:

First Year of Operation with 421a

9/1/09 - 8/31/10

$ 210,240[7] x .1245[2] = **$ 26,175**

8) The co-op/condominium real estate tax abatement law, that over the past few years has had a favorable effect on the real estate tax burden of residential co-op and condominium unit owners, was extended by the State Legislature to June 30, 2012. The Legislature indicated its intention in passing this law was to address the disparity between the tax burden of one to three family homeowners and that of residential co- op and condominium unit owners. If the abatement is granted to this condominium, the law may allow up to a 17.5% abatement of the real estate tax bill of a unit owner who will own fewer than four units on the city's taxable status date of January 5, 2010. Excluded from receiving the abatement benefits are co-ops and condominiums that receive tax exemption benefits.

6. The mini-tax is the minimum tax paid each year that the property receives 421a benefits. It is based upon the taxable assessed value in the tax year preceding the tax year in which construction started.
7. 2006/07 Base Year Taxable Assessed Value used to calculate the 421a mini-tax.

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9) This estimate of the assessed valuation has been prepared for inclusion in the Offering Plan, and I consent to its use for this purpose.

Although the aforesaid estimate of the Actual Assessed Valuation is a good-faith estimate, it is not possible to estimate same with any degree of certainty. Assessed valuations, when actually made, may be lesser or greater based on our interpretation of the administrative code and the applicable rules and regulations of the City of New York. Although I believe my opinions are well-founded, they are not intended, and should not be construed as warranties as to future assessed valuations of the property under discussion.

In no event will this firm, the Sponsor, the Sponsor's counsel or any other person be liable if the assessed valuation, when actually made, is lesser or greater than that estimated above, or if the administrative code and the applicable rules and regulations of the City of New York are changed in the future, or if the facts as represented prove to be untrue.

Jerome Mazursky, MAI, CAE

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The Mazursky Group, inc.
Real Estate Tax Consultants and Appraisers

JEROME MAZURSKY, MAI, CAE
President

NYS Certified General R.E. Appraisers
46000001594

QUALIFICATIONS

EDUCATION

N.Y.U. School of Commerce - B.S.
Real Estate Courses

Appraising I, II	CUNY
Advanced Assessing	Cornell University
Appraising Problems	University of Connecticut
Computerized Mass Assessing	I.A.A.O.
Various Appraisal Courses	Appraisal Institute

PROFESSIONAL DESIGNATIONS EARNED

MAI	(Member of the Appraisal Institute)
CAE	(Certified Assessment Evaluator, IAAO)
IAO	(Institute of Assessing Officers, NYSAA)

EMPLOYMENT

1973-1980	Assessor - Manhattan
1978	Interim Acting Tax Commissioner for Staten Island
1981-1982	Assistant Commissioner (in charge of the Real Property Assessment Division of the Department of Finance)
1983- Present	Real Estate Tax Consultant/Fee Appraiser

MEMBERSHIPS HELD IN PROFESSIONAL ORGANIZATIONS

International Association of Assessing Officers
N.Y.S. Association of Assessors
Appraisal Institute
American Arbitration Association

ARTICLES PUBLISHED

"The Future of Assessed Valuations in New York City"
Assessment Digest, July 1979
The Valuer's Line, May 1980

Book Review of "You Can Get Your Real Estate Reduced"
Real Estate Review, Spring 1980

"Reflections of an Acting Tax Commissioner"
Real Values, September 1978

"Real Estate Taxes and the Review Process"
C.P.A. Journal, July 1981

"The New Real Estate Tax in New York City"
C.P.A. Journal, July 1982

"Battling Taxes From a Different Vantage Point"
Real Estate Weekly, December 28, 1988

"Forecast of Real Estate Taxes in NYC"
Real Estate Weekly, January 1990

"Real Estate Tax Burden Shifting in New York"
REW - Review & Forecast, July 25, 1990

SCOPE OF APPRAISAL EXPERIENCE

Over a period of twenty-five years, I have valued thousands of properties of almost every conceivable type in New York City. Some of the more notable properties for which I have performed tax projections for offering plans are:

The Plaza Hotel Condominium
500 West End Avenue
350 West 42nd Street
The Corinthian Condominium
Trump Parc Condominium
The Stanhope Condominium
330 East 72nd Street
823 Park Avenue
123 West 44th Street

U. WORKING CAPITAL FUND

The Purchaser of each Residential Unit shall be required to make a contribution at the closing of title to such Unit to or in respect of the working capital fund of the Condominium (the "Working Capital Fund"). Such contribution shall be in an amount equal to one (1) month's months' Common Charges then in effect for the Unit.

No reserve fund is being established for the Condominium. Sponsor has elected not to provide for a reserve fund to be used for capital replacements or repairs in respect of the Building because upon completion of the construction to be performed by or on behalf of Sponsor as described herein, the Building will be new construction.

At the First Closing, Sponsor will apportion the following items with the Board as of the date preceding said closing:

(1) employees' wages, vacation and all other payments or obligations relative to the employees of the Condominium;

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

(3) charges for gas, electricity and other utilities;

(4) payments under assignable service, maintenance and concession contracts;

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

(6) cost of fuel and Building supplies on hand, at Sponsor's cost (plus sales tax);

(7) premiums for transferable insurance policies; and

(8) other customary adjustments.

If any of the foregoing items to be apportioned cannot be adjusted at the First Closing because they are not fully ascertainable, they shall be apportioned and adjusted to the extent reasonably possible at the First Closing, and final adjustment will be made as soon thereafter as the undetermined amounts are ascertained. No such adjustments or apportionments are expected to be substantial. Except as herein otherwise expressly provided, the customs in respect to title closings adopted by the Real Estate Board of New York, Inc., as amended, shall apply to apportionments and other matters herein mentioned.

The Working Capital Fund may be held or used for working capital, to make repairs and/or for such other appropriate purposes permitted under the Declaration and the By Laws as will be determined by the Board, in its sole discretion and may be augmented by allocations from monthly Common Charges collected by such Board. Other than as provided in the preceding sentence, Sponsor will not separately contribute to the Working Capital Fund. However, while Sponsor controls the Board, the Working Capital Fund will not be used to reduce estimated Common Charges,

and in no event shall any portion of the Working Capital Fund be used to pay any Common Charges attributable to Unsold Residential Units.

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

Neither the Department of Law nor any other governmental agency has passed upon the adequacy of the Working Capital Fund.

V. RESERVE FUND

A reserve fund is being established for the Condominium. Sponsor has elected to include in the Budget a reserve fund to be used for capital replacements or repairs, because the Building will be newly constructed. The Board, in its discretion, and subject to certain restrictions contained in the By Laws, may decide in the future to change this reserve fund by special assessment or by increases in Common Charges

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W. MANAGEMENT AGREEMENT AND CONTRACTS

The Board has entered into a management agreement ("Management Agreement") with Able Management II Corp. (unaffiliated with the Sponsor or its principals), having an address at 196 Bedford Avenue, Brooklyn, New York 11211, to act as Managing Agent with respect to the Condominium.

It is contemplated that the Management Agreement will provide for an initial term of one year commencing on the First Closing ("Initial Term") at an annual fee of eighteen thousand ($18,000) Dollars payable in equal monthly installments.

Pursuant to the terms of the Management Agreement, the Managing Agent or the Board shall have the right, on written notice ("Cancellation Notice") to the other Party ("Defaulting Party"), to terminate and cancel this Agreement at any time during the Initial Term or thereafter based on any of the following: (a) the Defaulting Party's violation of this Agreement (including a default in paying or performing its obligations, duties or services provided therein under the Management Agreement); provided, however, the Defaulting Party shall have the right for sixty (60) days after receipt of the Cancellation Notice (or thirty (30) days after receipt of a Cancellation Notice based upon a substantial shortage of cash to properly maintain and operate the Building) to cure the violation and thereby void the Cancellation Notice; (b) a filing by or against the Defaulting Party of a petition ("bankruptcy petition") under the Federal Bankruptcy Code or any similar federal or state law, whether now or hereafter existing and (in the case of an involuntary proceeding) the bankruptcy petition is not vacated, set aside or otherwise dismissed within 60 days after such filing thereof; (c) a filing against the Defaulting Party of a bankruptcy petition and this Agreement is not assumed or rejected by the Defaulting Party within 30 days after such filing thereof; (d) an act of bankruptcy or insolvency by the Defaulting Party under federal or state law (such as an assignment for the benefit of creditors or an admission of inability to pay its debts as they become due); or (d) the involuntary appointment of a receiver, trustee, custodian or assignee for the benefit of creditors of the Defaulting Party or its assets and such appointment is not vacated, set aside or otherwise dismissed within 60 days thereafter.

The management fee will be included in Common Expenses as discussed above in Section E, "Projected Budget for First Year of Condominium Operation." The Managing Agent will be entitled to additional fees for certain special services (including, without limitation, brokerage or other similar services in connection with the sale or leasing of any Unit(s) from time to time owned or leased by the Board) performed by it.

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

a. subject to, and in accordance with, all union contracts and other agreements concluded on behalf of the Condominium with the Board's written consent:

(i) hiring, paying and supervising all persons whose employment is necessary and desirable in order to properly maintain and operate the Common Elements (all of whom shall be the employees of the Condominium and not the employees of Managing Agent (the Board shall have complete discretion with respect to the hiring and discharging of all employees);

(ii) discharging employees of the Condominium whose employment is or becomes unnecessary or undesirable;

(iii) preparing, obtaining, maintaining and/or filing, as appropriate, all required payroll records; all necessary forms for unemployment insurance, withholding and social security taxes; and all other forms, insurance, or filings relating to the employment of the Board's employees required by any federal, state or municipal authority; and

(iv) maintaining, in its offices or at the Property or at such other location in The City of New York where Managing Agent maintains an office, copies of all labor contracts affecting in Common Elements and advise the Board, at its request, as to the procedures that should be followed in order to comply with the same;

(b) advising the Board in writing in connection with the maintenance, repair and operation of all mechanical installations and equipment constituting parts of the Common Elements;

(c) causing ordinary repairs to be made with respect to the Common Elements, and causing such further work or repair, redecoration or alteration to be performed with respect to the Common Elements, all at the Board's expense and all as may be otherwise authorized, subject to the limitation that Agent, without the Board's prior written authorization, may not proceed with work costing more than $2,500.00 to complete, nor any capital improvement, repair of alteration, with the exception only of emergency repairs under circumstances which, in Managing Agent's commercially reasonable judgment, permit no reasonable opportunity for prior clearance with the Board and require immediate action for the preservation or protection of the Property or the health and safety of Unit Owners or other persons, but Managing Agent shall notify the Board by the most expeditious means immediately thereafter;

(d) keeping detailed records of all alterations, repairs and other work performed on the Property of which Managing Agent has knowledge, no matter by whom effected;

(e) at the Board's expense and consistent with the Budget, using commercially reasonable efforts to comply with, and causing the Common Elements and the use and operation thereof to comply with, to the extent in each case Managing Agent has actual knowledge thereof, any and all applicable Legal requirements, or the requirements of any insurance carriers providing any insurance coverage for or with respect to all or any portion of the Property; promptly notifying the Board or its designated member, upon receiving notice of any violation of or order issued with respect to, Legal Requirements applicable to the Common Elements; recommending an appropriate course of action for the Board to take with respect to the same; and take such action as shall be necessary in order to comply with or remove (as the case may be) the same, and promptly furnishing to the Board evidence reasonably satisfactory to the Board of such compliance. ; provided, however, Managing Agent shall not take any such action if the cost thereof would exceed $2,500, except that if failure to comply promptly with any such Legal Requirements would or might expose the Board or Managing Agent to criminal liability or pose an imminent danger to life or health, Managing Agent shall cause the same to be complied with at the Board's expense without the necessity for any prior approval, but Managing Agent shall notify the Board by the most expeditious means immediately thereafter;

(f) subject to the written approval of the Board, entering into contracts in the name of the Condominium, for such services as shall be deemed advisable by the Board, subject, however, to the limitations contained in this Agreement and in the By-Laws;

(g) consistent with the Budget, purchasing those supplies that shall be required in order to maintain and operate the Common Elements and provide required services to Unit Owners and occupants, at prices which shall be as advantageous as reasonably possible, making available to the Board to the extent reasonably possible the benefit of discounts of any nature;

(h) at the Board's request, assisting the Board in determining the appropriate insurance to be carried for the Common Elements, including without limitation, upon the written request of the Board, investigating the insurance market, making recommendations concerning insurance carriers and coverage, and obtaining quotes for such coverage; carrying out the written directions of and assist the Board respecting the placing and administering of insurance, the seeking of insurance recoveries, and the restoration of insured damage (and, as to all insurance policies to lapse and insure that such policies are properly renewed prior to their expiration);

(i) consistent with the Budget, subject to other applicable provisions of the Management Agreement, verifying and paying, or causing to be paid, bills received for services, work and supplies ordered in connection with maintaining and operating the Common Elements, as and when the same shall become due and payable;

(j) under the supervision of the accountants retained by the Board, keeping the books and records of the Condominium, and maintaining files containing records of Common Charges, assessments, rents, insurance policies, mortgages that are liens on Units, contracts, correspondence, receipted bills and vouchers, and all other documents and papers pertaining to the Common Elements or the operation thereof;

(k) preparing and submitting to the Board for the Board's approval an annual operating budget for the Condominium on or before December 1 of each preceding year, in such detail as may reasonably be required by the Board. In the event that the Board does not approve the proposed Budget, the Budget for the prior year shall remain in effect;

(l) billing Unit Owners monthly for Common Charges, furnishing the Board with an itemized list of all delinquent Unit Owners (which list shall set forth the period of such delinquency) on or about the twentieth (20th) day of each month and, when directed in writing by the Board:

(i) sending notices of delinquency to the appropriate Unit Owners,

(ii) cooperating with the Board's counsel in instituting foreclosure or summary proceeding or such other legal action as the Board may direct, and

(iii) taking such other action pursuant to the Condominium Documents for the collection of delinquent Common Charges as may be requested by the Board;

(m) on or about the twentieth (20th) day of each month, rendering, or causing to be rendered, a statement (hereinafter called the "Monthly Statement") to the Treasurer and President of the Condominium, setting forth:

(i) a report of all amounts collected and disbursements made of, and for the account of, the Condominium during the prior month;

(ii) a report of the current status of all bank accounts and investment securities of the Condominium;

(iii) a summary of receipts and disbursements for the month and the month and the year to date; and

(iv) a reasonably detailed description of any obligations due, or that will or may become due, to Managing Agent's knowledge, thereafter for which current income will or may not be adequate;

(n) cooperating in all reasonable respects with the certified public accountants and auditors retained by the Board in regard to the preparation and filing, on behalf of the Condominium, of all income and other tax returns required by any governmental authority, and in regard to each annual audit of the books of account of the Condominium, and sending or delivering a copy of the annual auditor's report to each Unit Owner;

(o) if so required by the Board, with respect to any complaint made by a Unit Owner, notifying the Board in writing of the receipt of such complaint, which notice shall set forth Managing Agent's opinion as to the reasonableness of the complaint, the reasons underlying such opinion and suggested actions that may be taken to attend thereto; and follow the reasonable instructions of the Board with respect to the resolution of the same;

(p) when requested by the Board:

(i) preparing and sending to the Unit Owners notices of all meetings of the Unit Owners;

(ii) preparing and sending to the officers of the Condominium and members of the Board notices of all meetings thereof; and

(iii) causing a representative of its organization to attend the annual meeting of the Unit Owners and up to twelve (12) meetings per year of the Board;

(q) preparing and sending out all letters, notices, certificates, reports and any other communications as the Board may reasonably request; receiving all letters, notices, certificates, reports and any other communications on behalf of the Board and the Condominium; and forwarding the same to the Board as appropriate;

(r) acting as the Condominium's agent for the service of process, promptly notify the President and Secretary of the Condominium of its receipt of any process affecting the Condominium and/or the Board and consult with, advise and assist the officers of the Condominium with respect thereto;

(s) notifying the Board of any violation of the Condominium documents by any Unit Owner or occupant, about which Managing Agent has actual knowledge, and take such action to

enforce compliance with such Condominium Documents and/or causing such violation to be remedied, as may be requested by the Board pursuant to the Condominium Documents;

(t) until the Units in the Condominium are separately assessed, and in accordance with the Budget, paying, on behalf of the Condominium, real estate taxes, water and sewer rents, assessments, and other public charges with respect to the Condominium; with respect to any Units owned by the Board on behalf of the Unit Owners, paying real estate taxes, assessments, other public charges, premiums on insurance, or sums payable on any mortgage which may at any time be a lien on such Units, when provided with funds therefor by the Board; and promptly notifying the Board of any change in the amount of real or personal property assessments or taxes relating to all or any portions of the Property, and recommending and advising the Board as to contesting the amount or validity thereof, and, at the Board's cost and expense, cooperating with the Board and providing necessary assistance to the Board in the contesting of any taxes or assessments or any appeal thereof;

(u) cooperating with the Board and its counsel, at, subject to Article 7, the Board's expense, in the prosecution of defense of any suit or legal proceeding against the Board or the Condominium, it being recognized that no authority to employ counsel or begin legal proceedings or any nature shall exist without the Board's prior written consent in each instance unless Managing Agent is named as a party defendant in any such suit or legal proceeding, in which event Managing Agent may invoke its rights under Article 7 or defend itself in any such proceedings at its own cost; and

(v) notifying the Board promptly of any injury or insurance claim known to exist by Managing Agent relating to the Property or the Board of the Condominium and forwarding to the Board copies of any summons, subpoena, or similar legal document served upon Agent relating to actual or alleged potential liability of the Board, Managing Agent or the Condominium, and taking no action which may operate, or refraining from taking any action which, if not taken, may operate, to bar the Board from obtaining any protection by any policies of insurance either the Board or Managing Agent may hold, or prejudice the defense in any legal proceedings or otherwise prevent the Board from protecting itself against any such claim or defending itself in any legal proceedings.

The Board will indemnify the Managing Agent against liability for all claims for all acts properly performed by the Managing Agent pursuant to the management agreement or at the instructions of the Board, provided however, any such indemnification shall not cover any claims resulting from (i) the Managing Agent or its employee's negligence or willful or intentional default; (ii) intentional torts on the part of Managing Agent or its employees; or (iii) any claim by or relating to Agent or any employee of Agent made against the Board that is predicated on the claim that such acts of Agent or its employees are outside the scope of services under the Management Agreement.

The Managing Agent, at its own expense, will be bonded during the term of the Management Agreement under fidelity surety bonds in favor of the Condominium in the minimum amount of $500,000 for any loss resulting from fraudulent or dishonest acts committed by the Managing Agent, its directors, officers or employees.

Sponsor reserves the right during the Initial Control Period to designate any other reputable managing agent to perform all of the duties and services to be performed by the Managing Agent under the Plan and if Sponsor does so, Sponsor will cause such other managing agent to accept

employment on terms substantially similar to the terms specified above. After the Initial Control Period, upon the expiration or sooner termination of the then current agreement with the Managing Agent, the Board may designate any other managing agent to perform the duties and services to be performed by the Managing Agent under the Plan. The term "Managing Agent" when used in the Plan with respect to any time after Sponsor or the Board has designated another managing agent shall mean such other agent. The Management Agreement may not be assigned by the Managing Agent without the prior written consent of the Board. Sponsor will amend the Plan to disclose having entered into the Management Agreement promptly after execution thereof.

No other leases or agreements that will binding on the Condominium have been entered into as of the filing date of the Plan.

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X. IDENTITY OF PARTIES

1. Sponsor

Sponsor is Essex Berry Street LLC, a New York limited liability company with an office 635 Madison Avenue, New York, New York 10022.

Sponsor was formed specifically for the purpose of purchasing the Land, building and developing the Condominium and preparing and filing this Offering Plan.

The individual officer, and principals of Sponsor who are actively involved in the planning or consummation of the offering contemplated by the Plan is Mitchell B. Rutter. Mr. Rutter is the principal and sole shareholder of Essex Capital Partners, Ltd. Essex Capital Partners is a real estate investment and development company, with offices located at 635 Madison Avenue, New York, New York 10022. Notable transactions include the development of 2 Dag Hammarskjold Plaza and The Whitney House located at 200 East 90 Street in Manhattan, Westage Towers Condominiums in White Plains, a rental residential building located on Schermerhorn Street in Brooklyn, New York, and a townhouse condominium project known as Countryside Condominium located in East Haven, Connecticut. Mr. Rutter is a member of the board of New York City Business Relocation Assistance and New York University School of Law Center for Real Estate and Urban Policy. He is advisory board member of New York University Real Estate Institute.

Sponsor, its principals and affiliated entities have been involved in the following cooperative or condominium offerings in the State of New York within the past five years the condominium plan for 560 Carroll Street, Brooklyn, New York has been accepted for filing April 2009 by the Attorney General's Office of the State of New York.

There have been no prior felony convictions of Sponsor, or any principals of Sponsor; and no prior convictions, injunctions and judgments against Sponsor, or any principals of Sponsor that may be material to the Plan or an offering of securities generally, that occurred within 15 years prior to the submission of this Plan.

2. Attorneys for Sponsor

Sponsor has retained the law firm of Eiseman Levine Lehrhaupt & Kakoyiannis, PC, having an office at 805 Third Avenue, New York, New York 10022 ("Sponsor's Counsel"), to represent it in connection with the Plan. Peter Kakoyiannis, Esq. had principal responsibility for the preparation of the Plan, the Declaration, the By Laws and the forms of Agreement, Unit Deed and Unit Power of Attorney. Sponsor's Counsel has also rendered opinions with respect to the possible availability of income tax deductions to Purchasers of Residential Units and the allocation of Common Interests. Sponsor's Counsel will serve as Escrow Agent under the Agreements and will represent Sponsor in connection with Unit closings.

3. Selling Agent

The Selling Agent for the project is The Developers Group LLC having an office at 79 Bridge Street, Brooklyn, New York 11201. In the past, Aptsandlofts.com has engaged in all phases of real estate sales and marketing, specializing in New York City communities, including off-site sales and

rentals of cooperative and condominium apartments and lofts, on-site rental and coop and condo sales, building sales and commercial leasing.

There have been no prior felony convictions of Selling Agent, or any principals of Selling Agent; and no prior convictions, injunctions and judgments against the Selling Agent, or any principals of Selling Agent that may be material to the Plan or an offering of securities generally, that occurred within 15 years prior to the submission of this Plan.

4. **Managing Agent**

It is anticipated that the Managing Agent for the Condominium will initially be Able Management II Corp., a licensed real estate management company with offices at 196 Bedford Avenue, New York 11211 (unaffiliated with the Sponsor or its principals) has been engaged in the management of residential real estate for more than 25 years. Among other properties, it is currently managing the following buildings in Brooklyn: 17 North Elliot Place, 23 Greenpoint Avenue, 25 Broadway, 47 South 4th Street, 107 and 109 South 6th Street, 203 and 203A Nassau Avenue, 251 and 253 North 8th Street and 287 Bedford Avenue. (See also "Budget Expert" below).

There have been no prior felony convictions of the Managing Agent or any principals of the Managing Agent; and no prior convictions, injunctions and judgments against the Managing Agent or any principal of the Managing Agent that may be material to the Plan or an offering of securities generally, that occurred within fifteen (15) years prior to the submission of this Plan.

5. **Budget Expert**

Able Management II Corp., a licensed real estate management company with offices at 196 Bedford Avenue, New York 11211 (unaffiliated with the Sponsor or its principals) has been engaged in the management of residential real estate for more than 25 years, estimated all amounts of income and expenses in Schedule B, "Projected Budget for First Year of Condominium Operation," in consultation with Sponsor. The budget expert has no financial interest in the Property, in Sponsor, in the Managing Agent, or in any other party interested in this transaction, except: (i) for its fees for services rendered in connection with the same; or (ii) to the extent it may be designated as Managing Agent.

6. **Real Estate Tax Consultant**

Jerome Mazursky has been engaged as a real estate tax consultant in connection with the Plan. The firm prepared a forecast of the assessed valuation of the Residential Units following construction and submission of the Property to a condominium regime of ownership that was used in preparing the provisions of Schedule A and other disclosures in the Plan regarding projected real estate taxes. The forecast was prepared by Jerome Mazursky, a principal of that firm. The real estate tax consultant has no financial interest in the Property, in Sponsor, in the Residential Managing Agent, or in any other party interested in this transaction, except for its fees for services rendered in connection with the same.

7. **Construction Professionals**

The general contractor to construct the Project is the Sponsor .

The architect of record for the Building is KSQ Architects, PC ("KSQ"), 235 Main Street, Suite 410, White Plains, New York 10601. KSQ has extensive expenses in this sort of work.

TSF Engineering, PC, 200 Park Avenue South, Suite 1020, New York, New York 10003, is the mechanical and electrical engineer for the Building and prepared the plumbing, mechanical and electrical report for the Building included in the Architectural Report and the estimates of utilities consumption used in the preparation of Schedule B, "Projected Budget for First Year of Condominium Operation." TSF Engineering, PC, has engineered many residential and commercial projects. The firm's services include heating and air-conditioning, fire protection, electrical power, plumbing and energy conservation.

Wexler & Associates Structural Engineers, having an address at 12 West 32nd Street, New York, New York 10011 is the structural engineer for the construction work at the Property.

None of the parties listed in this Section Z or any any person or firm who will provide services to the Condominium subsequent to the commencement of Condominium has a financial interest in the Property, in Sponsor or its principals, except for their respective fees for services rendered in connection with the same.

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AA. REPORTS TO UNIT OWNERS

It is the obligation of the Board to give all Unit Owners annually:

1. a financial statement of the Condominium prepared by a certified public accountant or public accountant, within 120 days after the end of each fiscal year of the Condominium. Such statement shall be certified while Sponsor is in control of the Board;

2. at least 30 days' prior notice of the annual Unit Owners' meeting; and

3. a copy of the proposed annual budget of the Condominium at least 30 days prior to the date set for adoption thereof by the Board. While Sponsor is in control of the Board, such budget shall be certified in compliance with Section 20.4(d) of the Regulations of the Department of Law.

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BB. DOCUMENTS ON FILE

Pursuant to the provisions of Section 352-e of the New York General Business Law, copies of the Plan, all documents referred to herein and all Exhibits submitted to the Department of Law in connection with the filing of the Plan shall be kept on file and available for inspection without charge, and for copying at a reasonable charge, at Sponsor's office for a period of six years after the First Closing. In addition, a set of Floor Plans showing the layout, locations and approximate dimensions of each Unit and its Unit number designation and tax lot number, certified by the appropriate governmental authority of The City of New York as conforming to the official tax lot number for each such Unit, will be filed in the City Register's Office when the Declaration is recorded, or in an amendment to the Declaration filed prior to the First Closing, and an additional set will be furnished to the Board at the time of the First Closing.

The Declaration and the By Laws will be recorded in the City Register's Office prior to or concurrently with the First Closing, and a copy thereof will be furnished to the Board at such time.

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CC. GENERAL

Except as set forth herein, there are no lawsuits, administrative proceedings or other proceedings, the outcome of which may materially affect the offering, the Property, Sponsor's capacity to perform all of its obligations under the Plan, the Condominium or the operation of the Condominium

To the best of Sponsor's knowledge, the Property has not been the subject of any prior cooperative or condominium offerings filed with the Department of Law. No preliminary binding agreements have been entered into and no money has been collected from prospective Purchasers.

Sponsor and the Selling Agent each hereby represent that it will not discriminate against any person on the basis of race, creed, color, national origin, gender, sexual orientation, age, disability, marital status or other grounds prohibited by law.

Sponsor hereby represents that no contracts or agreements, written or oral, have been entered into, and no funds received, with respect to any of the Units offered in this Plan as of the date this Plan is first accepted for filing by the Department of Law. Sponsor also represents that no units in the Building are occupied by commercial or residential tenants and none will be occupied prior to the acceptance for filing by the Department of Law of this Offering Plan.

The Plan does not knowingly omit any material fact or knowingly contain any untrue statement of any material fact. Sponsor believes that the Plan contains a fair summary of the material provisions of the documents referred to in the Plan, including those documents contained in Part II of the Plan. Exact copies are contained in Part II of the Plan of the form of Declaration, form of By Laws, form of Agreement, form of Unit Deed, form of Unit Power of Attorney and other documents. Statements made in Part I of the Plan as to the provisions of such documents or any other document referred to herein, copies of which are on file with Sponsor, are necessarily not complete. Each such statement is qualified in all respects by the contents of such documents and, in the case of any such documents executed by or with the written consent of a Purchaser pursuant to the Plan, any rider or separate agreement changing or adding provisions to such document.

No party other than any Purchaser shall have any right or benefit herein or herefrom, including, without limitation, the right to insist upon or enforce against Sponsor the performance of all or any of the Sponsor's obligations hereunder and no party other than any Purchaser shall be deemed to have received any benefit as a result of any of the provisions of the Plan.

Sponsor reserves the right, from time to time prior to the First Closing, to substantially revise the terms and conditions upon which the Units offered hereunder are to be sold, including, without limitation, changes affecting the rights, obligations and liabilities of Sponsor and/or prospective Purchasers under the Plan. However, no such change with respect to any such Unit for which an Agreement is then in effect may be made without the consent of the Purchaser thereunder. All substantive or material revisions will be contained in a duly filed amendment to the Plan. If there is a material change that adversely affects any Purchasers, Sponsor shall grant such Purchasers a right to rescind their respective Agreements by written notice to Sponsor given within fifteen (15) days after the date of presentation of such amendment. In such event, Sponsor shall direct the Escrow Agent to return the Deposit of any Purchasers who duly rescind their Agreements.

No person has been authorized to make any statement or representation or furnish any information not expressly contained herein. Any information, data, or representations not contained herein or in the documents and exhibits referred to herein must not be relied upon. The Plan may not be changed or modified orally.

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DD. SPONSOR'S STATEMENT OF BUILDING CONDITION

Sponsor hereby adopts the Description of Property set forth as Exhibit 4 in Part II of the Plan and represents that it has no knowledge of any material defects or need for major repairs to the Property.

EXHIBIT 1

PURCHASE AGREEMENT

PURCHASE AGREEMENT

Essex Berry Street LLC

("Sponsor")

With

_____

("Purchaser")

Unit Number _____
70 BERRY STREET CONDOMINIUM
70 Berry Street, Brooklyn, New York 11211

UNIT NUMBER _____

70 Berry Street Condominium
70 Berry Street, Brooklyn, New York 11211

(to be executed in quintuplicate)

AGREEMENT, made as of _____, _____ between Sponsor and Purchaser (defined below).

W I T N E S S E T H:

1. THE PLAN. Purchaser acknowledges having received and read a copy of the Offering Plan for the 70 Berry Street Condominium dated _____, ____ and all amendments thereto, if any, filed with the Department of Law of the State of New York (hereinafter, collectively, referred to as the "Plan") at least 3 business days prior to Purchaser's signing this Agreement. If Purchaser has not received and read the Plan and all amendments thereto at least 3 business days prior to Purchaser's signing this Agreement, Purchaser shall have the right to rescind this Agreement, by sending written notice of such rescission to Sponsor by certified or registered mail, return receipt requested, or by personal delivery, in either case within 7 days from the date Purchaser delivers an executed Purchase Agreement together with the required Deposit to the Selling Agent. The Plan is incorporated herein by reference and made a part hereof with the same force and effect as if set forth at length. In the event of any inconsistency between the provisions of this Agreement and the Plan, the provisions of the Plan will govern and be binding. Purchaser hereby adopts, accepts and approves the Plan (including, without limitation, the Declaration, By-Laws and Rules and Regulations contained therein) and agrees to abide and be bound by the terms and conditions thereof, as well as all amendments to the Plan duly filed by Sponsor.

2. DEFINITIONS. Terms used herein which are also used in the Plan shall have the same meanings as they do in the Plan, unless the context requires otherwise.

2.1. "Sponsor" means Essex Berry Street LLC, having an office 635 Madison Avenue, New York, New York 10022. Sponsor's taxpayer identification number is _____.

2.2. "Purchaser" means _____ having an address at _____. Purchaser's social security number is _____.

2.3. "Attorney for Sponsor" means Eiseman Levine Lehrhaupt & Kakoyiannis, P.C., having an address at 805 Third Avenue, New York 10022; Attention: Peter Kakoyiannis, Esq., Telephone Number (212) 752-1000, Facsimile Number (212) 355-4608.

2.4. "Attorney for Purchaser" means _____, having an address at _____, Attention: _____, Esq., Telephone Number (___) _____, Facsimile Number (___) _____.

2.5. "Selling Agent" means _____, having an address at _____, Telephone Number: (___) _____.

2.6. "Co Broker" means _____.

2.7. "Escrow Agent" means Attorney for Sponsor.

3. THE UNIT. Upon and subject to the terms and conditions set forth herein, Sponsor agrees to sell and convey, and Purchaser agrees to purchase, the unit designated as unit __ in the Declaration, together with its undivided % of interest in the Common Elements appurtenant to such unit (the "Residential Unit or "Unit") and a License/Sale for the exclusive use of Parking Space #_____.

4. PURCHASE PRICE.

4.1. The purchase price for the Unit ("Purchase Price") is $_____ and for the Parking Space is #_____.

The allocation of the Purchase Price is as follows:

(a) $_____ (the "Initial Deposit"), being ten (10%) percent of the Purchase Price due upon Purchaser's signing and delivering this Agreement, by check (subject to collection), receipt of which is hereby acknowledged;

(b) $_____ (the "Additional Deposit"), ten (10%) percent of the Purchase Price the term "Deposit", as used herein, refers to both the Initial Deposit and, if the same has been paid at the time in question, the Additional Deposit), is due upon the earlier to occur of (i) three (3) months after Purchaser's signing and delivering this Agreement or (ii) the date the Plan is declared effective; and

(c) $_____ (the "Balance of the Purchase Price"), by good certified check of Purchaser or official bank check, payable on the delivery of the deed as hereinafter provided.

[OR]

[AFTER THE PLAN IS DECLARED EFFECTIVE]

(d) (d) $_____ (the "Deposit"), twenty (20%) percent of the Purchase Price due upon Purchaser's signing and delivering this Agreement, by check (subject to collection), receipt of which is hereby acknowledged: and

(e) $ _____ (the "Balance of the Purchase Price"), by good certified check of Purchaser or official bank check, payable on the delivery of the deed as hereinafter provided.

4.2. All checks shall represent United States currency, be drawn on or issued by a United States Bank or trust company which is a member of the Federal Reserve System and the New York Clearing House Association and be unendorsed. The Deposit shall be made payable to the direct order of "70 Berry Street Condominium Eiseman Levine Lehrhaupt & Kakoyiannis, P.C., Escrow Agent". The Balance shall be made payable to the direct order of "Eiseman Levine Lehrhaupt & Kakoyiannis, P.C., as Escrow Agent" (or such other party as Sponsor directs to Purchaser, in writing at least three (3) business day prior to the date of closing of title). If any check is returned for insufficient funds or any other reason, such return shall be deemed to be a default by Purchaser under this Agreement and shall entitle Sponsor to exercise any of the remedies set forth in Article 13 hereof. Notwithstanding the foregoing, if the check representing the Initial Deposit is returned for insufficient funds or any other reason, such return shall be deemed to be a non-curable default by Purchaser and this Agreement shall automatically be deemed cancelled. Upon the cancellation of this Agreement, Purchaser and Sponsor will be released and discharged of all further liability and obligations hereunder and under the Plan, and the Unit may be sold to another as though this Agreement had never been made, and without any obligation to account to Purchaser for any of the proceeds of such sale.

5. DEPOSIT TO BE HELD IN TRUST.

5.1. The Initial Deposit shall be deposited within five (5) business days after this Agreement is countersigned by or on behalf of Sponsor and returned to Purchaser, and the Additional Deposit shall be deposited within five (5) business days after its receipt by Sponsor or Sponsor's agents, employees or the Escrow Agent, in each case into a segregated special interest-bearing escrow account (the "Escrow Account") at Citibank, 800 Third Avenue, New York, New York 10022 (the "Depository") entitled "70 Berry Street Condominium Escrow Account" or similar name subject to the provisions of the Plan with respect to the designation of a substitute bank and/or account type or title. The Deposit shall be held in trust in such account in conformity with Sections 352-e(2)(b) and 352-h of the New York General Business Law and the Attorney General's regulations promulgated pursuant thereto until such funds may be withdrawn in accordance with such laws and regulations and the terms of this Agreement and the Plan. While the same are being so held, such funds shall not be commingled with any other funds of Sponsor (except, at Sponsor's sole election, funds deposited by other purchasers under the Plan). The Escrow Account will be interest-bearing and, unless Purchaser defaults, interest will be credited to Purchaser at the closing. The interest rate to be earned will be the prevailing rate for these accounts. (No representation or guarantee is made as to the actual rate of interest that will be earned on such funds.) Interest, if any, will begin to accrue within five (5) business days after this Agreement is fully executed and tender for payment of the check representing the Deposit. Notwithstanding anything to the contrary contained herein, unless and until Purchaser has delivered to the Escrow Agent a completed and signed Form W-9 (Request for Taxpayer Identification Number and Certification) or Form W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding), whichever may be applicable, the Deposit will be deposited in a non-interest-bearing escrow account at the Depository.

5.2. The Deposit shall be held in the escrow account identified in Section 5.2 above until Eiseman Levine Lehrhaupt & Kakoyiannis, P.C. (the "Escrow Agent") is otherwise directed in: (a) a writing signed by both Sponsor and Purchaser; or (b) a determination of the Attorney General pursuant to the dispute resolution procedures contained in the Attorney General's regulations; or (c) a judgment or order of a court of competent jurisdiction.

5.3. If there is no written agreement between the parties to release the escrowed funds, the Escrow Agent will not pay the funds to Sponsor until the Escrow Agent has given Purchaser written notice of not fewer than ten (10) business days. Thereafter, the funds may be paid to Sponsor unless Purchaser has already made application to the Department of Law pursuant to the dispute resolution provisions of the Attorney General regulations and has so notified the Escrow Agent in accordance with such provisions.

5.4. Sponsor will not object to the release of the escrowed funds to: (a) a purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an amendment to the Plan; or (b) all purchasers after an amendment abandoning the Plan is accepted for filing by the Department of Law.

5.5. Purchaser or the Escrow Agent may apply to the Attorney General in the event of a dispute for a determination on the disposition of the escrowed funds and any interest thereon. Sponsor must avail itself of this procedure if there is a dispute which needs to be resolved. A form for this purpose is attached as Exhibit 8 of Part II of the Plan. The party applying for a determination must send all other parties a copy of the application. Pending the determination of the Attorney General to grant or deny the application, Sponsor, Purchaser and the Escrow Agent shall abide by any interim directive issued by the Attorney General.

5.6. Sponsor and Purchaser hereby jointly direct the Escrow Agent as follows:

(a) if title to the Unit is transferred to Purchaser, the Deposit shall be paid to Sponsor or its designee, and any interest earned on the Deposit shall be paid or credited to Purchaser; or

(b) if Purchaser becomes entitled to cancel this Agreement in accordance with the terms of this Agreement or the Plan, and actually cancels this Agreement as so provided, the Deposit and any interest earned on the Deposit shall be refunded in full.

5.7. Sponsor is required by law to submit a Form 1099 to the Internal Revenue Service reporting any interest earned on the Deposit, if any. Purchaser will be taxed accordingly on such interest, whether or not Purchaser ultimately receives the interest in accordance with the terms of this Article or Article 8.

6. CLOSING DATE AND PLACE.

6.1. The closing of title shall be held at Eiseman Levine Lehrhaupt & Kakoyiannis, P.C., 805 Third Avenue, 10th Floor, New York, New York 10022 (or such other place in the City and State of New York as Sponsor may designate to Purchaser) and on such date and hour as Sponsor may designate to Purchaser on not less than 30 days prior written notice ("Initial Closing

Notice"). If Sponsor consents to close at any other location as an accommodation to Purchaser, Purchaser shall pay to the Attorney for Sponsor at closing an extra fee as set forth in the Plan. After the Initial Closing Notice, Sponsor may, from time to time, adjourn and reschedule the date and hour for closing on not less than 3 business days notice to Purchaser, which new closing notice shall fix a new date, hour and place for the closing of title and which date shall not be earlier than the date set forth in the Initial Closing Notice. Only the Initial Closing Notice shall require 30 days prior written notice.

6.2. The term "Closing Date" "Closing" "closing of title" or words of similar import, whenever used herein, shall mean the date on which the deed to the Unit is delivered to Purchaser.

7. DELIVERY OF THE DEED, TRANSFER TAX FORMS AND UNIT POWER OF ATTORNEY.

7.1. At the closing of title, Sponsor shall deliver to Purchaser a bargain and sale deed with covenant against grantor's acts conveying fee simple title to the Unit to Purchaser, subject only to the liens, encumbrances, and title conditions set forth on Schedule A annexed hereto and made a part hereof. The deed shall be prepared by Sponsor substantially in the form set forth in Part II of the Plan and shall be executed and acknowledged by Sponsor in form for recording. Purchaser shall pay all New York State and New York City real property transfer taxes, and Sponsor and Purchaser shall duly complete and execute before a notary public the New York City and New York State Transfer Tax Return Forms and any other forms then required by law, all of which shall be prepared by Sponsor.

7.2. Simultaneously with the delivery of the deed, Purchaser (i) shall cause the proceeds of any mortgage loan to be transferred to the Seller on account of the Total Purchase Price and (ii) shall execute and deliver to the mortgagee the note and mortgage, and any other documents required by the mortgagee, as well as any documents required by Seller.

7.3. At the closing of title and simultaneously with the delivery of the deed conveying the Unit to Purchaser, Purchaser shall execute and acknowledge a power of attorney to the Condominium Board prepared by Sponsor substantially in the form set forth in Part II of the Plan, as well as whatever other documents are reasonably necessary or customary in connection with the conveyance of a condominium unit, including but not limited to title affidavits, real property transfer tax forms, etc.

7.4. The executed deed, transfer tax forms and power of attorney shall be delivered at the closing to the representative of the title company insuring Purchaser's title (or, if no such representative is present, then to the Attorney for Sponsor) for recording in the City Register's Office, which recording shall be at Purchaser's expense. After being recorded the deed shall be returned to Purchaser and the power of attorney shall be returned to the Condominium Board.

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

those obligations (if any) expressly stated herein or in the Plan to be performed subsequent to the closing, and nothing herein shall be in derogation of the rights of purchasers under Article 23-A of the General Business Law, the Plan, and Part 20 of the Regulations issued by the Department of Law.

8. STATUS OF TITLE.

8.1. At the closing of title, Sponsor shall convey to Purchaser fee simple title to the Unit, free and clear of all liens and encumbrances other than those expressly agreed to by Purchaser or set forth in Schedule A annexed hereto and made a part hereof. Any lien and encumbrance or condition to which title is not to be subject shall not be an objection to title if (a) the instrument required to remove it of record is delivered at or prior to the closing of title to the proper party or to Purchaser's title insurance company, together with the attendant recording or filing fee, if any, or (b) New York Land Services ("NYLS") (or such other title insurance company as Purchaser may utilize), is or would be willing, in a fee policy issued by it to Purchaser, to insure Purchaser that it will not be collected out of the Unit if it is a lien, or will not be enforced against the Unit if it is not a lien.

8.2. Sponsor shall be entitled to adjourn the closing to remove or correct any defect in title which is not set forth in Schedule A. However, if such defect existed at least 10 days prior to the closing and Purchaser, or Purchaser's attorney, failed to send Sponsor's attorney written notice of such defect in title at least 10 days prior to the closing of title, then, for purposes of Article 13 below, Purchaser shall be deemed at fault for not having sent timely notice, and the closing adjournment to allow Sponsor to correct or remove such title defect shall be considered as being at the request of Purchaser.

8.3. If, subsequent to the closing of title, Purchaser claims that Sponsor did not convey fee simple title to the Unit in accordance with the Plan, Purchaser must first seek recovery against Purchaser's title insurance company before proceeding against Sponsor. Sponsor and Purchaser agree that Sponsor's liability will be limited to any loss or damage not covered by Purchaser's title insurance. If Purchaser did not obtain title insurance at the closing, for purposes of this subparagraph, the amount and coverage which Purchaser could have obtained from Sponsor's Title Company, shall be deducted from the loss or damage collectable against Sponsor. Nothing contained in this subparagraph shall be construed to waive any of Purchaser's rights or abrogate any of Sponsor's obligations under the Plan or Article 23-A of the General Business Law.

9. CLOSING ADJUSTMENTS.

9.1. The Purchaser will pay the following adjustments which shall be made as of midnight of the day preceding the Closing Date with respect to the Unit:

(a) real estate taxes and assessments, if any (including water charges and sewer rents, if separately assessed), on the basis of the period for which assessed;

(b) common charges (if common charges have been assessed by the Condominium Board) and assessments for the month in which title closes; and

(c) if Purchaser is allowed to occupy the Unit prior to Closing, accrued rent and any other charges pursuant to an interim lease or use and occupancy agreement, if any, covering the Unit.

(d) all charges referred to in Articles 10 and 11 herein.

9.2. If a Unit has been separately assessed but the closing of title occurs before the tax rate is fixed, adjustment of taxes shall be based upon the latest tax rate applied to the most recent applicable assessed valuation. Installments for tax assessments due after the delivery of the deed, if any, shall be paid by purchaser and shall not be considered a defect in title. If a Unit has not been separately assessed as of the Closing Date for the then current tax period, the adjustment under subsection 9.1(a) hereof shall be based upon the assessment for the Property and the percentage interest in the Common Elements appurtenant to the Unit.

9.3. Purchaser agrees that, if Sponsor obtains a refund for real estate taxes paid (or a credit for such taxes to be paid) on Purchaser's Unit, Purchaser and Sponsor will apportion the refund (as well as the costs and/or fees for obtaining the refund or credit) based on the percentage of time for which the refund or credit is obtained during which each party hereto owned the Unit in question. The provisions of this subsection shall survive the closing of title.

9.4. Provided Sponsor is ready, willing and able to close title in accordance with this Agreement, if Purchaser fails for any reason to close title to the Unit on the originally scheduled Closing Date (a) the closing apportionments described in Section 9.1 of this Agreement will be made as of midnight of the day preceding the originally scheduled Closing Date, regardless of when the actual closing of title occurs, and (b) Purchaser will be required to pay to Sponsor, as a reimbursement of Sponsor's higher carrying costs for the Unit by virtue of the delay, and in addition to the other payments to be made to Sponsor under this Agreement and the Plan, an amount equal to 0.03% of the Purchase Price for each day starting from (and including) the originally scheduled Closing Date to (and including) the day before the actual Closing Date. If, through no fault of Purchaser, Sponsor postpones the originally scheduled Closing Date, these provisions shall apply to the rescheduled Closing Date if Purchaser fails for any reason to close title to the Unit on the rescheduled Closing Date.

9.5. Adjustments and apportionments shall be calculated on the basis of the actual number of days in the period for which payments were made or are due, as the case may be. The "Customs in Respect of Title Closings" recommended by The Real Estate Board of New York, Inc., as amended to date, shall apply to the adjustments and other matters therein mentioned except as otherwise provided herein in the Plan.

9.6. Any errors or omissions calculating apportionments at closing shall be corrected and, any payment shall be made to the proper party promptly after discovery. This provision shall survive the closing of title.

10. MORTGAGE TAX CREDIT. In the event a mortgage recording tax credit becomes available pursuant to Section 339-ee(2) of the New York Condominium Act, it is specifically understood that such credit shall inure to the benefit of Sponsor. Accordingly, at closing, a Purchaser who elects mortgage financing will be responsible to pay the full amount (but not in

excess thereof) of the mortgage recording tax chargeable on the entire amount being financed. At the closing of title, Sponsor will be reimbursed by Purchaser to the extent of any mortgage tax credit allowed.

11. CLOSING COSTS. In addition to those costs and adjustments described in Articles 9 and 10 herein, Purchaser shall be required to pay the other closing costs which are Purchaser's responsibility as more particularly described in the Section of the Plan entitled "Closing Costs and Adjustments." All such Closing Costs shall be paid by Purchaser, at closing, by Purchaser's unendorsed personal certified check or by official bank check, in either event drawn upon a bank that is a member of the New York Clearing House Association, and payable to the Escrow Agent or as directed by the Escrow Agent.

12. AGREEMENT NOT A LIEN OR ENCUMBRANCE. No lien or encumbrance shall arise against the Property or the Unit as a result of this Agreement or any monies deposited hereunder, except as hereinafter set forth. In furtherance and not in limitation of the provisions of the preceding sentence, Purchaser agrees that the provisions of this Agreement are and shall he subject and subordinate to the lien of any mortgage heretofore or hereafter made, including, but not limited to, any construction or Building loan mortgage, and any advances heretofore or hereafter made thereon amid any payments or expenses made or incurred or which hereafter may be made or incurred, pursuant to the terms thereof, or incidental thereto, or to protect the security thereof, to the full extent thereof, without the execution of any' further legal documents by Purchaser. This subordination shall apply in all cases, regardless of the timing of, or cause for, the making of advances of money or the incurring of expenses. Sponsor shall, at its option, either satisfy such mortgages or obtain a release of the Unit and its undivided interest in the Common Elements from the lien of such mortgages on or prior to the Closing Date. The existence of any mortgage or mortgages encumbering the Property, or portions thereof, other than the Unit and its undivided interest in the Common Elements, shall not constitute an objection to title or excuse Purchaser from completing payment of the Purchase Price or performing all of Purchaser's other obligations hereunder or be the basis of any claim against, or liability of, Sponsor, provided that any such mortgage(s) is subordinated to the Declaration.

13. DEFAULT BY PURCHASER.

13.1. The following shall constitute "Events of Default" hereunder:

(i) Purchaser's failure to pay the Additional Deposit on the date set forth in Article 4.1(b) hereof, Purchaser's failure to pay the Balance of the Purchase Price, or any closing adjustment or closing cost required to be paid by Purchaser as set forth in the Plan or in this Agreement, or the dishonor of any check given by Purchaser to Sponsor; or

(ii) Purchaser's failure to pay, perform or observe any of Purchaser's other obligations under this Agreement or the Plan; or

(iii) if Purchaser is permitted to become the tenant or occupant of the Unit, Purchaser's failure to pay rent or to otherwise comply with some other lease or occupancy obligation; or

(iv) Purchaser's assignment of any of Purchasers property for the benefit of creditors, or Purchaser's filing a voluntary petition in bankruptcy; or

(v) if a non-bankruptcy trustee or receiver is appointed over Purchaser or Purchaser's property, or an involuntary petition in bankruptcy is filed against Purchaser; or

(vi) if a judgment or tax lien is filed against Purchaser and Purchaser does not pay or bond the judgment or lien; or

(vii) Purchaser's assignment of this Agreement without the prior written consent of Sponsor; or

(viii) Purchaser's listing the Unit for resale or rental with any broker or advertising or otherwise offering, promoting or publicizing the availability of the Unit for sale or rental without Sponsor's prior written consent; or

(ix) an Event of default by Purchaser beyond any applicable grace period under a Purchase Agreement between Purchaser and Sponsor for another Unit at the Property.

13.2. **TIME OF THE ESSENCE** shall apply with respect to Purchaser's obligations to pay the Additional Deposit, the Balance of the Purchase Price and to pay, perform or comply with Purchaser's other obligations under this Agreement including the Closing Date. Upon the occurrence of an Event of Default, Sponsor, in its sole discretion, may elect by notice to Purchaser to (i) cancel this Agreement or (ii) seek specific performance. If Sponsor elects to cancel, Purchaser shall have 30 days from the giving of the notice of cancellation to cure the specified default. If the default is not cured within such 30 days, then this Agreement shall he deemed cancelled, and Sponsor shall have the right to retain, as and for liquidated damages, the entire Deposit and any interest earned on the Deposit. Upon the cancellation of this Agreement, Purchaser and Sponsor will be released and discharged of all further liability and obligations hereunder and under the Plan, and the Unit may be sold to another as though this Agreement had never been made, and without any obligation to account to Purchaser for any of the proceeds of such sale. If Sponsor elects to seek specific performance, then Purchaser shall have 30 days from the giving of notice of Sponsor's election to close on the Unit in accordance with this Agreement, without prejudice to Sponsor's right to recover from Purchaser all damages, losses, costs, expenses and all other lawful sums to which Sponsor is entitled (including, but not limited to, reasonable legal fees and costs of collection).

In the event that Seller shall elect to cancel this Agreement, Seller shall certify to its attorneys, that title has not closed because of Purchaser's default and that Seller has elected to cancel this Agreement by reason thereof, and the Escrow Agent shall thereupon pursuant to Article 5 hereunder, cause to be paid over to Seller as liquidated damages the Down Payment and interest earned thereon (if any), and upon such payment being made each of the parties hereto shall be relieved of any further liabilities or obligations hereunder. If this Agreement shall be cancelled by Seller pursuant to the provisions of this Article 13, Seller may sell the Unit to any third party and shall be under no obligation to account to Purchaser for any part of the proceeds of such sale. Eiseman Levine Lehrhaupt & Kakoyiannis may rely upon the truth and accuracy of the facts contained in Seller's

certification and authority of the person or persons executing the same and shall have no liability as a result of such reliance.

Notwithstanding the above, Eiseman Levine Lehrhaupt & Kakoyiannis, the Escrow Agent, will hold funds in escrow until otherwise directed by:

(i) a writing signed by both Sponsor and Purchaser or;

(ii) a determination of the Attorney General pursuant to the dispute resolution procedures contained in the Attorney General's regulations; or

(iii) a judgment or order of a court of competent jurisdiction.

If there is no written agreement between the parties to release the escrowed funds, the Escrow Agent will not pay the funds to the Sponsor until the Escrow Agent has given the Purchaser written notice of not fewer than ten (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 of the Attorney General's regulations and has so notified the Escrow Agent in accordance with such provisions.

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

(i) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an Amendment to the Plan;

(ii) all Purchasers after an Amendment abandoning the Plan is accepted for Filing by the Department of Law.

14. AGREEMENT SUBJECT TO PLAN BEING EFFECTIVE. The performance by Sponsor of its obligations under this Agreement is contingent upon the Plan having been declared effective in accordance with the terms and provisions of the Plan. The Plan may be withdrawn or abandoned by Sponsor only under certain conditions and at certain times, as set forth in the Plan. If the Plan is abandoned or if, after being declared effective, the Plan is not consummated for any reason and Purchaser is not in default under this Agreement beyond any applicable grace period, this Agreement shall be deemed cancelled and the Deposit, together with interest earned thereon, shall be returned to Purchaser. Upon such return, neither party shall have any further rights, obligations or liability to or against the other and the parties shall be released and discharged from all obligations and liability under this Agreement and the Plan.

15. SPONSOR'S INABILITY TO CONVEY THE UNIT. If Sponsor is unable to deliver title to the Unit to the Purchaser in accordance with the provisions of this Agreement and the Plan by reason of a defect in title, substantial damage or destruction of the Building by fire or other casualty, or the taking of any material portion of the Property by condemnation or eminent domain, Sponsor shall not be obligated to bring any action or proceeding or otherwise incur any cost or expense of any nature whatsoever in excess of its obligations set forth in the Plan in order to cure such inability. If Sponsor is not so obligated under the Plan and notifies Purchaser of its election or inability to cure such title defect, and if Purchaser is not in default hereunder, Purchaser's sole

remedy shall be to either (a) take title to the Unit subject to such title defect (without any abatement in, or credit against, the Purchase Price, or any claim or right of action against Sponsor for damages or otherwise) or (b) terminate this Agreement. If Purchaser so elects to terminate this Agreement, Sponsor shall, within 30 days after receipt of notice of termination from Purchaser, return to Purchaser all sums deposited by Purchaser hereunder, together with interest earned thereon, if any. Upon making such payment, this Agreement shall be terminated and neither party hereto shall have any further rights. obligations or liability to or against the other under this Agreement or the Plan. The foregoing remedy must be exercised by notice of Purchaser in writing to Sponsor within 15 days after the giving of Sponsor's notice of election not to cure such inability, failing which it shall be conclusively deemed that Purchaser elected the remedy described in clause (a) above (i.e., to acquire title subject to such inability).

16. FIXTURES, APPLIANCES AND PERSONAL PROPERTY. Only those fixtures, appliances and items of personal property which are described in the Plan as being included in the Unit are included in this sale. No portion of the Purchase Price shall be attributable to such items.

17. CONSTRUCTION.

17.1. The construction of the Building and the Unit, including the materials, equipment and fixtures to be installed therein, shall be substantially in accordance with the Plan and the Plans and Specifications, subject to the right of Sponsor to amend the Plan and the Plans and Specification in order to substitute materials, equipment or fixtures of equal or better quality, provided that the approval of any governmental authorities having jurisdiction is first obtained (if required). The issuance of a final certificate of occupancy for the Building shall he deemed presumptive evidence that the Building and the Unit have been fully completed in accordance with the Plan and the Plans and Specifications. However, nothing herein contained shall excuse Sponsor from its obligation to correct any defects in construction in accordance with the conditions set forth in the Section of the Plan entitled "Rights and Obligations of Sponsor."

17.2. The construction of the Building and the Units and the correction of any defects in construction to the extent required under the Plan are the sole responsibility of Sponsor. Purchaser acknowledges and agrees that Sponsor will not be liable for, and will have no obligation to correct, certain variations from the Plan and Plans and Specifications as indicated in the Section of the Plan entitled "Rights and Obligations of Sponsor" and will only be responsible to correct any construction defects to the extent, and on the terms and conditions, set forth in such Section.

17.3. The closing of title shall occur only after, or concurrently with, compliance with the prerequisites set forth under "Closing of Title to Units" in Part I of the Plan. As a result, if all other prerequisites not involving the construction of the Unit are met, Purchaser shall be obligated to close and complete payment of the full Purchase Price (without provision for escrow) once a temporary or permanent certificate of occupancy is issued for the Unit (notwithstanding any construction items noted on Purchaser's Inspection Statement (as hereinafter defined) remaining for Sponsor to complete and/or correct in accordance with its obligations under the Plan, and notwithstanding the incomplete construction and/or decoration of any other portions of the Building not affecting the Unit).

17.4. The actual date for the First Closing is not guaranteed or warranted, and may be earlier or later depending on the progress of construction and compliance with the other prerequisites recited in the Section of the Plan entitled "Closing of Title to Units". Purchaser acknowledges that construction may be delayed by late delivery of material or equipment, labor difficulties, unavailability of Building trades, casualty, inclement weather and other events beyond Sponsor's reasonable control. Purchaser further acknowledges that the units in the Building will be completed at varying times over a period that could extend well beyond the First Closing. The order in which these units will be completed is in the discretion of Sponsor. Purchaser acknowledges that except as otherwise provided in the Plan. Purchaser shall not be excused from paying the full Purchase Price, without credit or set-oft~ and shall have no claim against Sponsor for damages or losses, in the event that the First Closing occurs substantially later than the projected date or the time to complete or to close title to the Unit is delayed or is postponed by Sponsor.

18. INSPECTION OF THE UNIT.

18.1. Upon receipt of the Initial Closing Notice, Purchaser shall arrange an appointment with a representative of Sponsor to inspect the Unit within the 7 calendar day period prior to the Closing Date. Purchaser or Purchaser's duly authorized agent shall attend such inspection and shall complete, date and sign the Inspection Statement (in the form set forth as Schedule B to this Agreement) and deliver same to the Sponsor's representative at the conclusion of the inspection. Failure of Purchaser either to arrange such appointment or to inspect the Unit within the 7 day period prior to the Closing Date or to so sign and deliver the completed Inspection Statement shall not excuse Purchaser from paying the balance of the Purchase Price when due and shall constitute Purchaser's full acceptance of the Unit as is. However, nothing herein shall relieve Sponsor of its obligations as set forth in the Section of the Plan entitled "Rights and Obligations of Sponsor".

18.2. Any work set forth on the Inspection Statement may be completed by Sponsor in a reasonable period of time following the Closing and shall not be grounds for delaying the Closing. Purchaser will be required to provide Sponsor with reasonable access to the Unit subsequent to the Closing in order to complete punchlist work. Sponsor has no obligation under the Plan to deposit any monies in escrow at ('losing as a result of any punchlist items.

19. DAMAGE TO THE UNIT. If between the date of this Agreement and the closing of title the Unit is damaged by fire or other casualty, the following shall apply:

19.1. The risk of loss to the Unit by fire or other casualty until is assumed by Sponsor, unless Purchaser assumes possession prior to closing in which case Purchaser assumes the risk of losses not covered by insurance; provided that Sponsor shall have no obligation or liability to repair or restore the Unit. If Sponsor elects to repair or restore the Unit (which election shall be made within 60 days of the damage to the Unit), this Agreement shall continue in full force and effect. Purchaser shall not have the right to reject title or receive a credit against, or abatement in, the Purchase Price and Sponsor shall be entitled to a reasonable period of time within which to complete the restoration. Any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss shall, subject to the rights of the Condominium Board and other Residential Unit Owners if the Declaration has theretofore been recorded, belong entirely to Sponsor and, if such proceeds are paid to Purchaser, Purchaser shall promptly upon receipt thereof turn them over to Sponsor. The provisions of the preceding sentence shall survive the closing of title.

19.2. In the event Sponsor notifies Purchaser that it does not elect to repair or restore the Unit) which election shall be made within 60 days of the damage to the Unit), or, if the Declaration has been recorded prior thereto, the Residential Unit Owners do not resolve to make such repairs or restoration pursuant to the By-Laws, this Agreement shall be deemed cancelled and of no further force and effect and Sponsor shall return to Purchaser all sums deposited by Purchaser hereunder, together with interest earned thereon, if any, and neither party hereto shall have any further rights, obligations or liability to or against the other hereunder or under the Plan, except that if Purchaser is then in default hereunder (beyond any applicable grace period), Sponsor shall retain all such sums deposited by Purchaser hereunder, together with any interest earned thereon, as and for liquidated damages.

20. NO REPRESENTATIONS. Purchaser acknowledges that Purchaser has not relied upon any engineer's plans, sales plans, selling brochures, advertisements, representations, warranties, statements or estimates of any nature whatsoever, whether written or oral, made by Sponsor, Selling Agent or otherwise, including but not limited to, any relating to the description or physical condition of the Property, the Building or the Unit, or the size or the dimensions of the Unit or the rooms therein contained or any other physical characteristics thereof, the services to be provided to Residential Unit Owners, the estimated Common Charges allocable to the Unit, the estimated real estate taxes on the Unit, the right to any income tax deduction for any real estate taxes or mortgage interest paid by Purchaser, the right to any income tax credit with respect to the purchase of the Unit, or any other data, except as herein or in the Plan specifically represented. Purchaser has relied solely on Purchaser's own judgment and investigation in deciding to enter into this Agreement and purchase the Unit. No person has been authorized to make any representations on behalf of Sponsor except as herein or in the Plan specifically set forth. No oral representations or statements shall be considered a part of this Agreement. Sponsor makes no representation or warranty as to the work, materials, appliances, equipment or fixtures in the Unit, the Common Elements or any other part of the Property other than as set forth herein or in the Plan. Except as otherwise set forth in the Plan, Purchaser agrees (a) to purchase the Unit, without offset or any claim against, or liability of, Sponsor, whether or not any layout or dimension of the Unit or any part thereof, or of the Common Elements, as shown on the Floor Plans is accurate or correct, and (b) that Purchaser shall not be relieved of any Purchaser's obligations hereunder by reason of any immaterial or insubstantial inaccuracy or error. The provisions of this Article shall survive the closing of title.

21. PROHIBITION AGAINST ADVERTISING. Prior to the closing of title, Purchaser agrees not to list the Unit for resale or rental with any broker or to advertise or otherwise offer, promote or publicize the availability of the Unit for sale or lease, without Sponsor's prior written consent, which consent may be unreasonably withheld or delayed. Any listing of the Unit or form of advertising, promotion or publicizing of the Unit by Purchaser prior to Closing of title shall be a default by Purchaser, entitling Sponsor to the default remedies set forth in this Agreement.

22. BROKER. Purchaser represents to Sponsor that Purchaser has not dealt with any broker in connection with this transaction other than the Selling Agent and the Co-Broker, if any, named in this Agreement, whose commissions shall be paid by Sponsor. Purchaser shall pay the commission of any broker with whom Purchaser may have dealt, other than the Selling Agent and the Co-Broker. Purchaser agrees that, should any claim be made against Sponsor for commissions by any broker, other than the Selling Agent, on account of any acts of Purchaser or Purchaser's representatives, Purchaser will indemnify and hold Sponsor free and harmless from and against any

and all liabilities and expenses in connection therewith, including reasonable legal fees. The provisions of this Article shall survive the closing of title.

23. AGREEMENT MAY NOT BE ASSIGNED.

23.1. Purchaser does not have the right to assign this Agreement without the prior written consent of Sponsor, which consent may be unreasonably withheld or delayed. Any purported assignment by Purchaser in violation of this Agreement will be voidable at the option of Sponsor. Sponsor's refusal to consent to an assignment will not entitle Purchaser to cancel this Agreement or give rise to any claim for damages against Sponsor. If Sponsor, in its sole discretion, consents to a Purchaser's request for an assignment of this Agreement, or for the addition, deletion or substitution of names on this Agreement, then Purchaser shall be required to pay to the Attorney for Sponsor a fee set forth in the Plan for preparation of an assignment and assumption agreement. Any purported assignment by Purchaser in violation of this Agreement shall be a default by Purchaser, entitling Sponsor to the default remedies set forth in this Agreement, and shall be voidable at the option of Sponsor.

23.2. Notwithstanding anything to the contrary contained in this Article, Purchaser shall have a one time right to assign Purchaser's rights under this Agreement, in whole, but not in part, to an entity "controlled" (defined below) by Purchaser, (the entity to which the rights are assignable may be a trust, limited liability company or a corporation) or to member(s) of Purchaser's Immediate Family (defined below), provided that (i) Purchaser designates such assignee at least 10 business days prior to the Closing Date; (ii) Purchaser delivers to Attorney for Sponsor the fee set forth in the Plan for its services required in connection with the preparation of the assignment and assumption agreement; (iii) the Closing is not delayed as a result of such assignment, (iv) the assignee of this Agreement assumes in writing, by an instrument prepared by Attorney for Sponsor, the obligations of Purchaser under this Agreement and (v) the assignment is made without consideration. The term "Control" shall mean the control, either directly or indirectly, of at least 51% percent of the voting shares or equity interests of such assignee, together with the authority to direct and manage the affairs of such assignee, which shall include Purchaser, being the managing general partner of such partnership or the principal manager or managing member of such limited liability company. The term "Immediate Family" shall mean Purchaser's spouse, domestic partner, their children, grandchildren, parents, grandparents, brothers or sisters, stepchildren and stepparents. The obligations of Purchaser may be performed by such assignee, and Sponsor agrees to accept such performance as if it were the performance of the Purchaser. No such assignment shall modify the named Purchaser's obligations hereunder including without limitation named Purchaser's indemnity obligations contained in this Agreement, reduce or limit any liability or obligation of the named Purchaser who shall remain primarily liable notwithstanding any liability assumed by assignee. Unless Purchaser complies with the provisions of this subparagraph, any purported assignment by Purchaser shall be null and void and of no effect as against Sponsor.

24. BINDING EFFECT. The submission of this Agreement to Purchaser does not create a binding obligation on the part of Sponsor. This Agreement shall not be binding on Sponsor until a fully executed counterpart hereof has been delivered to Purchaser or the Attorney for Purchaser. If this Agreement is not accepted within 30 days from the date hereof by the delivery to Purchaser of a fully executed counterpart, this Agreement shall be deemed to have been rejected and cancelled and the Deposit shall be promptly returned to Purchaser. Upon such refund being made,

neither party shall have any further rights, obligations liability to or against the other hereunder or under the Plan. Prior to Sponsor's countersigning and returning this Agreement to Purchaser, and at any time thereafter, Purchaser agrees upon request to provide Sponsor with written information about Purchaser's employment, financial and rental/ownership history. Such information obtained prior to countersignature may be used to determine Purchaser's qualification to purchase and own the Unit, but does not constitute a reservation or binding obligation on either the applicant or Sponsor. Sponsor has the right, without incurring any liability, to reject this Agreement without cause or explanation to Purchaser. This Agreement may not be rejected due to Purchaser's sex, race, creed. color, national origin, ancestry, disability, marital status, or other ground proscribed by Law.

25. NOTICES.

25.1. Any notice, election, demand, request, letter, consent or other communication hereunder or under the Plan shall be in writing and either delivered in person or sent, postage prepaid, by registered or certified mail return receipt requested or by Federal Express or other reputable overnight courier, with receipt confirmed to the Purchaser at the address given at the beginning of this Agreement with a copy to the Attorney for Purchaser at the address given at the beginning of this Agreement by regular mail, and to the Attorney for Sponsor at the address given at the beginning of this Agreement, with a copy to the Sponsor at the address given at the beginning of this Agreement by regular mail. Either party may hereafter designate to the other in writing a change in the address to which notices are to be sent. Except as otherwise expressly provided herein, a notice shall be deemed given when personal delivery or delivery by overnight courier is effected, or in the case of mailing, the 3 days after the date of mailing, except that the date of actual receipt shall be deemed to be the date of the giving of any notice of change of address. Any notices received from the other party's attorneys shall be deemed to be notice from such party itself.

25.2. Sponsor hereby designates and empowers both the Selling Agent and Attorney for Sponsor, as Sponsor's agents to give any notice to Purchaser under this Agreement (including, without limitation, a notice of default) in Sponsor's name, which notice so given shall have the same force and effect as if given by Sponsor itself.

25.3. Purchaser hereby designates and empowers the Attorney for Purchaser, as Purchaser's agent to give any notice to Sponsor under this Agreement in Purchaser's name, which notice so given shall have the same force and effect as if given by Purchaser.

26. JOINT PURCHASERS. The term "Purchaser" shall be read as "Purchasers" if more than one person are Purchasers, in which case their obligations shall be joint and several.

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

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

29. AGREEMENT NOT CONTINGENT UPON FINANCING. The terms and provisions of this Agreement and Purchaser's obligations hereunder are not contingent upon Purchaser securing financing of the Purchase Price (or any portion thereof), and Purchaser understands and agrees that Purchaser's failure to obtain such financing will not relieve Purchaser of Purchaser's obligations hereunder. Purchaser further understands and agrees that if Purchaser chooses to finance the purchase of the Unit through a lending institution and obtain a commitment therefrom, neither a subsequent change in the terms of such commitment, the expiration or other termination of such commitment, nor any change in Purchaser's financial status or condition shall release or relieve Purchaser of Purchaser's obligations pursuant to this Agreement and Sponsor shall have no liability as a result of any scheduling or adjournment of the Closing beyond the expiration of the loan commitment.

30. COSTS OF ENFORCING AND DEFENDING AGREEMENT. Purchaser shall be obligated to reimburse Sponsor for any legal fees and disbursements incurred by Sponsor in defending Sponsor's rights under this Agreement or, in the event Purchaser defaults under this Agreement beyond any applicable grace period, in canceling this Agreement or otherwise enforcing Purchaser's obligations hereunder.

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

32. STRICT COMPLIANCE. Any failure by either party to insist upon the strict performance by the other of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions hereof, and each party, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by the other party of any and all of the provisions of this Agreement to be performed by such party.

33. GOVERNING LAW. The provisions of this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed wholly in the State of New York, without regard to principles of conflicts of law.

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

35. ENTIRE AGREEMENT. This Agreement, together with the Plan, supersedes any and all understandings and agreements between the parties and constitutes the entire agreement between them with respect to the subject matter hereof.

36. CERTAIN REFERENCES. A reference in this Agreement to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural, and vice versa, unless the context otherwise requires. The terms "herein," "hereof" or "hereunder" or similar terms used in this Agreement refer to this entire Agreement and not to the particular provision in which the term is used, unless the context otherwise requires. Unless otherwise stated, all references herein to Articles, Sections, subsections or other provisions are references to Articles, Sections, subsections or other provisions of this Agreement.

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

38. SUCCESSORS AND ASSIGNS. The provisions of this Agreement shall bind and enure to the benefit of Purchaser and Purchaser's heirs, legal representatives, successors and permitted assigns and shall bind and enure to the benefit of Sponsor and its successors and assigns.

39. CONFIDENTIALITY. Sponsor and Purchaser hereby acknowledge and agree to keep all of the terms and conditions of this Agreement confidential. Sponsor and Purchaser agree that any information which is required to be disclosed to the parties respective lawyers, architects/engineers, accountants, individuals who "need to know" or governmental agencies shall not be deemed to be a breach by Sponsor or Purchaser of the parties undertaking of confidentiality contained in this Agreement. Any failure by Purchaser to keep the terms and conditions of this Agreement confidential shall be a default by Purchaser, entitling Sponsor to the default remedies set forth in this Agreement.

40. NO ORAL CHANGES. This Agreement cannot be changed or terminated orally. Any changes or additional provisions must be set forth in a rider attached hereto or in a separate written agreement signed by the parties hereto or by an amendment to the plan.

41. PERFORMANCE. Where this Agreement by its terms requires the payment of money or the performance of a condition on a Saturday, Sunday or public holiday, such payment may be made or condition performed on the next business day succeeding such Saturday. Sunday or such public holiday, with the same force and effect as if made or performed in accordance with the terms of this Agreement.

42. WAIVER OF DIPLOMATIC OR SOVEREIGN IMMUNITY.

42.1. The provisions of this Article shall survive the closing of title or the termination of this Agreement for the purpose of any suit, action, or proceeding arising directly or indirectly, out of or relating to this Agreement.

42.2. If Purchaser is a foreign government, a resident representative of a foreign government or such other person or entity otherwise entitled to diplomatic or sovereign immunity. Purchaser hereby designates a duly authorized and lawful agent to receive process for and

on behalf of Purchaser in any state or Federal suit, action or proceeding in the State of New York based on and/or arising out of or connected with this Agreement or the Condominium Documents.

42.3. If Purchaser is a foreign mission, as such term is defined under the Foreign Missions Act, 22 U.S.C. Section 4 305. Purchaser shall notify the United States Department of State prior to purchasing a Unit and provide a copy of such notice to Sponsor. Sponsor shall not be bound under this Agreement unless and until the earlier to occur of: (i) a notification of approval is received from the Department of State; or (ii) sixty (60) days after Purchaser's notice is received by the Department of State.

43. POSSESSION OF UNIT PRIOR TO CLOSING. It is expressly understood and agreed that the Purchaser shall in no event take possession o the Unit prior to the time of the delivery of the deed, without the prior written consent of the Seller, and full compliance by the Purchaser with the terms of this Agreement. Should the Purchaser violate this provision, the Purchaser consents that the Seller shall have the right to remove him from the Unit as a squatter and intruder by summary proceedings. Upon the Purchaser's unauthorized possession, the Purchaser shall be deemed in default hereunder at the option of the Seller, and if the Seller so elects, the Seller may cancel this Agreement and the amount deposited hereunder shall belong to the Seller as liquidated damages deemed earned hereunder. It is further understood and agreed that Seller will not be responsible for damage or loss to any property belonging to Purchaser whether same is delivered to the Property before, on or after the closing of title herein. Seller may, in its discretion, grant Purchaser possession of the Unit prior to closing under an interim use and occupancy agreement, if the Unit is currently or hereafter becomes vacant.

44. TAX-DEFERRED EXCHANGES. In the event a Unit is being acquired by a Purchaser as part of a tax-deferred exchange under §1031 of the Internal Revenue Code, Sponsor shall reasonably assist and cooperate in such tax-deferred exchange, provided, however, that: (i) any action taken in connection with such tax-deferred exchange or requested of Sponsor shall not result in any cost, expense or liability on the part of Sponsor or increased risk to Sponsor relating to the transaction (and, among other things, Purchaser acknowledges that a fee may be payable to Sponsor's Counsel in connection with the review of any documentation related to such tax-deferred exchange); (ii) no action or failure on the part of the Purchaser (or any other party to such tax-deferred exchange) or cooperation on the part of Sponsor in connection with or related to the tax-deferred exchange will frustrate the purpose of the Agreement or otherwise result in a reduction of Sponsor's rights, remedies and privileges under the Agreement or increase any of Sponsor's obligations or duties under the Agreement or otherwise; and (iii) Sponsor shall not be obligated, as part of such tax-deferred exchange, to convey any property (other than the applicable Unit), acquire any property, or accept any form of payment in respect of any of the amounts due under the Agreement other than as set forth therein or in the Plan. Purchaser shall indemnify, defend and hold Sponsor harmless from and against any and all costs, expenses, fees (including, without limitation, reasonable attorneys' fees and expenses) or liabilities incurred by Sponsor in connection with or resulting from the tax-deferred exchange, and such indemnity shall survive the closing of title to the Unit. Notwithstanding the foregoing, Sponsor makes no representation and expresses no opinion with respect to the applicability of §1031 of the Internal Revenue Code to the purchase or acquisition of a Unit. Purchasers are advised to consult with a tax attorney of their choosing in order to determine whether they qualify for such a tax-deferred exchange and for additional information regarding tax-deferred exchanges.

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

SPONSOR:

Essex Berry Street LLC

By :_____
Name:
Title:

PURCHASER(s):

_____
Name:
Title:
Social Sec. Number
or Federal Tax ID:_____

PURCHASER(s):

By:_____
Name:
Title:
Social Sec. Number
or Federal Tax ID:_____

Purchaser acknowledges receipt of Offering Plan [and amendments] on _____ __, 200__

Initials of Purchaser(s):

_____ _____

SCHEDULE A PERMITTED ENCUMBRANCES

1. Building restrictions and zoning and other regulations, resolutions and ordinances and any amendments thereto now or hereafter adopted.

2. Any state of facts which an accurate survey or personal inspection of the Property would show, provided such state of facts would not prevent the use of the Unit for dwelling purposes.

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

4. Consents by the Sponsor 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 Property may abut.

5. Any easement or right of use in favor of any utility company for construction, use, maintenance or repair of utility lines, wires, terminal boxes, mains, pipes, cables, conduits, poles and other equipment and facilities on, under and across the Property.

6. Revocability of licenses for vault space, if any, under the sidewalks and streets.

7. Any easement or right of use required by Sponsor or its designee to obtain a temporary, permanent or amended Certificate of Occupancy for the Building or any part of same.

8. Encroachments of stoops, areas, cellar steps or doors, trim, copings, retaining walls, bay windows, balconies, sidewalk elevators, fences, fire escapes, cornices, foundations, footings 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.

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

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

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

12. Any declaration or other instrument affecting the Property which the Sponsor deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the demolition, construction, alteration, repair or restoration of the Building.

13. Any encumbrance as to which the Title Company (or such other New York licensed title insurance company which insures the Purchaser's title to the Unit) would be willing, in a fee policy issued by it to the Purchaser, to insure the Purchaser that such encumbrance (a) will not be collected out of the Unit if it is a lien or (b) will not be enforced against the Unit if it is not a lien.

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

15. Any lease covering the Unit(s) made from the Sponsor to the Purchaser.

16. Any violation against the Property (other than the Unit) which is the obligation of the Condominium Board, or another Residential Unit Owner to correct.

17. Standard printed exceptions contained in the form of fee title insurance policy then issued by the Title Company.

18. Any certificate of occupancy for the Building, so long as the same permits, or does not prohibit, use of the Unit for its stated purposes.

19. Any encumbrance, covenant, easement, agreement, or restriction against the Property set forth in the form of Residential Unit Owner's Specimen Title Policy prepared by the Title Company set forth in Part II of the Plan.

SCHEDULE B TO PURCHASE AGREEMENT
INSPECTION STATEMENT

Date:

_____

_____
New York, New York

Re: 70 Berry Street Condominium

Ladies and Gentlemen:

1. On the date hereof, the undersigned has inspected the Unit set forth below which the undersigned is purchasing and have found the Unit to be in good condition, except as otherwise noted below.

2. The undersigned acknowledges that to prevent pilferage, certain items such as medicine cabinet doors, shower heads, toilet seats, kitchen cabinets, vanity knobs and mechanical chimes will be installed just prior to the date the undersigned moves into the Building. The undersigned agrees to sign-off each item requiring adjustment, or repairs, if any, as they are completed.

Unit No. _____

_____
Purchaser's Signature

_____
Purchaser's Signature

_____
Sponsor's Representative

EXHIBIT 1A

REQUEST FOR TAXPAYER IDENTIFICATION NUMBER (W-9)

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.

Social security number
___ ___ ___ – ___ ___ – ___ ___ ___ ___

or

Employer identification number
___ ___ – ___ ___ ___ ___ ___ ___ ___

Note: *If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.*

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.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

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

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 30% of such payments (29% **after** December 31, 2003; 28% **after** December 31, 2005). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

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

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester, or

2. You do not certify your TIN when required (see the Part II instructions on page 4 for details), or

3. The IRS tells the requester that you furnished an incorrect TIN, or

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under **4** above (for reportable interest and dividend accounts opened after 1983 only).

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

Penalties

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

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

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

Specific Instructions

Name

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

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

Sole proprietor. Enter your **individual** name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, **enter the owner's name on the "Name" line.** Enter the LLC's name on the "Business name" line.

Other entities. Enter your business name as shown on required Federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note: *You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).*

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note: *If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.*

Exempt payees. Backup withholding is **not required** on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2);

2. The United States or any of its agencies or instrumentalities;

3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities;

4. A foreign government or any of its political subdivisions, agencies, or instrumentalities; or

5. An international organization or any of its agencies or instrumentalities.

Other payees that **may be exempt** from backup withholding include:

6. A corporation;

7. A foreign central bank of issue;

8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States;

9. A futures commission merchant registered with the Commodity Futures Trading Commission;

10. A real estate investment trust;

11. An entity registered at all times during the tax year under the Investment Company Act of 1940;

12. A common trust fund operated by a bank under section 584(a);

13. A financial institution;

14. A middleman known in the investment community as a nominee or custodian; or

15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, **1** through **15.**

If the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for **9**
Broker transactions	Exempt recipients **1** through **13.** Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients **1** through **5**
Payments over $600 required to be reported and direct sales over $5,000 [1]	Generally, exempt recipients **1** through **7** [2]

[1] See **Form 1099-MISC**, Miscellaneous Income, and its instructions.

[2] However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are **not exempt** from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a Federal executive agency.

Part I. Taxpayer Identification Number (TIN)

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

If you are a **sole proprietor** and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner **LLC** that is disregarded as an entity separate from its owner (see **Limited liability company (LLC)** on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

Note: *See the chart on page 4 for further clarification of name and TIN combinations.*

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get **Form SS-5,** Application for a Social Security Card, from your local Social Security Administration office or get this form on-line at **www.ssa.gov/online/ss5.html.** You may also get this form by calling 1-800-772-1213. Use **Form W-7,** Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or **Form SS-4,** Application for Employer Identification Number, to apply for an EIN. You can get Forms W-7 and SS-4 from the IRS by calling 1-800-TAX-FORM (1-800-829-3676) or from the IRS Web Site at **www.irs.gov.**

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

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

Caution: *A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.*

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 3, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see **Exempt from backup withholding** on page 2.

Signature requirements. Complete the certification as indicated in **1** through **5** below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item **2** in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item **2** of the certification.

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

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA or Archer MSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account [1]
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor [2]
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee [1]
b. So-called trust account that is not a legal or valid trust under state law	The actual owner [1]
5. Sole proprietorship or single-owner LLC	The owner [3]
For this type of account:	**Give name and EIN of:**
6. Sole proprietorship or single-owner LLC	The owner [3]
7. A valid trust, estate, or pension trust	Legal entity [4]
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

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

[2] Circle the minor's name and furnish the minor's SSN.

[3] **You must show your individual name,** but you may also enter your business or "DBA" name. You may use either your SSN or EIN (if you have one).

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

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

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA or Archer MSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, or to Federal and state agencies to enforce Federal nontax criminal laws and to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 30% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

EXHIBIT 1B

CERTIFICATE OF FOREIGN STATUS (W-8 BEN)

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

Instructions for Form W-8BEN

(Rev. February 2006)

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

Department of the Treasury
Internal Revenue Service

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

For definitions of terms used throughout these instructions, see *Definitions* on pages 3 and 4.

Purpose of form. Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources that consists of:

- Interest (including certain original issue discount (OID));
- Dividends;
- Rents;
- Royalties;
- Premiums;
- Annuities;
- Compensation for, or in expectation of, services performed;
- Substitute payments in a securities lending transaction; or
- Other fixed or determinable annual or periodical gains, profits, or income.

This tax is imposed on the gross amount paid and is generally collected by withholding under section 1441 or 1442 on that amount. A payment is considered to have been made whether it is made directly to the beneficial owner or to another person, such as an intermediary, agent, or partnership, for the benefit of the beneficial owner.

In addition, section 1446 requires a partnership conducting a trade or business in the United States to withhold tax on a foreign partner's distributive share of the partnership's effectively connected taxable income. Generally, a foreign person that is a partner in a partnership that submits a Form W-8 for purposes of section 1441 or 1442 will satisfy the documentation requirements under section 1446 as well. However, in some cases the documentation requirements of sections 1441 and 1442 do not match the documentation requirements of section 1446. See Regulations sections 1.1446-1 through 1.1446-6. Further, the owner of a disregarded entity, rather than the disregarded entity itself, shall submit the appropriate Form W-8 for purposes of section 1446.

If you receive certain types of income, you must provide Form W-8BEN to:

- Establish that you are not a U.S. person;
- Claim that you are the beneficial owner of the income for which Form W-8BEN is being provided or a partner in a partnership subject to section 1446; and
- If applicable, claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty.

You may also be required to submit Form W-8BEN to claim an exception from domestic information reporting and backup withholding for certain types of income that are not subject to foreign-person withholding. Such income includes:

- Broker proceeds.
- Short-term (183 days or less) original issue discount (OID).
- Bank deposit interest.
- Foreign source interest, dividends, rents, or royalties.
- Proceeds from a wager placed by a nonresident alien individual in the games of blackjack, baccarat, craps, roulette, or big-6 wheel.

You may also use Form W-8BEN to certify that income from a notional principal contract is not effectively connected with the conduct of a trade or business in the United States.

A withholding agent or payer of the income may rely on a properly completed Form W-8BEN to treat a payment associated with the Form W-8BEN as a payment to a foreign person who beneficially owns the amounts paid. If applicable, the withholding agent may rely on the Form W-8BEN to apply a reduced rate of withholding at source.

Provide Form W-8BEN to the withholding agent or payer before income is paid or credited to you. Failure to provide a Form W-8BEN when requested may lead to withholding at a 30% rate (foreign-person withholding) or the backup withholding rate.

Additional information. For additional information and instructions for the withholding agent, see the Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY.

Who must file. You must give Form W-8BEN to the withholding agent or payer if you are a foreign person and you are the beneficial owner of an amount subject to withholding. Submit Form W-8BEN when requested by the withholding agent or payer whether or not you are claiming a reduced rate of, or exemption from, withholding.

Do not use Form W-8BEN if:

- You are a U.S. citizen (even if you reside outside the United States) or other U.S. person (including a resident alien individual). Instead, use Form W-9, Request for Taxpayer Identification Number and Certification.
- You are a disregarded entity with a single owner that is a U.S. person and you are not a hybrid entity claiming treaty benefits. Instead, provide Form W-9.

Cat. No. 25576H

- You are a nonresident alien individual who claims exemption from withholding on compensation for independent or dependent personal services performed in the United States. Instead, provide Form 8233, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, or Form W-4, Employee's Withholding Allowance Certificate.
- You are receiving income that is effectively connected with the conduct of a trade or business in the United States, unless it is allocable to you through a partnership. Instead, provide Form W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States. If any of the income for which you have provided a Form W-8BEN becomes effectively connected, this is a change in circumstances and Form W-8BEN is no longer valid. You must file Form W-8ECI. See *Change in circumstances* on this page.
- You are filing for a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section 115(2), 501(c), 892, 895, or 1443(b). Instead, provide Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding. However, you should use Form W-8BEN if you are claiming treaty benefits or are providing the form only to claim you are a foreign person exempt from backup withholding. You should use Form W-8ECI if you received effectively connected income (for example, income from commercial activities).
- You are a foreign flow-through entity, other than a hybrid entity, claiming treaty benefits. Instead, provide Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding. However, if you are a partner, beneficiary, or owner of a flow-through entity and you are not yourself a flow-through entity, you may be required to furnish a Form W-8BEN to the flow-through entity.
- You are a disregarded entity for purposes of section 1446. Instead, the owner of the entity must submit the form.
- You are a reverse hybrid entity transmitting beneficial owner documentation provided by your interest holders to claim treaty benefits on their behalf. Instead, provide Form W-8IMY.
- You are a withholding foreign partnership or a withholding foreign trust within the meaning of sections 1441 and 1442 and the accompanying regulations. A withholding foreign partnership or a withholding foreign trust is a foreign partnership or trust that has entered into a withholding agreement with the IRS under which it agrees to assume primary withholding responsibility for each partner's, beneficiary's, or owner's distributive share of income subject to withholding that is paid to the partnership or trust. Instead, provide Form W-8IMY.
- You are acting as an intermediary (that is, acting not for your own account, but for the account of others as an agent, nominee, or custodian). Instead, provide Form W-8IMY.
- You are a foreign partnership or foreign grantor trust for purposes of section 1446. Instead, provide Form W-8IMY and accompanying documentation. See Regulations sections 1.1446-1 through 1.1446-6.

Giving Form W-8BEN to the withholding agent. Do not send Form W-8BEN to the IRS. Instead, give it to the person who is requesting it from you. Generally, this will be the person from whom you receive the payment, who credits your account, or a partnership that allocates income to you. Give Form W-8BEN to the person requesting it before the payment is made to you, credited to your account or allocated. If you do not provide this form, the withholding agent may have to withhold at the 30% rate, backup withholding rate, or the rate applicable under section 1446. If you receive more than one type of income from a single withholding agent for which you claim different benefits, the withholding agent may, at its option, require you to submit a Form W-8BEN for each different type of income. Generally, a separate Form W-8BEN must be given to each withholding agent.

Note. If you own the income or account jointly with one or more other persons, the income or account will be treated by the withholding agent as owned by a foreign person if Forms W-8BEN are provided by all of the owners. If the withholding agent receives a Form W-9 from any of the joint owners, the payment must be treated as made to a U.S. person.

Change in circumstances. If a change in circumstances makes any information on the Form W-8BEN you have submitted incorrect, you must notify the withholding agent or payer within 30 days of the change in circumstances and you must file a new Form W-8BEN or other appropriate form.

If you use Form W-8BEN to certify that you are a foreign person, a change of address to an address in the United States is a change in circumstances. Generally, a change of address within the same foreign country or to another foreign country is not a change in circumstances. However, if you use Form W-8BEN to claim treaty benefits, a move to the United States or outside the country where you have been claiming treaty benefits is a change in circumstances. In that case, you must notify the withholding agent or payer within 30 days of the move.

If you become a U.S. citizen or resident alien after you submit Form W-8BEN, you are no longer subject to the 30% withholding rate or the withholding tax on a foreign partner's share of effectively connected income. You must notify the withholding agent or payer within 30 days of becoming a U.S. citizen or resident alien. You may be required to provide a Form W-9. For more information, see Form W-9 and instructions.

Expiration of Form W-8BEN. Generally, a Form W-8BEN provided without a U.S. taxpayer identification number (TIN) will remain in effect for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect. For example, a Form W-8BEN signed on September 30, 2005, remains valid through December 31, 2008. A Form W-8BEN furnished with a U.S. TIN will remain in effect until a change in circumstances makes any information on the form incorrect, provided that the withholding agent reports on Form 1042-S at least one payment annually to the beneficial owner who provided the Form W-8BEN. See the instructions for line 6

beginning on page 4 for circumstances under which you must provide a U.S. TIN.

Definitions

Beneficial owner. For payments other than those for which a reduced rate of withholding is claimed under an income tax treaty, the beneficial owner of income is generally the person who is required under U.S. tax principles to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

Foreign partnerships, foreign simple trusts, and foreign grantor trusts are not the beneficial owners of income paid to the partnership or trust. The beneficial owners of income paid to a foreign partnership are generally the partners in the partnership, provided that the partner is not itself a partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of income paid to a foreign simple trust (that is, a foreign trust that is described in section 651(a)) are generally the beneficiaries of the trust, if the beneficiary is not a foreign partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of a foreign grantor trust (that is, a foreign trust to the extent that all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679) are the persons treated as the owners of the trust. The beneficial owners of income paid to a foreign complex trust (that is, a foreign trust that is not a foreign simple trust or foreign grantor trust) is the trust itself.

For purposes of section 1446, the same beneficial owner rules apply, except that under section 1446 a foreign simple trust rather than the beneficiary provides the form to the partnership.

The beneficial owner of income paid to a foreign estate is the estate itself.

Note. A payment to a U.S. partnership, U.S. trust, or U.S. estate is treated as a payment to a U.S. payee that is not subject to 30% withholding. A U.S. partnership, trust, or estate should provide the withholding agent with a Form W-9. For purposes of section 1446, a U.S. grantor trust or disregarded entity shall not provide the withholding agent a Form W-9 in its own right. Rather, the grantor or other owner shall provide the withholding agent the appropriate form.

Foreign person. A foreign person includes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person that is not a U.S. person. It also includes a foreign branch or office of a U.S. financial institution or U.S. clearing organization if the foreign branch is a qualified intermediary. Generally, a payment to a U.S. branch of a foreign person is a payment to a foreign person.

Nonresident alien individual. Any individual who is not a citizen or resident alien of the United States is a nonresident alien individual. An alien individual meeting either the "green card test" or the "substantial presence test" for the calendar year is a resident alien. Any person not meeting either test is a nonresident alien individual. Additionally, an alien individual who is a resident of a foreign country under the residence article of an income tax treaty, or an alien individual who is a bona fide resident of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa is a nonresident alien individual. See Pub. 519, U.S. Tax Guide for Aliens, for more information on resident and nonresident alien status.



Even though a nonresident alien individual married to a U.S. citizen or resident alien may choose to be treated as a resident alien for certain purposes (for example, filing a joint income tax return), such individual is still treated as a nonresident alien for withholding tax purposes on all income except wages.

Flow-through entity. A flow-through entity is a foreign partnership (other than a withholding foreign partnership), a foreign simple or foreign grantor trust (other than a withholding foreign trust), or, for payments for which a reduced rate of withholding is claimed under an income tax treaty, any entity to the extent the entity is considered to be fiscally transparent (see below) with respect to the payment by an interest holder's jurisdiction.

For purposes of section 1446, a foreign partnership or foreign grantor trust must submit Form W-8IMY to establish the partnership or grantor trust as a look through entity. The Form W-8IMY may be accompanied by this form or another version of Form W-8 or Form W-9 to establish the foreign or domestic status of a partner or grantor or other owner. See Regulations section 1.1446-1.

Hybrid entity. A hybrid entity is any person (other than an individual) that is treated as fiscally transparent (see below) in the United States but is not treated as fiscally transparent by a country with which the United States has an income tax treaty. Hybrid entity status is relevant for claiming treaty benefits. See the instructions for line 9c on page 5.

Reverse hybrid entity. A reverse hybrid entity is any person (other than an individual) that is not fiscally transparent under U.S. tax law principles but that is fiscally transparent under the laws of a jurisdiction with which the United States has an income tax treaty. See the instructions for line 9c on page 5.

Fiscally transparent entity. An entity is treated as fiscally transparent with respect to an item of income for which treaty benefits are claimed to the extent that the interest holders in the entity must, on a current basis, take into account separately their shares of an item of income paid to the entity, whether or not distributed, and must determine the character of the items of income as if they were realized directly from the sources from which realized by the entity. For example, partnerships, common trust funds, and simple trusts or grantor trusts are generally considered to be fiscally transparent with respect to items of income received by them.

Disregarded entity. A business entity that has a single owner and is not a corporation under Regulations section 301.7701-2(b) is disregarded as an entity separate from its owner.

A disregarded entity shall not submit this form to a partnership for purposes of section 1446. Instead, the owner of such entity shall provide appropriate documentation. See Regulations section 1.1446-1.

Amounts subject to withholding. Generally, an amount subject to withholding is an amount from sources within the United States that is fixed or determinable annual or periodical (FDAP) income. FDAP income is all income included in gross income, including interest (as well as OID), dividends, rents, royalties, and compensation. FDAP income does not include most gains from the sale of property (including market discount and option premiums).

For purposes of section 1446, the amount subject to withholding is the foreign partner's share of the partnership's effectively connected taxable income.

Withholding agent. Any person, U.S. or foreign, that has control, receipt, or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding is a withholding agent. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity, including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies. Generally, the person who pays (or causes to be paid) the amount subject to withholding to the foreign person (or to its agent) must withhold.

For purposes of section 1446, the withholding agent is the partnership conducting the trade or business in the United States. For a publicly traded partnership, the withholding agent may be the partnership, a nominee holding an interest on behalf of a foreign person, or both. See Regulations sections 1.1446-1 through 1.1446-6.

Specific Instructions

TIP *A hybrid entity should give Form W-8BEN to a withholding agent only for income for which it is claiming a reduced rate of withholding under an income tax treaty. A reverse hybrid entity should give Form W-8BEN to a withholding agent only for income for which no treaty benefit is being claimed.*

Part I

Line 1. Enter your name. If you are a disregarded entity with a single owner who is a foreign person and you are not claiming treaty benefits as a hybrid entity, this form should be completed and signed by your foreign single owner. If the account to which a payment is made or credited is in the name of the disregarded entity, the foreign single owner should inform the withholding agent of this fact. This may be done by including the name and account number of the disregarded entity on line 8 (reference number) of the form. However, if you are a disregarded entity that is claiming treaty benefits as a hybrid entity, this form should be completed and signed by you.

Line 2. If you are a corporation, enter the country of incorporation. If you are another type of entity, enter the country under whose laws you are created, organized, or governed. If you are an individual, enter N/A (for "not applicable").

Line 3. Check the one box that applies. By checking a box, you are representing that you qualify for this classification. You must check the box that represents your classification (for example, corporation, partnership, trust, estate, etc.) under U.S. tax principles. Do not check the box that describes your status under the law of the treaty country. If you are a partnership or disregarded entity receiving a payment for which treaty benefits are being claimed, you must check the "Partnership" or "Disregarded entity" box. If you are a sole proprietor, check the "Individual" box, not the "Disregarded entity" box.

CAUTION *Only entities that are tax-exempt under section 501 should check the "Tax-exempt organization" box. Such organizations should use Form W-8BEN only if they are claiming a reduced rate of withholding under an income tax treaty or some code exception other than section 501. Use Form W-8EXP if you are claiming an exemption from withholding under section 501.*

Line 4. Your permanent residence address is the address in the country where you claim to be a resident for purposes of that country's income tax. If you are giving Form W-8BEN to claim a reduced rate of withholding under an income tax treaty, you must determine your residency in the manner required by the treaty. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you are an individual who does not have a tax residence in any country, your permanent residence is where you normally reside. If you are not an individual and you do not have a tax residence in any country, the permanent residence address is where you maintain your principal office.

Line 5. Enter your mailing address only if it is different from the address you show on line 4.

Line 6. If you are an individual, you are generally required to enter your social security number (SSN). To apply for an SSN, get Form SS-5 from a Social Security Administration (SSA) office or, if in the United States, you may call the SSA at 1-800-772-1213. Fill in Form SS-5 and return it to the SSA.

If you do not have an SSN and are not eligible to get one, you must get an individual taxpayer identification number (ITIN). To apply for an ITIN, file Form W-7 with the IRS. It usually takes 4-6 weeks to get an ITIN.

CAUTION *An ITIN is for tax use only. It does not entitle you to social security benefits or change your employment or immigration status under U.S. law.*

If you are not an individual or you are an individual who is an employer or you are engaged in a U.S. trade or business as a sole proprietor, you must enter an employer identification number (EIN). If you do not have an EIN, you should apply for one on Form SS-4, Application for Employer Identification Number. If you are a disregarded entity claiming treaty benefits as a hybrid entity, enter your EIN.

A partner in a partnership conducting a trade or business in the United States will likely be allocated effectively connected taxable income. The partner is

required to file a U.S. federal income tax return and must have a U.S. taxpayer identification number (TIN).

You must provide a U.S. TIN if you are:
- Claiming an exemption from withholding under section 871(f) for certain annuities received under qualified plans,
- A foreign grantor trust with 5 or fewer grantors,
- Claiming benefits under an income tax treaty, or
- Submitting the form to a partnership that conducts a trade or business in the United States.

However, a U.S. TIN is not required to be shown in order to claim treaty benefits on the following items of income:
- Dividends and interest from stocks and debt obligations that are actively traded;
- Dividends from any redeemable security issued by an investment company registered under the Investment Company Act of 1940 (mutual fund);
- Dividends, interest, or royalties from units of beneficial interest in a unit investment trust that are (or were upon issuance) publicly offered and are registered with the SEC under the Securities Act of 1933; and
- Income related to loans of any of the above securities.



You may want to obtain and provide a U.S. TIN on Form W-8BEN even though it is not required. A Form W-8BEN containing a U.S. TIN remains valid for as long as your status and the information relevant to the certifications you make on the form remain unchanged provided at least one payment is reported to you annually on Form 1042-S.

Line 7. If your country of residence for tax purposes has issued you a tax identifying number, enter it here. For example, if you are a resident of Canada, enter your Social Insurance Number.

Line 8. This line may be used by the filer of Form W-8BEN or by the withholding agent to whom it is provided to include any referencing information that is useful to the withholding agent in carrying out its obligations. For example, withholding agents who are required to associate the Form W-8BEN with a particular Form W-8IMY may want to use line 8 for a referencing number or code that will make the association clear. A beneficial owner may use line 8 to include the number of the account for which he or she is providing the form. A foreign single owner of a disregarded entity may use line 8 to inform the withholding agent that the account to which a payment is made or credited is in the name of the disregarded entity (see instructions for line 1 on page 4).

Part II

Line 9a. Enter the country where you claim to be a resident for income tax treaty purposes. For treaty purposes, a person is a resident of a treaty country if the person is a resident of that country under the terms of the treaty.

Line 9b. If you are claiming benefits under an income tax treaty, you must have a U.S. TIN unless one of the exceptions listed in the line 6 instructions above applies.

Line 9c. An entity (but not an individual) that is claiming a reduced rate of withholding under an income tax treaty must represent that it:
- Derives the item of income for which the treaty benefit is claimed, and
- Meets the limitation on benefits provisions contained in the treaty, if any.

An item of income may be derived by either the entity receiving the item of income or by the interest holders in the entity or, in certain circumstances, both. An item of income paid to an entity is considered to be derived by the entity only if the entity is not fiscally transparent under the laws of the entity's jurisdiction with respect to the item of income. An item of income paid to an entity shall be considered to be derived by the interest holder in the entity only if:
- The interest holder is not fiscally transparent in its jurisdiction with respect to the item of income, and
- The entity is considered to be fiscally transparent under the laws of the interest holder's jurisdiction with respect to the item of income. An item of income paid directly to a type of entity specifically identified in a treaty as a resident of a treaty jurisdiction is treated as derived by a resident of that treaty jurisdiction.

If an entity is claiming treaty benefits on its own behalf, it should complete Form W-8BEN. If an interest holder in an entity that is considered fiscally transparent in the interest holder's jurisdiction is claiming a treaty benefit, the interest holder should complete Form W-8BEN on its own behalf and the fiscally transparent entity should associate the interest holder's Form W-8BEN with a Form W-8IMY completed by the entity.



An income tax treaty may not apply to reduce the amount of any tax on an item of income received by an entity that is treated as a domestic corporation for U.S. tax purposes. Therefore, neither the domestic corporation nor its shareholders are entitled to the benefits of a reduction of U.S. income tax on an item of income received from U.S. sources by the corporation.

To determine whether an entity meets the limitation on benefits provisions of a treaty, you must consult the specific provisions or articles under the treaties. Income tax treaties are available on the IRS website at *www.irs.gov*.



If you are an entity that derives the income as a resident of a treaty country, you may check this box if the applicable income tax treaty does not contain a "limitation on benefits" provision.

Line 9d. If you are a foreign corporation claiming treaty benefits under an income tax treaty that entered into force before January 1, 1987 (and has not been renegotiated) on (a) U.S. source dividends paid to you by another foreign corporation or (b) U.S. source interest paid to you by a U.S. trade or business of another foreign corporation, you must generally be a "qualified resident" of a treaty country. See section 884 for the definition of interest paid by a U.S. trade or business of a foreign corporation ("branch interest") and other applicable rules.

In general, a foreign corporation is a qualified resident of a country if any of the following apply.
- It meets a 50% ownership and base erosion test.
- It is primarily and regularly traded on an established securities market in its country of residence or the United States.
- It carries on an active trade or business in its country of residence.
- It gets a ruling from the IRS that it is a qualified resident.

See Regulations section 1.884-5 for the requirements that must be met to satisfy each of these tests.



If you are claiming treaty benefits under an income tax treaty entered into force after December 31, 1986, do not check box 9d. Instead, check box 9c.

Line 9e. Check this box if you are related to the withholding agent within the meaning of section 267(b) or 707(b) and the aggregate amount subject to withholding received during the calendar year will exceed $500,000. Additionally, you must file Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b).

Line 10

Line 10 must be used only if you are claiming treaty benefits that require that you meet conditions not covered by the representations you make in lines 9a through 9e. However, this line should always be completed by foreign students and researchers claiming treaty benefits. See *Scholarship and fellowship grants* below for more information.

The following are additional examples of persons who should complete this line.

- Exempt organizations claiming treaty benefits under the exempt organization articles of the treaties with Canada, Mexico, Germany, and the Netherlands.
- Foreign corporations that are claiming a preferential rate applicable to dividends based on ownership of a specific percentage of stock.
- Persons claiming treaty benefits on royalties if the treaty contains different withholding rates for different types of royalties.

This line is generally not applicable to claiming treaty benefits under an interest or dividends (other than dividends subject to a preferential rate based on ownership) article of a treaty.

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. The individual must use Form W-9 to claim the tax treaty benefit. See the instructions for Form W-9 for more information. Also see *Nonresident alien student or researcher who becomes a resident alien* later for an example.

Scholarship and fellowship grants. A nonresident alien student (including a trainee or business apprentice) or researcher who receives noncompensatory scholarship or fellowship income may use Form W-8BEN to claim benefits under a tax treaty that apply to reduce or eliminate U.S. tax on such income. No Form W-8BEN is required unless a treaty benefit is being claimed. A nonresident alien student or researcher who receives compensatory scholarship or fellowship income must use Form 8233 to claim any benefits of a tax treaty that apply to that income. The student or researcher must use Form W-4 for any part of such income for which he or she is not claiming a tax treaty withholding exemption. Do not use Form W-8BEN for compensatory scholarship or fellowship income. See *Compensation for Dependent Personal Services* in the Instructions for Form 8233.



If you are a nonresident alien individual who received noncompensatory scholarship or fellowship income and personal services income (including compensatory scholarship or fellowship income) from the same withholding agent, you may use Form 8233 to claim a tax treaty withholding exemption for part or all of both types of income.

Completing lines 4 and 9a. Most tax treaties that contain an article exempting scholarship or fellowship grant income from taxation require that the recipient be a resident of the other treaty country at the time of, or immediately prior to, entry into the United States. Thus, a student or researcher may claim the exemption even if he or she no longer has a permanent address in the other treaty country after entry into the United States. If this is the case, you may provide a U.S. address on line 4 and still be eligible for the exemption if all other conditions required by the tax treaty are met. You must also identify on line 9a the tax treaty country of which you were a resident at the time of, or immediately prior to, your entry into the United States.

Completing line 10. You must complete line 10 if you are a student or researcher claiming an exemption from taxation on your scholarship or fellowship grant income under a tax treaty.

Nonresident alien student or researcher who becomes a resident alien. You must use Form W-9 to claim an exception to a saving clause. See *Nonresident alien who becomes a resident alien* on this page for a general explanation of saving clauses and exceptions to them.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would complete Form W-9.

Part III

If you check this box, you must provide the withholding agent with the required statement for income from a notional principal contract that is to be treated as income not effectively connected with the conduct of a trade or business in the United States. You should update this statement as often as necessary. A new Form W-8BEN is not required for each update provided the form otherwise remains valid.

Part IV

Form W-8BEN must be signed and dated by the beneficial owner of the income, or, if the beneficial owner is not an individual, by an authorized representative or

officer of the beneficial owner. If Form W-8BEN is completed by an agent acting under a duly authorized power of attorney, the form must be accompanied by the power of attorney in proper form or a copy thereof specifically authorizing the agent to represent the principal in making, executing, and presenting the form. Form 2848, Power of Attorney and Declaration of Representative, may be used for this purpose. The agent, as well as the beneficial owner, may incur liability for the penalties provided for an erroneous, false, or fraudulent form.

Broker transactions or barter exchanges. Income from transactions with a broker or a barter exchange is subject to reporting rules and backup withholding unless Form W-8BEN or a substitute form is filed to notify the broker or barter exchange that you are an exempt foreign person.

You are an exempt foreign person for a calendar year in which:

- You are a nonresident alien individual or a foreign corporation, partnership, estate, or trust;
- You are an individual who has not been, and does not plan to be, present in the United States for a total of 183 days or more during the calendar year; and
- You are neither engaged, nor plan to be engaged during the year, in a U.S. trade or business that has effectively connected gains from transactions with a broker or barter exchange.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to provide the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping,** 5 hr., 58 min.; **Learning about the law or the form,** 3 hr., 46 min.; **Preparing and sending the form to IRS,** 4 hr., 2 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can email us at **taxforms@irs.gov.* Please put "Forms Comment" on the subject line. Or you can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form W-8BEN to this office. Instead, give it to your withholding agent.

EXHIBIT 2

UNIT OWNER POWER OF ATTORNEY

UNIT POWER OF ATTORNEY

Terms used in this Unit Power of Attorney which are used (a) in the declaration (the "Declaration") establishing a plan for condominium ownership of the premises known as 70 Berry Street Condominium ("Condominium") and by the street number 70 Berry Street, Brooklyn, New York 11211 under Article 9-B of the Real Property Law of the State of New York City, dated _____ and recorded in the Kings County Office of the Register of The City of New York on _____ ____ in Reel _____, Page _____, or (b) in the By-Laws of _____ Condominium ("By-Laws") attached to, and recorded together with, the Declaration, shall have the same meanings in this Power of Attorney as in the Declaration or the By-Laws.

The undersigned, _____, (having an office at) (residing at) _____ is the owner of Unit(s) ____ the "Unit") in _____ Condominium which is designated and described as Unit No. _____ in the Declaration and also designated as Tax Lot(s) 19 in Block 2303 of Section __ of the County of Kings on the Tax Map of the Real Property Assessment Department of The City of New York and on the Floor Plans, do(es) hereby nominate, constitute and appoint the persons who may from time to time constitute the Condominium Board, true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as members of the Condominium Board or in the name of their designee (corporate or otherwise), on behalf of all Residential Unit Owners, in accordance with such Residential Unit Owners' respective interests in the Common Elements, subject to the provisions of the By-Laws then in effect, (1)(a) following due authorization by a Majority of Residential Unit Owners, to acquire or lease any Unit, together with its Appurtenant Interests, from any Residential Unit Owner desiring to sell, convey, transfer, assign, surrender or lease the same, (b) following due authorization by a Majority of Residential Unit Owners, to acquire any Unit, together with its Appurtenant Interests, which becomes the subject of a foreclosure or other similar sale, all on such terms and at such price or rental, as the case may be, as said attorneys-in-fact shall deem proper, in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Residential Unit Owners, and, after any such acquisition or leasing, to convey, sell, lease, sublease, mortgage or otherwise deal with (but not vote the interest appurtenant thereto) any such Unit so acquired by them, or to sublease any Unit so leased by them without the necessity of further authorization by the Residential Unit Owners, on such terms as said attorneys-in-fact may determine, granting to said attorneys-in fact the power to do all things in the said premises which the undersigned could do if the undersigned were personally present, (2) to commence, pursue, appeal, settle and/or terminate administrative and certiorari proceedings to obtain reduced real estate tax assessments with respect to Units, including retaining counsel and taking any other actions which the Condominium Board deems necessary or appropriate, and (3) to execute, acknowledge and deliver (a) any declaration or other instrument affecting the Property which the Condominium Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution or requirement of the Buildings Department, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Property or (b) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the Property or the Common Elements which the Condominium Board deems necessary or appropriate.

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

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

This Power of Attorney shall be irrevocable.

IN WITNESS WHEREOF, the undersigned has/have executed this Power of Attorney as of the ____ day of , 200__.

_____

_____

ACKNOWLEDGEMENT

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 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 3
UNIT DEED

UNIT DEED

THIS INDENTURE is made the ___ day of _____ _____, 200___ , by and between Essex Berry Street LLC, a New York limited liability company having an address at c/o Essex Capital Partners Ltd., 635 Madison Avenue, Suite 1300, New York, New York 10022 (hereinafter called "Grantor") and _____, having an address at _____ (hereinafter called "Grantee").

WITNESSETH:

That the Grantor, in consideration of Ten and 00/100 ($10.00) Dollars and other good and valuable consideration paid by the Grantee, does hereby grant and release unto the Grantee, the heirs or successors and assigns of the Grantee, forever:

The Condominium Unit(s) known as Residential Unit No. _____ (the "Unit") in the building ("Building") known as 70 Berry Street Condominium ("Condominium") and by the street number 70 Berry Street, Brooklyn, New York, County of Kings, City and State of New York, said Unit being designated and described by the above Unit in a certain Declaration dated _____, _____, 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 ("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 Office of the Register of The City of New York ("Register's Office") on _____ _____, in Reel _____,Page ____ ("Declaration"). The Unit is/are also designated as Tax Lot 19 in Block 2303 the County of Kings on the Tax Map of the Real Property Assessment Department of The City of New York and on the Floor Plans of the Building, certified by _____ _____ on _____ _____ and filed with the Real Property Assessment Department of The City of New York on _____ as Condominium Plan No. _____ and also filed in the Register's Office on _____ _____,as Condominium Map No. _____;

TOGETHER with an undivided _____ % interest in the Common Elements (as such term is defined in the Declaration);

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

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

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

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

If any provision of the Declaration or the By-Laws is determined to be invalid, or would cause the Declaration or the By-Laws to be insufficient to submit the Property to, (i) the provisions of the Condominium Act, or (ii) any provision which is necessary to cause the Declaration and the By-Laws are insufficient to submit the Property to the provisions of the Condominium Act is missing from the Declaration or the By-Laws, or if the Declaration and the By-Laws are insufficient to submit the Property to the provisions of the Declaration shall control.

Except as otherwise specifically permitted by the Condominium Board or provided in the Declaration or the By-Laws, the Unit is intended for residential use only.

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

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 improvement and will apply the same first to the payment of the cost of the improvement before using any part of the same for any other purposes.

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

This conveyance is made in the regular course of business actually conducted by the Grantor.

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

All capitalized terms used herein which are not separately defined herein shall have the meanings given to those terms in the Declaration or the By-Laws of the Condominium.

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

GRANTEE

By:_____
Name:

GRANTOR

Essex Berry Street LLC

By:_____
Name:
Title:

ACKNOWLEDGEMENT

STATE OF NEW YORK)
) ss..
COUNTY OF NEW YORK)

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 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 UNIT DEED

DESCRIPTION OF THE LAND

[TO BE INSERTED]

EXHIBIT 4

DESCRIPTION OF PROPERTY AND SPECIFICATIONS

KSQ ARCHITECTS PC
ARCHITECTURE PLANNING DESIGN
NEW YORK OKLAHOMA TEXAS

235 Main Street
SUITE 410
WHITE PLAINS NY 10601

t 914 682 3700
f 917 591 7013
www.ksqarchitects.com

Description of Property and Specifications

70 Berry Street

Brooklyn, New York

July 07, 2009

The following report is a general outline of the nature of the work, materials and equipment that describe the character of the building.

A. Location and Use of the Property:
   1. The Building is located at 70 Berry Street, in the Borough of Brooklyn, City of New York. The Building is located on the north-west corner of the intersection of N. 10th Street and Berry Street.
   2. The Building is situated on Block No. 2303, Lot No. 19.
   3. The Building is located in zoning district M1-2/ R6A, with Overlay (Zoning Map 12C).
   4. The proposed use is General Residential. As per the New York City Zoning Resolution, Use Groups 1 through 4 are permitted in this zoning district. Use Group 2 (residential use) is proposed. Common residential recreation space, as required by Quality Housing Program, is provided to the south of the building in an outdoor courtyard above the parking garage. Accessory parking is proposed at the ground floor level. The property will comply with all zoning and use requirements at the time of closing.
   5. The Building does not have landmark status.

B. Status of Construction:
   1. Gannett Fleming Engineers, P.C. prepared a "Structural Foundation Geotechnical Report" for the 70 Berry Street building. See subsection 'E' for results of this analysis.
   2. It is anticipated that the new construction will be substantially completed on or about October 1, 2009 , in accordance with the construction documents, unless delayed by weather, strikes, lockouts, acts of God, shortages of or inability to obtain materials, equipment or labor, governmental restrictions or preemption, damage by fire or the elements or any other cause over which the Owner has no control.
   3. Class of construction will be Class I-C (non-combustible) and will conform to all applicable regulations of the Building Code of the City of New York.
   4. Certificate of Occupancy: After completion of construction, the Sponsor will apply for a Certificate of Occupancy for the building from the Department of Buildings of the City of New York by October 31, 2009, and would anticipate having a final Certificate of Occupancy within two years from the date of issuance of the temporary Certificate of Occupancy, barring any unforeseen circumstances. The Sponsor will obtain a Temporary Certificate of Occupancy upon completion of construction for all or portions of the building prior to closing.

5. This building project at 70 Berry Street can most generally be described as a new six (6) story building with 7th story penthouse level plus bulkhead, with brick veneer (3-5/8" thick standard brick cavity wall with metal stud backup), stucco, aluminum and glass.
6. When complete, the building will be in compliance with local Law 58 (Handicapped Access Law).

C. Site:

1. Based on information contained in a survey prepared by Fehringer Surveying, PC, Robert Fehringer, Licensed Land Surveyor, 148 North Park Avenue, Rockville Centre, NY 11570, dated May 28, 2005, the lot area of 70 Berry Street is approximately 11,441sf.
2. There is one (1) building proposed on the 70 Berry Street site. There will be a total of seven (7) stories, plus a bulkhead. Thirty–eight (38) residential units are proposed on floors One through Seven.
3. Sidewalks and Streets:
   a. New concrete sidewalk with 5'-0" x 5'-0" scoring and concrete curb to match existing (as per DOT Standard) are proposed. All sidewalks will comply with the requirements of New York City Highways, Buildings, Fire Departments, and DOT.
   b. The City of New York provides the drainage for the street and sidewalk, which are both pitched to drain through existing catch basins into the New York City Storm Water and Sewer Drainage System. No streets are owned or maintained by the property.
   c. New steel faced concrete curbs set to match the existing curb's elevations are to be installed throughout, as per DOT Standards. New concrete curb cut is provided on North 10th Street to access the 18 car garage.
   d. The City of New York provides street lighting.
   e. Seven (7) new trees will be planted on 5'-0" x 5'-0" tree pits as per the requirements of the Quality Housing Program and as per DOT Standards. Caliper of trees shall be no larger than 3.5", unless directed by Department of Parks and Recreation. Exact locations to be coordinated with the Department of Parks and Recreation.

D. Utilities:

1. Water supply and combined sewer servicing the Building will be provided by the City of New York. The Building water services will be collectively metered.
2. The fire water service is pumped directly into the building and metered through a bypass water meter.
3. Gas will be provided by KeySpan and will be collectively metered. Electrical service will be provided by Con Edison, a public service company, and will be individually metered to each residential unit. The Building will be wired for telephone and cable television. It will be a purchaser's obligation to purchase telephones and arrange for telephone and cable services for his or her unit. Water supply for the sprinkler system for the Building will be from water services entering the building from North 10th Street as per the Department of Buildings and New York City Building Code, metered through a bypass water meter. Sanitary and storm sewer mains are located below grade on North 10th Street and are serviced and maintained by the City of New York.

E. Sub-Soil Conditions:

A geotechnical review was prepared by Gannett Fleming Engineers, P.C., 48 Forest Avenue, P.O. Box 707, Locust Valley, New York 11560. Subsurface conditions were analyzed by means of two (2) test borings, 30' below existing ground level, in January 2006 by DK Drilling of New York, done in accordance with the New York City Building Code requirements. The boring log indicated that the general subsurface conditions consist of ten to thirteen feet of fill, "...and primarily consist of sand with varying amounts of gravel and silt..." The borings were terminated in the silty sand layer beneath the fill. Groundwater varied between 19.9 to 23' below the existing ground surface. Future inspections were conducted in May and June 2007 to conclude subgrade conditions and soil bearing pressure. The structural engineer has taken into account the findings of these reports. The results were also filed with the New York City Department of Buildings.

F. Landscaping and enclosures:

1. Yards and Courts: There is an area of grass lawn in the center of the Upper Recreation Space with outdoor tile as the balance of the material, in the rear of the building, above the parking garage. This area is accessed from Berry Street through a grade level side yard (same finishes), or through the Recreation Room or Public Corridor on the first floor of the Building. Roof drains are provided in the Upper Recreation Space, tying into the interior system. Refer to section I.2 for exterior stair. The Upper Recreation Space is enclosed by a brick parapet wall.
2. Seven (7) sidewalk trees are specified (one every 25'-0") immediately adjacent to the property. Their species is to be determined by New York City Department of Parks.
3. A variety of trees are specified for the upper and lower recreation spaces south of the Building.

G. Building Size:

1. The height of the building (to top of roof slab) will be 70' above first floor (EL. 24.52'). There is a roof terrace at the 7th floor penthouse level, 60' above the first floor. The bulkhead's highest point is 10'-0" above the top of the roof slab. Floor to floor heights for floors One through top of roof slab are 10'-0".
2. There is no cellar in this building. There are seven stories of residential apartments above the first floor, and one bulkhead level above the roof.
3. The core of the building consists of one elevator and two egress stairs. The stairs service the first floor through roof. The elevator services the first floor through the seventh floor.
4. At the first floor, ceiling heights in the lobby and recreation room range from 7'11-1/2" to 10'-0".
5. Ceiling heights in the residential units located in the building range from 8'-0" to 9'-0".
6. Equipment rooms:
    a. The first floor includes the following spaces:
        i. Trash room
        ii. Electric room
        iii. Gas Meter Room
        iv. Pump/dry sprinkler Room
        v. Mechanical room
        vi. Tele/Data Room
    b. The elevator machine room is located within the elevator shaft overrun with a control room located on the roof.
    c. The roof includes the following equipment:
        i. Exhaust Fans

ii. Boiler Flue
iii. Elevator Controls Room

7. At all portions of roof there is a protective railing set back 3'-0" from edge of roof.
8. Garages and Parking Areas: An eighteen (18) car garage is located at the north west end of the building, at grade, accessed from N.10th St (the garage surface is to be a concrete slab on grade sealed with an industrial coating such as Dexotex, or equal. Beneath this slab is vapor barrier and then 2" rigid insulation at the perimeter, to 12" below grade vertically and to 48" horizontally). The is no applied ceiling – the fireproofed beams are exposed and the underside of the deck is painted. Pendant mounted high intensity parking lights are attached to the underside of structure. Fire protection is provided by a series of upright sprinkler heads.
9. A "Duracoil Select" vertical roll up door as manufactured by Raynor Doors is provided at the entrance to the parking garage on the N. 10th street side of the building. (Reference manufacturer's inspection and maintenance standards)

H. Structural Construction System:

1. The foundation of the building is 7" concrete slab on grade and cast in place reinforced concrete walls. The second floor slab is poured concrete over metal deck. The third through roof floors are 8" pre-cast plank. The structural framing system is steel on the first floor with CMU bearing walls on the upper floors. The building will be of non-combustible construction with a minimum of 2 hrs. fire rating for all structural members. The demising walls between apartments and core spaces and corridors will be 2 hrs.
2. Exterior wall construction: At the vestibule entrance on North 10th Street, there will be an aluminum and glass window wall system. The north and east elevations have two primary components: floor to floor aluminum window wall and brick veneer (3 5/8" thick standard brick cavity wall with metal stud backup). At the sixth floor there are aluminum and glass skylights on the north elevation. The south elevations consist primarily of punched aluminum and glass windows in a brick veneer (3 5/8" thick standard brick cavity wall with metal stud backup). The west wall abuts the adjacent building and above the height of the adjacent building, the primary component is stucco. The bulkhead will have a stucco finish on 8" CMU walls. The Building will comply with Local Law 10.
3. Windows: All windows throughout the project are 1" thick insulating glass units, ¼" clear outside lite w/ Solarscreen 2000 Low-E coating, as manufactured by Viracon, ½" air space, and ¼" clear inside lite. Lower portions of floor to ceiling windows throughout the building, unless otherwise indicated, have ¼" clear outside lite with low-e coating, ½" air space, and ¼" tempered inside lite. All windows, will be clear anodized aluminum, as manufactured by Efco, Model 890-1 equ-vv. (Reference manufacturer's inspection and maintenance standards) Window hardware will be as required for concealed in-swing casement windows. Limit devices will be provided to prohibit sashes from opening beyond 4-1/2". Key operating override is provided for maintenance. Caulking is required at all windows. Total assembly at fixed and casement windows will meet ASTM, New York City and New York State Code for wind loads, air infiltration, water resistance, and thermal transmission. A warranty will be provided that guarantees performance, material and workmanship for ten (10) years from date of substantial completion. There will be a ten (10) year warranty on sealants, glass, and paint color. A warranty for the entire insulated glass unit is ten (10) years from date of substantial completion. A twenty (20) year warranty will be provided on material and labor on all sealant work. Glass will be warranted against defective materials, delamination, seal failure, and defects in manufacture for a period of ten (10) years. In addition, glass

will be warranteed against breakage for a period of three (3) years. Finishes are warranteed for a period of ten (10) years against color fade, pitting, chipping, film integrity. The above mentioned warranties are by the manufacturers (which will be assigned to the Condominium) and in the event of claims of defects involving the windows, recourse is against the manufacturer only.

4. Parapets and copings:
   The roof terrace on the seventh floor north elevation will have a metal stud parapet behind aluminum skylights. Between skylights and on the east elevation, there will be aluminum and glass railings, as manufactured by Hanson Architectural systems (refer to manufacture's inspection and maintenance standards). All railings and parapets will be a minimum of 42" above finished surface.
5. Chimneys and caps:
   The boiler for the building will be vented though (1) one boiler flue, near the north exterior wall of the building, with storm collar and tall flashing by the manufacturer. The top of the boiler flue is specified to be a minimum of three feet above the highest point of intake within 10 ft. (Confirm) Bathroom exhaust vents are specified to be provided with central fan systems exhausting above the roof.
6. Terraces:
   There is a roof terrace on the seventh floor penthouse level, on the north and east sides of the building. The finish material at the terrace is 24" x 24" x 2" square pre-cast concrete pavers on the adjustable pedestals. The terrace is enclosed by an aluminum and glass railing system. In addition, the terrace is divided per apartment by an aluminum and glass railing system. Doors at the terraces will be aluminum fames integral with the adjacent window wall system. Roof drains will be installed at the terrace.
7. There are no skylights provided.

I. Exterior Entrances:

The entrance to the main lobby will be located on the north facade of the building, on North 10th street. The entrance doors will be clear anodized aluminum and tempered glass and will be integrated into the window wall system, as manufactured by Kawneer; Storefront is 451T series and entrance doors are "narrow stile 190." A warranty will be provided for three (3) years from date of substantial completion. Finishes will be warranteed for fifteen (15) years from date of substantial completion. (Reference manufacturer's inspection and maintenance standards) A weeping system is a standard part of the entrance assembly, to allow for drainage. An exterior floor drain is provided outside of the vestibule.

1. Vestibule doors and frames:
   An entry vestibule is provided between the entrance doors and the lobby area. This will be aluminum and glass to match the exterior doors and window wall system enclosing the vestibule.
2. Exterior Stairs:
   An exterior stair consisting of pre-cast concrete stringers with stainless steel brackets supporting 2" thick stone steps with stainless steel railings occurs in the rear yard of the building, connecting the upper and lower recreation spaces, with stainless steel pole and rail railing system.
3. Thirty-eight (38) front loading horizontal letterbox assemblies, U.S. Postal Service approved mailboxes will be located adjacent to the main lobby, as manufactured by Salsbury Industries, models 3711D-20 and 3711S-2P, and are specified to comply with all U.S. Postal Service requirements. Mailboxes are warranteed for two (2) years from date of acceptance. (Reference manufacturer's inspection and maintenance standards)

4. There will be exterior downlights located in the recesses of the precast concrete insets at the brick piers, in addition to recessed downlights at the building entrance and at the building jogs on the north elevation.

J. Roof and Roof Structures:

1. Material: The roof material is SBS modified bitumen over 5/8" sheathing, over tapered rigid insulation board. Above the roof assembly are pre-cast concrete pavers on pedestals.
2. Insulation: Minimum of 4" thick flat insulation plus tapered (1/4" per 1ft min.) polyisocyanurate board roof insulation with an R-Value of 6.0 per inch. Total R-value of roof assembly is 24 min.
3. Surface finish: 24" x 24" x 2-1/2" thick Ecomax tile, as manufactured by Ecosurfaces Commercial Flooring, located at the roof area within perimeters of 42" high metal protective guards. 24" x 24" x 2" thick pre-cast concrete pavers on pedestals, "Architectural Plaza Pavers" as manufactured by Roofblok, shall be located at the roof terrace at the seventh floor.
   Warranty: Primary roof material, flashings, base flashing and all roof components: Manufacturer's warranty period is fifteen (15) yrs after expiration of installer's warranty. The above mentioned warranty is by the manufacturer (which will be assigned to the Condominium) and in the event of claims of defects involving the windows, recourse is against the manufacturer only.
   Installer's warranty shall be five (5) yrs after date of substantial completion. In addition to the roofing warranty, the installer shall provide a maintenance bond for the specified warranty period. The above mentioned warranty is by the installer (which will be assigned to the Condominium) and in the event of claims of defects involving the windows, recourse is against the installer only.
   Flashing: Stainless steel flashing is provided at all vertical surfaces and roof penetrations. There will be a warranty on materials and workmanship for a period of ten (10) years from date of acceptance. The above mentioned warranty is by the manufacturer (which will be assigned to the Condominium) and in the event of claims of defects involving the windows, recourse is against the manufacturer only.

K. Drains:

Drains are located at the roof and terrace, which will discharge through internal leaders into a house trap, which combines with the sanitary and exits the building as a combined house sewer. Floor drains are located at the first floor equipment rooms. There are metal gutters and exterior downspouts at the bulkheads which spill out to the main roof.

L. Louvers:

Smoke vent metal louver with insect screens is provided at the elevator bulkhead and elevator shafts, as required by Code.

M. Bulkhead:

1. Stair: Two (2) Pre-cast concrete stairs with separate 2 hr rated CMU assembly enclosure within stair bulkhead. Extends 10'-0" from main roof slab to top of bulkhead roof slab.
2. Elevator: Bulkhead house elevator overrun (with elevator machine room) with elevator control room adjacent. Extends 10'-0" from main roof slab to top of bulkhead roof slab.

N. Railing and Metalwork:
There will be aluminum and glass railings at the roof, as manufactured by Hansen Architectural Railings, 3'-0" from the edge around perimeter.

O. Dunnage:
At the first floor there will be concrete pads for the mechanical equipment as required.

P. Roof top Facilities:
The condo management will have unlimited access to all areas of the roof and first floor for the purpose of making inspections and repairs.

Q. Interior Stairs:
1. Two egress stairs will be constructed within separate 2hr rated CMU enclosures to service all floors from the first floor and the roof.
2. All egress stairs are pre-cast concrete.
3. All handrails and guard rails are painted steel pipe, and are to be provided at both sides of the egress stair.

R. Interior doors and frames:
1. All unit interior doors and frames: Interior doors are painted solid core flush metal doors with painted metal frames.
2. All service area and corridors, not including residential unit doors and frames shall be painted hollow metal 1-3/4" thick F.P.S.C. 1-1/2 hour rated with metal frames, and will meet the New York City Building Code requirements.
3. All stair hall doors and frames shall be painted hollow metal 1-3/4" thick F.P.S.C. 1-1/2 hour rated with metal frames, and will meet the New York City Building Code requirements.
4. All roof doors and equipment room doors and frames shall be painted hollow metal 1-3/4" thick F.P.S.C. 1-1/2 hour rated and frames, and shall meet the New York City Building Code requirements.
5. All residential unit entry doors, shall be solid core wood doors 1-3/4" thick F.P.S.C. 1-1/2 hour rated with hollow metal frames, and will meet the New York City Building Code requirements.

S. Elevators:
There will be one passenger elevator serving Cellar through Seventh floor levels of the building. It is a machine room-less gearless traction elevator, as manufactured by Global Tardif. The elevator has a 2500lb capacity, each with a speed of 350 fpm. (Reference manufacturer's warranties, inspection and maintenance standards) The elevator has automatic controls. The hoistway will have a single speed side slide door.

T. Elevator Cab:
1. Elevator cabs will be manufactured by Global Tardif.
2. The walls will be vertical satin stainless steel panels and trim.
3. The ceiling will be a satin stainless steel laminate downlight ceiling, set with incandescent lights, one per panel. There will be an alarm system that meets all code requirements.

U. Auxiliary Facilities:

1. All residential Units will have individual washer hook-ups. Appliances will be supplied by each Unit owner.
2. All residential Units will have ventless electric dryer hook-ups. Appliances will be supplied by each Unit owner.

V. Refuse Disposal:

1. Trash Compactor: One trash compactor, located in the trash room on the first floor, serving the residential apartments. The compactor shall be Royal-Pak system's "Econo-Krusher." There will be a one (1) year service agreement in the compactor including material and labor. (Reference manufacturer's inspection and maintenance standards.)
2. Chute: There will be one refuse chute at the second through seventh floors. The chute will be Royal-Pak. (reference manufacturer's inspection and maintenance standards)
3. The Trash Room will provide space for residential recycling. Additionally trash and recycling will be stored here until they are transferred to street level, to be picked up by the New York City Department of Sanitation.

W. Plumbing and Drainage

1. Water Supply & Distribution
   - i) Water Services: A new 3" domestic water service will supply water to the building. The service is metered and protected from backflow by a Wilkins Model Double check valve Model 350. Duplex centrifugal booster pump will increase water pressure. Pumps provides a minimum of 35 psi at the top floor. Copper type L pipe are used throughout for domestic cold and hot water supply been designed in accordance with the New York State Energy Conservation Construction Code. Cold and hot water piping is has covered with 1" glass fiber insulation.
   - ii) Two (2) gas fired boilers are provided in the boiler room on the first floor level to provide hot water for the building. Boilers are benchmark Model BMK-2.0, MEA # 404-92-F, input 3000 weight 1785 lbs each (shipping), thermally insulated on the outside, glass lined on the inside, working pressure 125 PSIG. One (1) hot water storage tank provided in the boiler room on the first floor level with storage capacities of 150 gallons.
2. Fire Protection System
   - i) Sprinkler System and Fire Standpipe System: The building is provided with a sprinkler system in accordance with NFPA 13/13R requirements. A new 6" combined sprinkler and fire standpipe system is equipped with a double detector check valve. A fire pump is provided for the combined sprinkler and fire standpipe system, which supplies a single riser located in the fire stair. Each floor contains sectional value with tamper switch, waterflow alarm and drain/test connection. A drain riser runs next to the fire protection sprinkler riser and drains to a floor drain on the first floor. Apartments are provided with a combination of pendent, sidewall and extended coverage sidewall sprinkler head in all required areas; sprinkler are omitted from closets and toilets. (All sprinkler piping is steel pipe: ASTM A53 Schedule 40 or schedule 10 black galvanized). Fire department connection is provided per Code.
   - ii) Fire Standpipe System:
     Each residential floor contains a capped 2-1/2" hose valve. A lobby hose cabinet is provided in lieu of hose on each residential floor. A 3 way roof manifold is provided above the highest hose valve.

iii) Sprinkler protection will be provided in rubbish chutes and trash rooms, and in residential apartments, and otherwise as per New York City Building Code.

3. Water Storage
   There is no roof top water storage located on the roof. The heating system will have an expansion tank located in the cellar.
4. Water Pressure
   i) A domestic water booster pump will be designed to provide adequate water flow and pressure throughout the building.
   ii) Piping system will be designed per New York City Codes.
5. Sanitary Drainage and Vent Systems
   i) Sanitary and Storm Drainage: All fixtures above and at grade drain by gravity to a sanitary house trap in the first floor exiting at North 10th street. Roof drains are collected by leaders and drain by gravity to a house trap. This combines with the sanitary at the building wall and exits as a 6" combined house sewer.
   ii) Vent piping from all fixture drains, equipment and stacks will be extended to points of termination above the roof.
6. Permits
   Will be obtained for new water service, backflow prevention devices and anything else required by the Department of Environmental Protection. All interior plumbing will be filed with and inspected by the New York City Department of Buildings.
7. Storm Drainage System
   Storm drainage piping from roof, terrace, and patio control-flow type drains will be piped by gravity to the existing combined sewer via a new house trap. Drains shall be control-flow type. (Sewage and storm drainage piping is no-hub cast iron).

X. Heating:
1. Heating System: The central heating system is designed to provide sufficient heat to maintain inside conditions of 68 degrees Fahrenheit when the outside conditions are 11 degrees Fahrenheit. The system is designed to meet the requirements of the current New York State Energy Conservation Construction Code. A centrally located gas fired hot water boiler plant supplies hot water to hot water coils in PTAC units via circulating pumps and copper type L piping. The boiler system will be Benchmark BMK-2.0 MEA # 404-92-E, input capacity of 3,000 CFH each. Heat is controlled by the occupants by thermostats located in each condo apartment. The heating and air conditioning system has been designed in accordance with the New York State Energy Conservation Construction Code for interior design and external design temperatures.
2. Lobby Entrance is heated by hot water radiation.

Y. Gas Supply
A single KeySpan gas service serves the building. There are two (2) gas meters located on the first floor. One meter serves all heating boiler equipment. Another meter serves all apartment ranges. Each piece of equipment is provided with a valved connection. Gas piping is threaded schedule 40 steel.

Z. Air Conditioning:
1. The cooling system is designed to provide sufficient air conditioning to maintain

inside conditions of 78 degrees Fahrenheit and 50% relative humidity when the outside conditions are not more then 89 degrees Fahrenheit dry bulb and 73 degrees Fahrenheit wet bulb. Air conditioning is provided by one or more packaged through the wall air conditioning units (PTAC) sizes and capacities as indicated in plan. The heating and air conditioning system has been designed in accordance with the New York State Energy Conservation Construction Code for interior design and external design temperatures.

2. Ground Floor Lobby is air conditioned by a split-type Air Conditioning system and naturally ventilated by the frequent use of the main entry door.

AA. Ventilation:

1. All kitchens are equipped with a ceiling exhaust fans and are ducted central exhaust shaft. All bathrooms are equipped with independent exhaust systems consisting of ceiling mounted fans, roof mounted blowers and distribution ductwork. All horizontal and vertical exhaust ducts are in a fire-rated enclosure. Exhaust fans at the roof will be maintained by the building management.
2. Operable windows on the facades naturally ventilate the building.

BB. Electrical:

1. Services:
   Electrical Utility:
   i) Electric service enters the first floor and is provided by the Consolidated Edison Co. at 120/208 volts, 3 phase, 4 wire rated at 3000 amperes. Main switch gear is located in an electrical service room with distribution for house loads, apartment loads and fire pump. Separate 1 phase, 3 wire utility meters are provided for each residential unit. In addition, a meter is provided for all common space and house loads. Panel boards will be located within each unit in an accessible location.
   ii) Telephone wiring will be provided.
   iii) Cable TV wiring will be provided.
2. Metering
   i) All residential units will be provided with individual Con Edison meters. A Con Edison meter will be provided for building common area service as well.
3. Distribution/Utilization Systems
   i) Distribution voltage will be 120/208 volt, 3 phase, 4 wire for base building.
   ii) Individual 120/208 volt, 3 phase type MC cable risers will be provided, strategically located to serve stacked apartment panels.
4. Wiring and Raceways
   i) Wiring
      a) All insulation will be 600 volt rated.
      b) In general, all feeder cables will be copper conducted with type THHN insulation or Metal-Clad 'MC' cable.
   ii) Raceways
      c) Raceways will be EMT in general. Rigid galvanized steel will be used for conduits embedded in concrete or under-ground.
      d) Armored cable (BX) will be used for concealed branch circuit wiring, where permissible by code.
5. Wiring Devices
   i) Receptacles will be Decoara style specification grade, 125 volt, 2 pole 3 wire, grounded, 20 ampere or as required for appliance circuits. GFI type will be provided within 6 ft. of sinks and in bathrooms.

ii) Local toggle switches will be Decora style quiet type, 15 ampere.

6. Apartment Panels
   i) Panels will be load center circuit breaker type, with 36 branch circuits per panel, with minimum 150 ampere capacity, sufficient for all anticipated loads within the apartment including the air conditioning units.
   ii) All panels will be equipped with door and directories. Panels will be sheet steel, zinc chromate and finished with gray enamel.
   iii) Panels will have copper buses.
7. Emergency Lighting
   i) Stair lights and selected exit and utility space lights will be battery backed-up to provide emergency power upon loss of utility power.
8. Lighting and Power
   i) Switched lighting fixtures will be provided in all Bathrooms, Entries and Kitchens.
   ii) Ground fault receptacles will be provided in Bathrooms, Kitchens and at terraces.
   iii) Appliances and convenience outlets will be provided in accordance with NYC Electrical Code.
   iv) Roof will be provided with lighting and receptacles for maintenance and general use.
9. Fire Alarm/Smoke Detection System
   i) An Interior Fire Alarm System (IFA) is not required by Code in a J-2 Occupancy
   ii) Each residential unit is furnished with a combination 120 volt smoke detector and carbon monoxide sensors. In addition, system type smoke detectors are provided for all common area mechanical rooms, and selected HVAC units as required by Code. Smoke detection and sprinkler alarm control panel shall be connected to the central station. Duct smoke detectors initiate fan shutdown on alarm. The building sprinkler system is also monitored by water flow and tamper switches. Alarm or trouble condition of the sprinkler system or fire pump start is annunciated at the smoke detector and sprinkler alarm control panel and transmitted to the central station. A remote annunciator is furnished at the main entry lobby which also indicates system smoke detection and sprinkler alarm and trouble conditions. Duct smoke detectors will be provided in air systems over 2000 cfm.

CC. <u>Intercommunications/Security/Television:</u>

1. The building will be provided with a video-intercom system, permitting the occupants of the residential units to communicate with visitors at the street entrance. An additional camera connected to the video intercom system will be installed at the main entrance allowing tenants to view persons entering the building.
2. Cable television wiring will be provided to all residential units for tenants.
3. Raceway will be provided for Verizon to pull fiber optic cable into each apartment, making all apartments FIOS-ready.
4. Tenants will be responsible to purchase telephone, Internet, and cable TV service from the provider of their choice.
5. Apartments will be wired for telephone, data, and television from a central multimedia panel located within each apartment. The multimedia panels will be equipped with power and a network hub allowing tenants to configure a network between multiple computers in the apartment.

DD. Public Area Lighting:

1. Lighting will be furnished to the public areas of the building through florescent fixtures.

EE. Permits and Certificates:

1. The proposed building will be constructed under a New Building (self-certified) application filed with the New York City Department of Buildings.

2. All permits and certificates will be obtained that are required for Certificate of Occupancy for the Department of Buildings.

FF. Unit Information:

There are 38 residential units in this building.

1. Dimensions of Units: The square foot area of the Units described in the Floor Plans, Schedule A to the Offering Plan and Schedule B to the Declaration are approximate and were obtained by using the method customarily used in New York City to measure condominium units. The units were measured horizontally from the exterior face of the exterior walls (perimeter columns and perimeter mechanical enclosures are not deducted)to the centerline of the interior walls and partitions separating one Unit from another or from a public corridor, stairs, elevators and other mechanical equipment spaces or common spaces. As is customary in New York City, these square foot area exceed the useable floor area of each Unit. Measured vertically, each Unit will consist of the volume from the top of the structural slab below (located under the finished flooring and subfloor materials) to the underside of any fireproofing of the structural floor members above. Any common elements located within a unit shall not be considered a part of the unit.
2. The Condominium Board, Sponsor, and Sponsor's designee will each have an easement to install and maintain pipes, conduits, wires, ducts and other facilities in the space between the underside of each such floor slab and the top surface of each Unit's finished ceiling, without any need to obtain the consent of any Unit Owner with respect to the same. The clearance between the top of the concrete floor slab and the bottom of the finish ceiling in the Units is indicated in section G, but certain Units may have clearances of less than indicated in section G to accommodate facilities located above the same or otherwise to respond to field conditions.

Appliances, Fixture, and Finish Schedule

Location	Item	Description
Kitchen	Ceiling	Painted gypsum wallboard
	Wall	Painted gypsum wallboard
	Base	Metal base (at cabinet base)
	Floor	Large Format Porcelain tile
	Cabinets	High gloss lacquer finish
	Countertops	Caesarstone
	Backsplash	N/A
	Sink	Blanco 513-412
	Sink Faucet	Hansgrohe Talis S
	Refrigerator	Miele 30" Fully Integrated bottom mount

		(KF1811V1)
	Cook-top	Bosch 30" Stainless Steel 4 burner gas cook-top (NGP745UC)
	Wall Oven	Bosch 30" Stainless Steel Single Thermal Oven (HBL745AUC)
	Hood	Faber Stainless Steel (630003944)
	Dishwasher	Bosch Stainless Steel 4 cycle dishwasher 24" w/integral panel (SHV45M3UC)
	Lighting	Under cabinet lighting and recessed downlights at kitchen islands
Master Bathroom	Ceiling	Painted water resistant gypsum wallboard
	Wall	large format Porcelain tile and painted water resistant gypsum wall board
	Base	Stone
	Floor	Large Format Porcelain Tile
	Counter	4" concrete countertop with integral bowl With wall mounted drawers below
	Toilet	Toto Carlyle (MS874114SG)
	Sink	Integral w/countertop
	Sink Faucet	Axor/Hasgrohe Citterio (39148000)
	Shower body	Large Format porcelain tile.
	Shower	LaCava (0425)
	Bath	Kohler Tea for Two (K-850)
	Lighting	recessed downlights
Secondary Bathroom	Ceiling	Painted water resistant gypsum wallboard
	Wall	Large format porcelain tile and painted water resistant gypsum wall board
	Base	Stone
	Floor	Large format porcelain tile
	Counter	N/A
	Toilet	Toto Carlyle (MS874114SG)
	Sink	Surface mounted concrete basin with wall mounted teak drawers below
	Sink Faucet	Axor/Hasgrohe Citterio (39148000)
	Bath	Kohler Tea for Two (K-850)
	Lighting	recessed downlights
Living/Dining Room	Ceiling	Painted gypsum wallboard
	Wall	Painted gypsum wall board
	Base	Wood to match flooring
	Floor	Wide plank prefinished engineered hardwood strip flooring
	Lighting	Junction boxes provided, recessed fixtures at some locations
Master Bedroom	Ceiling	Painted gypsum wallboard
	Wall	Painted gypsum wall board
	Base	Wood to match flooring
	Floor	Wide plank prefinished engineered hardwood strip flooring

	Closets	Vinyl coated wire shelving
	Lighting	Junction boxes provided
Secondary Bedroom	Ceiling	Painted gypsum wallboard
	Wall	Painted gypsum wall board
	Base	Wood to match flooring
	Floor	Wide plank refinished engineered hardwood strip flooring
	Closets	Vinyl coated wire shelving
	Lighting	Junction boxes provided
Doors	Interior	Painted Wood solid core with metal buck and marble sill (where applicable)
	Apt Entry	Painted fire-rated hollow metal with metal buck and metal saddle
	Stair	Painted fire-rated hollow metal with metal buck and metal saddle
Public Spaces:		
Elevator	Ceiling	Stainless steel laminate
	Wall	Stainless steel panels and trim
	Base	Stainless steel
	Floor	Marble
	Lighting	Recessed fixtures (incandescent- one per panel)
Residential Lobby/ Recreation Space	Ceiling	Painted gypsum board
	Wall	TBD
	Base	Polished Chrome
	Floor	Stone/large format porcelain tile
	Lighting	Recessed ceiling fixtures
Corridors	Ceiling	Painted gypsum board
	Wall	Wall covering/large format porcelain tile
	Base	Stone
	Floor	Carpet
	Lighting	Recessed fixtures
Mechanical Spaces	Floor	Sealed Concrete
Stairs	Ceiling	Painted underside of stairs
	Wall	Painted concrete block
	Base	Vinyl base
	Floor	Painted Concrete
	Lighting	Surface fixtures

GG. Safety and Warning Devices

1. Smoke and Carbon Monoxide detectors as required by Code will be installed in all units (outside bedrooms) common areas, elevator machine room and boiler room.

All dimensions are approximate and subject to normal construction variances and tolerances. The sponsor reserves the right to make changes due to unforeseen conditions, in accordance with the offering plan.

I hereby affirm that the above description of the property and specifications are an unbiased professional opinion arrived at without inducements of any kind.



Armand S. Quadrini, AIA

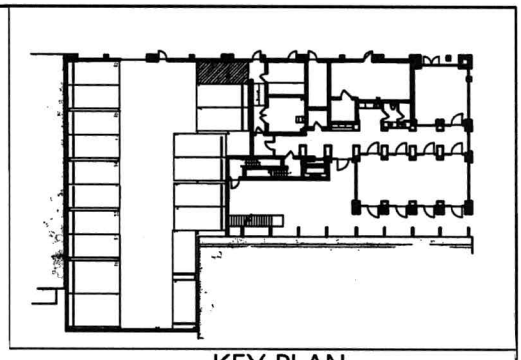
KSQ Architects, PC

EXHIBIT 5

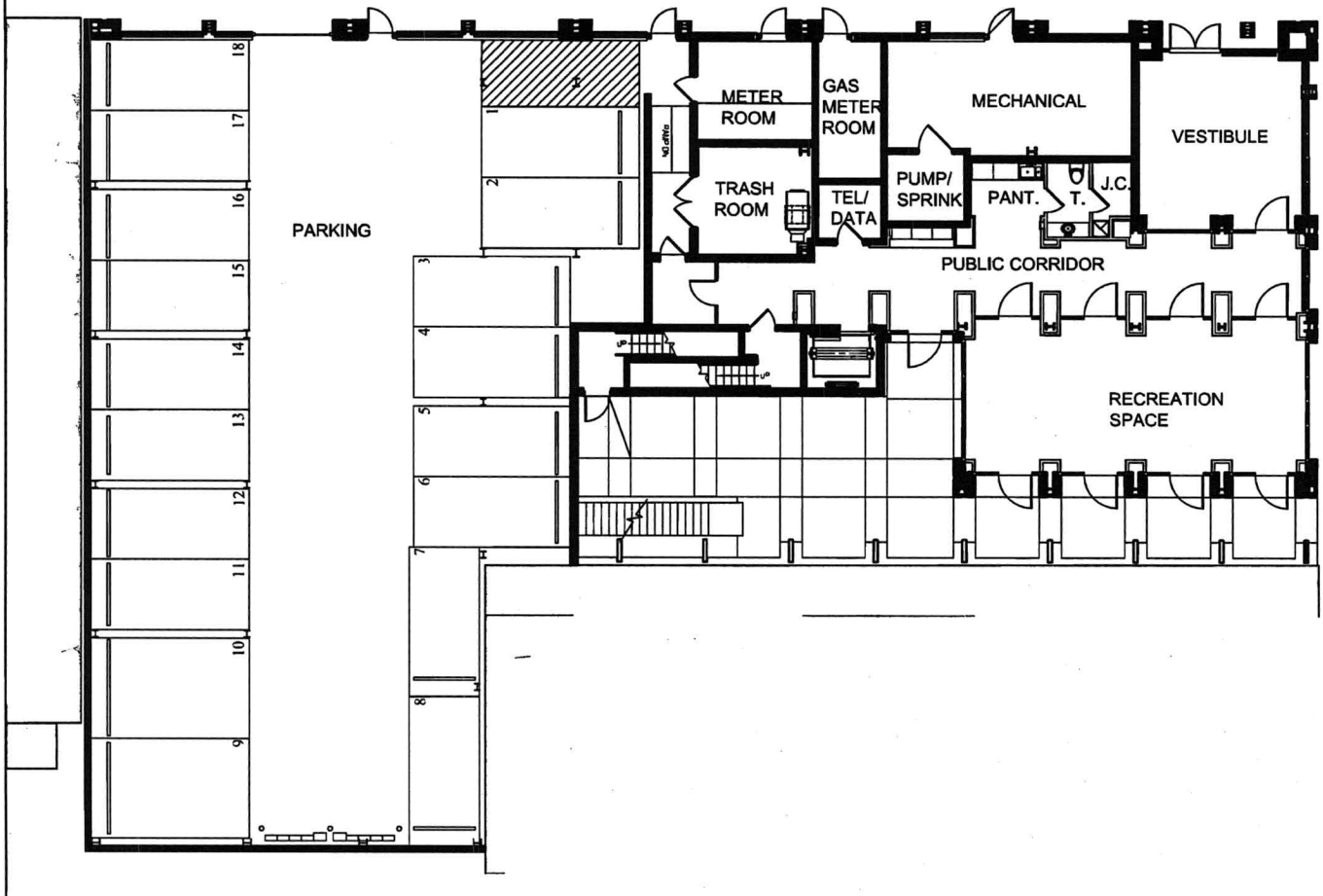
FLOOR PLANS

0 5 20 FT

ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



KSQ

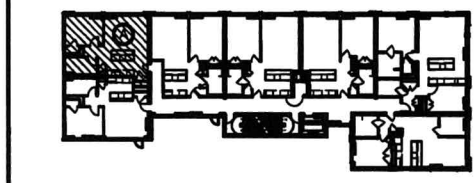
KSQ ARCHITECTS, PC
ARCHITECTURE · PLANNING DESIGN
TULSA · NEW YORK

FIRST FLOOR
70 BERRY STREET
ESSEX BERRY STREET, LLC

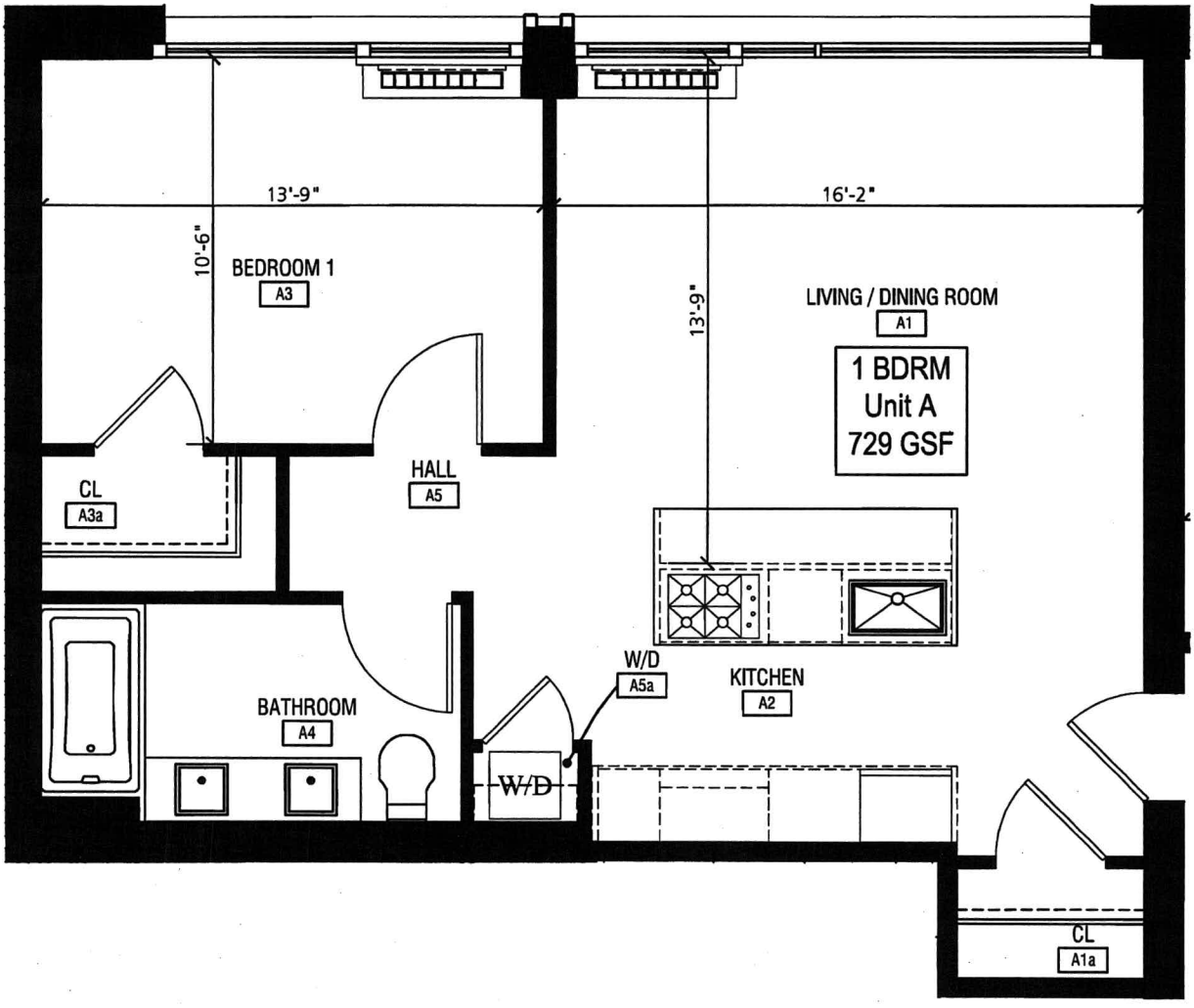
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DATE: JULY 07, 2009

0 1 2 5 10 FT

ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT A 2ND-5TH FL: 729 G.S.F.

KSQ

KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. A - SECOND THRU FIFTH FLOOR

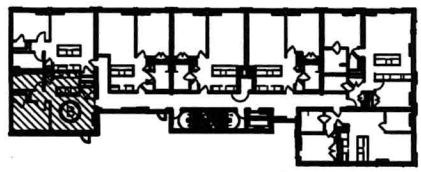
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ESSEX BERRY STREET, LLC

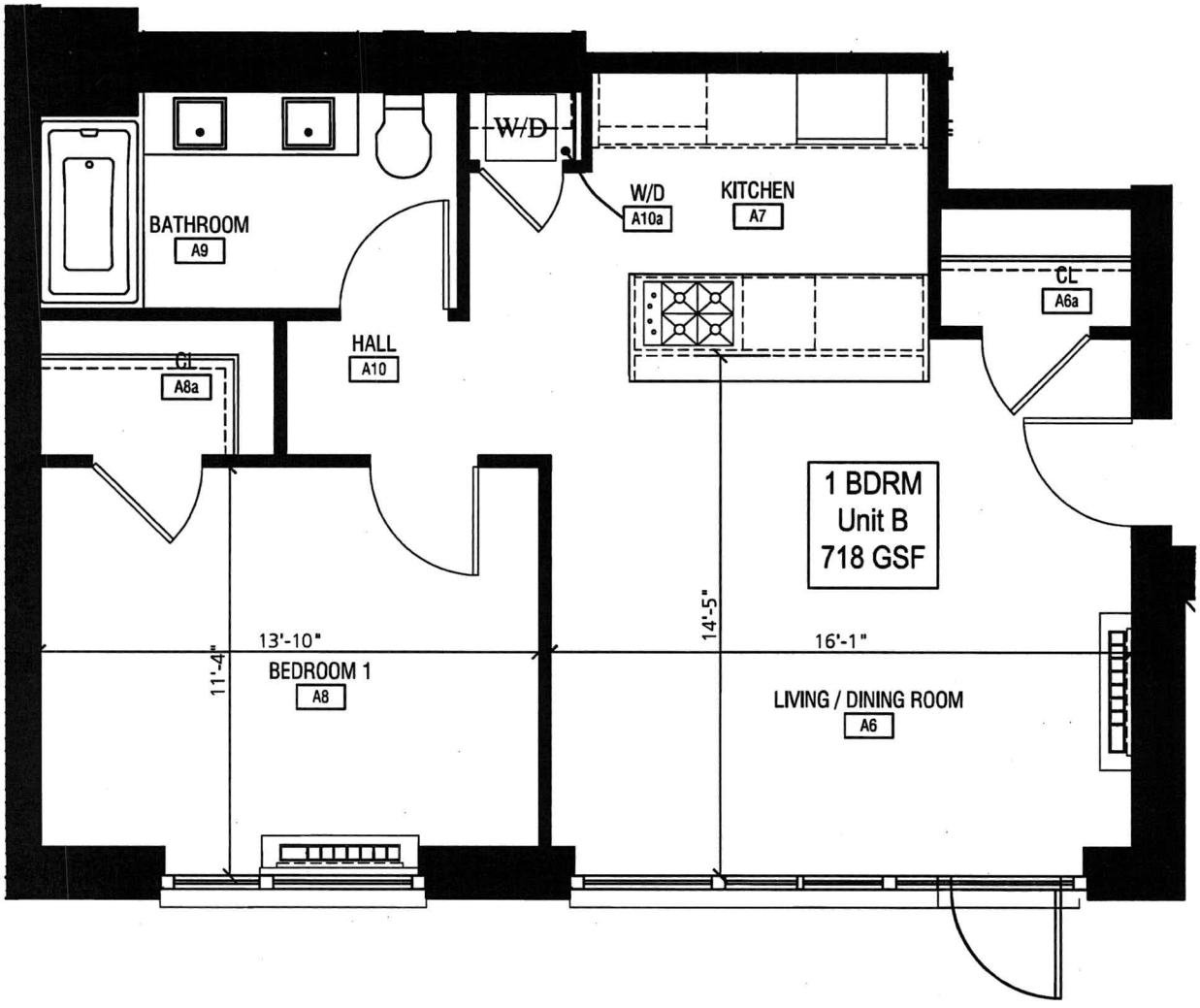
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DATE: February 09, 2009

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ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT B 2ND THRU 5TH FL: 718 G.S.F.

KSQ

KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. B - SECOND THRU FIFTH FLOOR

70 BERRY STREET

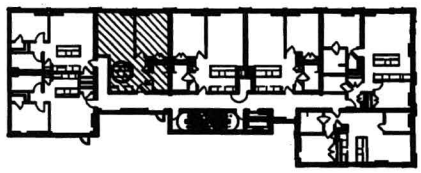
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DATE: February 09, 2009

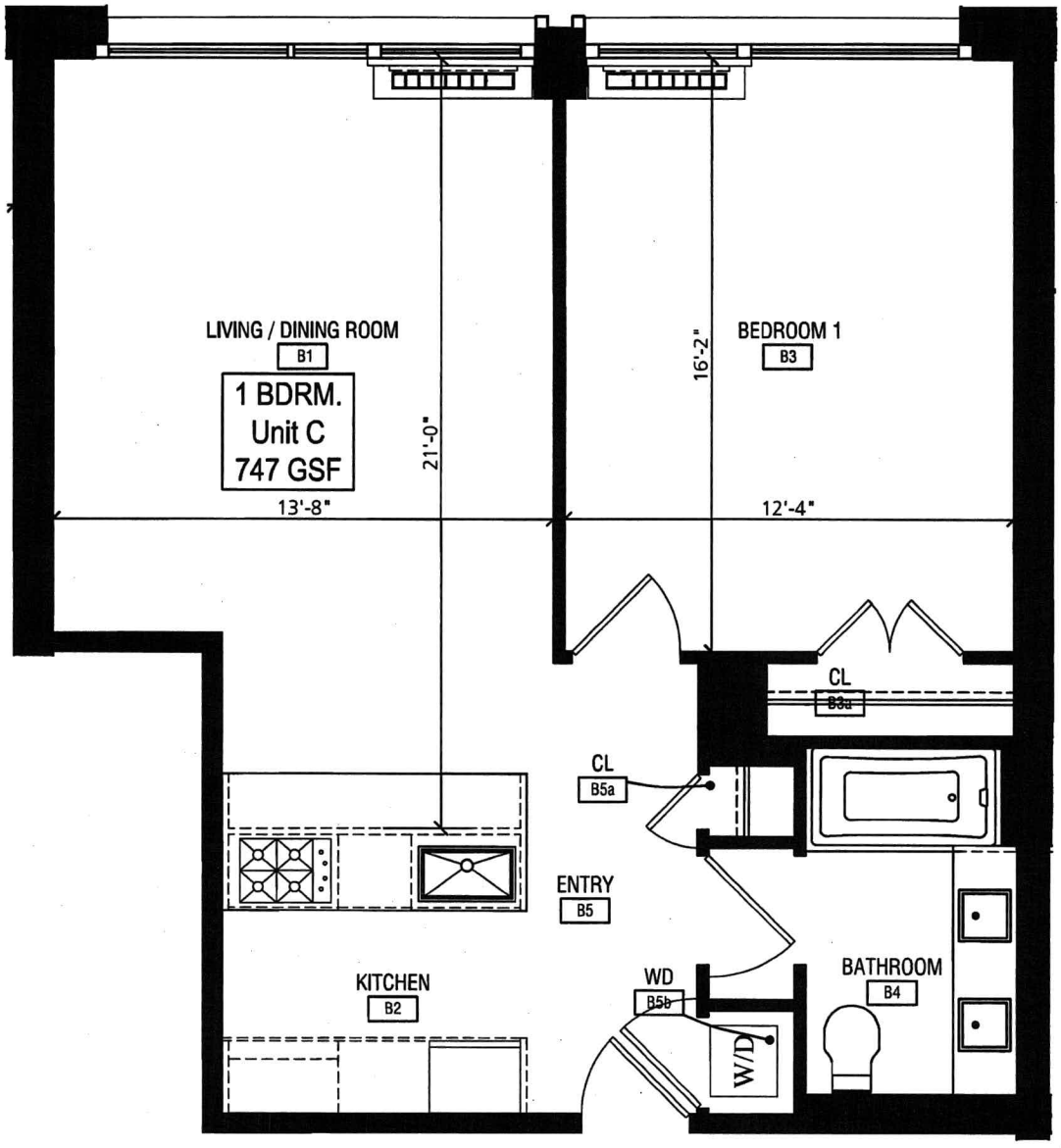


ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.





KEY PLAN



UNIT SUMMARY

APT C 2ND THRU 5TH FL: 747 G.S.F.

KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. C - SECOND THRU FIFTH FLOOR

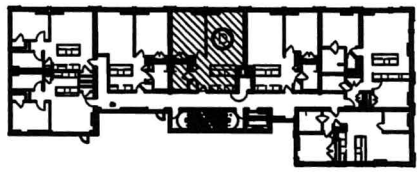
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ESSEX BERRY STREET, LLC

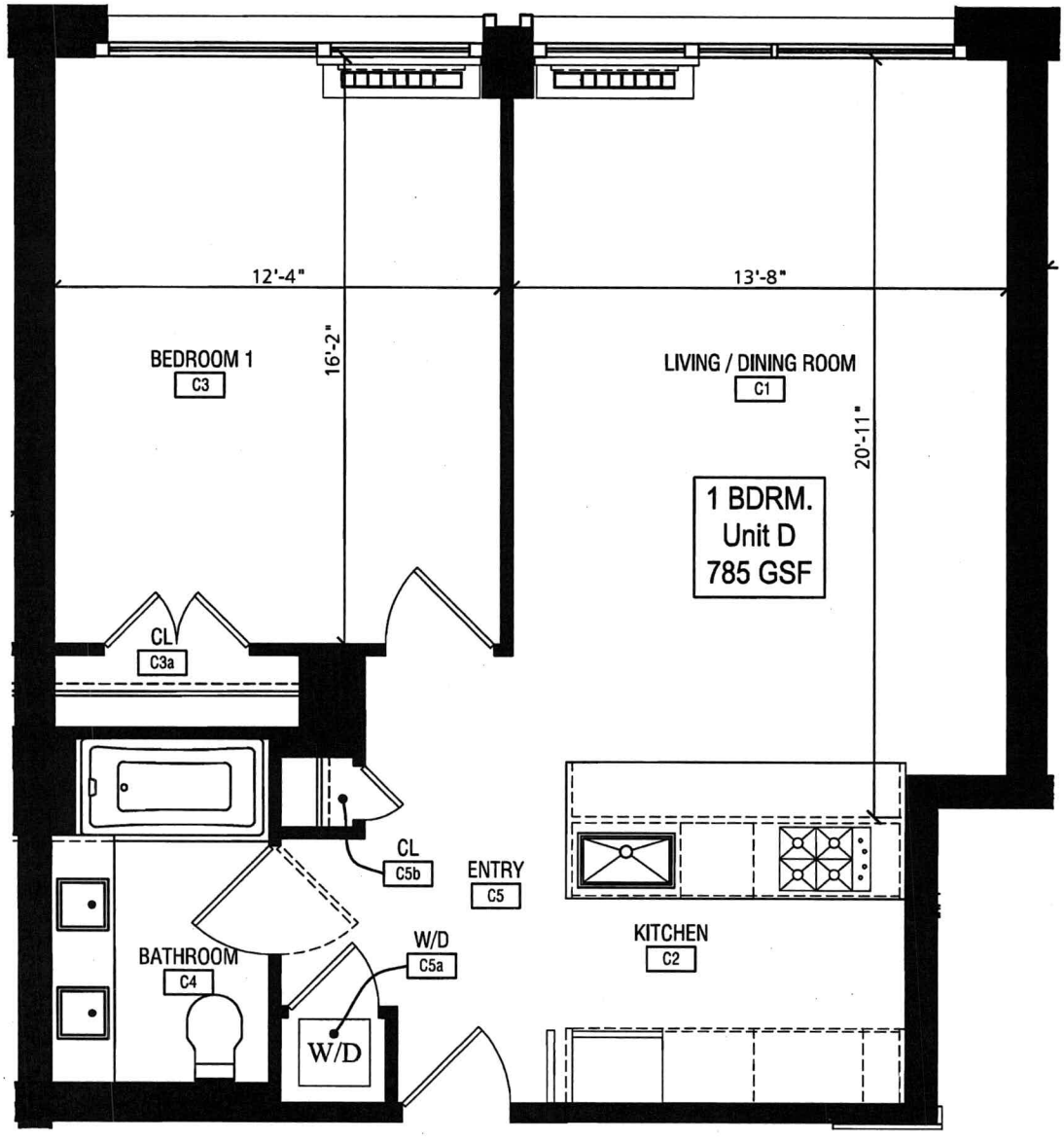
SCALE: NTS
DATE: February 09, 2009

0 1 2 5 10 FT

ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT D 2ND THRU 5TH FL: 785 G.S.F.

KSQ

KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. D - SECOND THRU FIFTH FLOOR

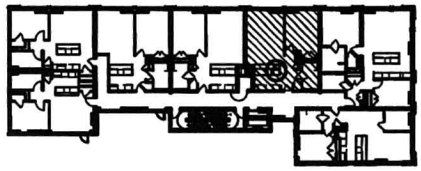
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ESSEX BERRY STREET, LLC

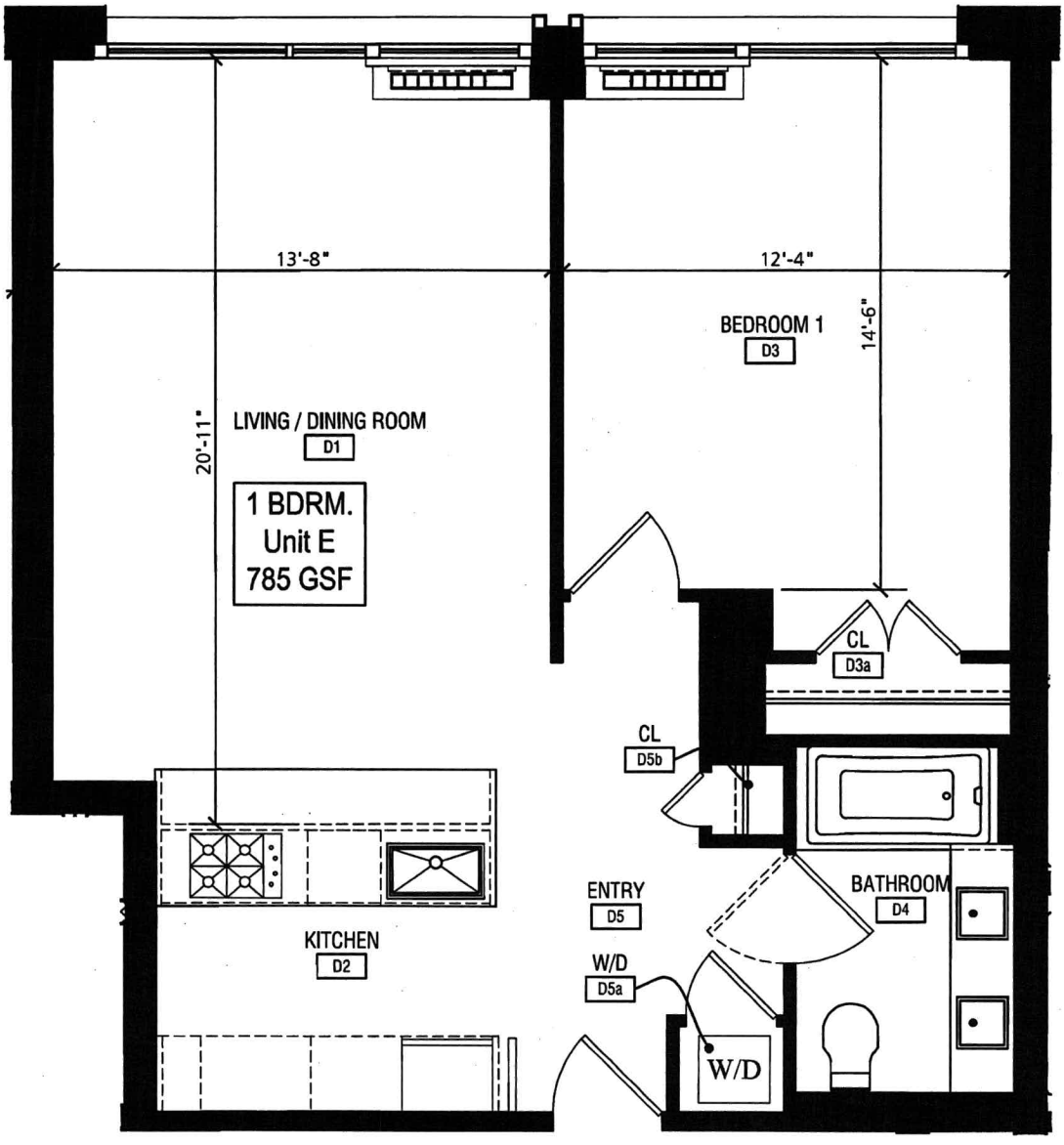
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DATE: February 09, 2009



ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT E 2ND THRU 5TH FL: 785 G.S.F.

KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. E - SECOND THRU FIFTH FLOOR

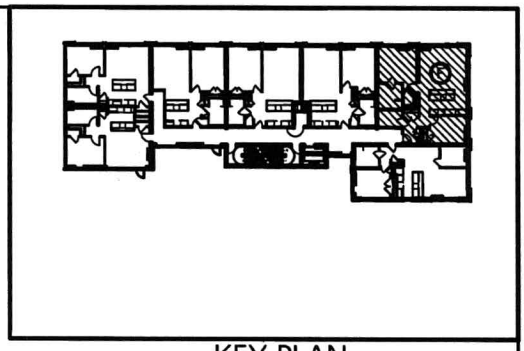
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ESSEX BERRY STREET, LLC

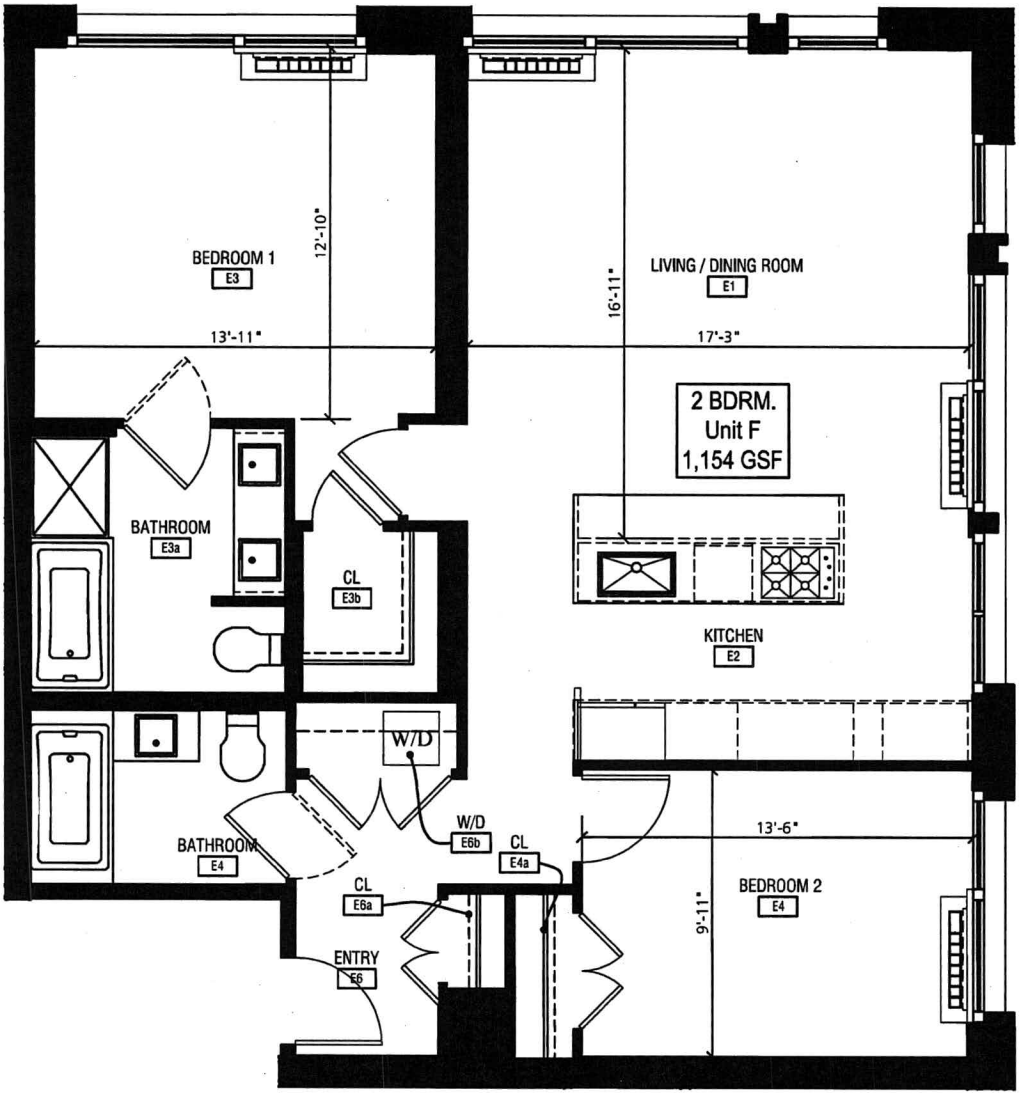
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DATE: February 09, 2009

0 1 2 5 10 FT

ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT F 2ND THRU 5TH FL: 1,154 G.S.F.

KSQ

KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. F - SECOND THRU FIFTH FLOOR

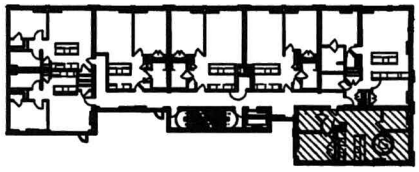
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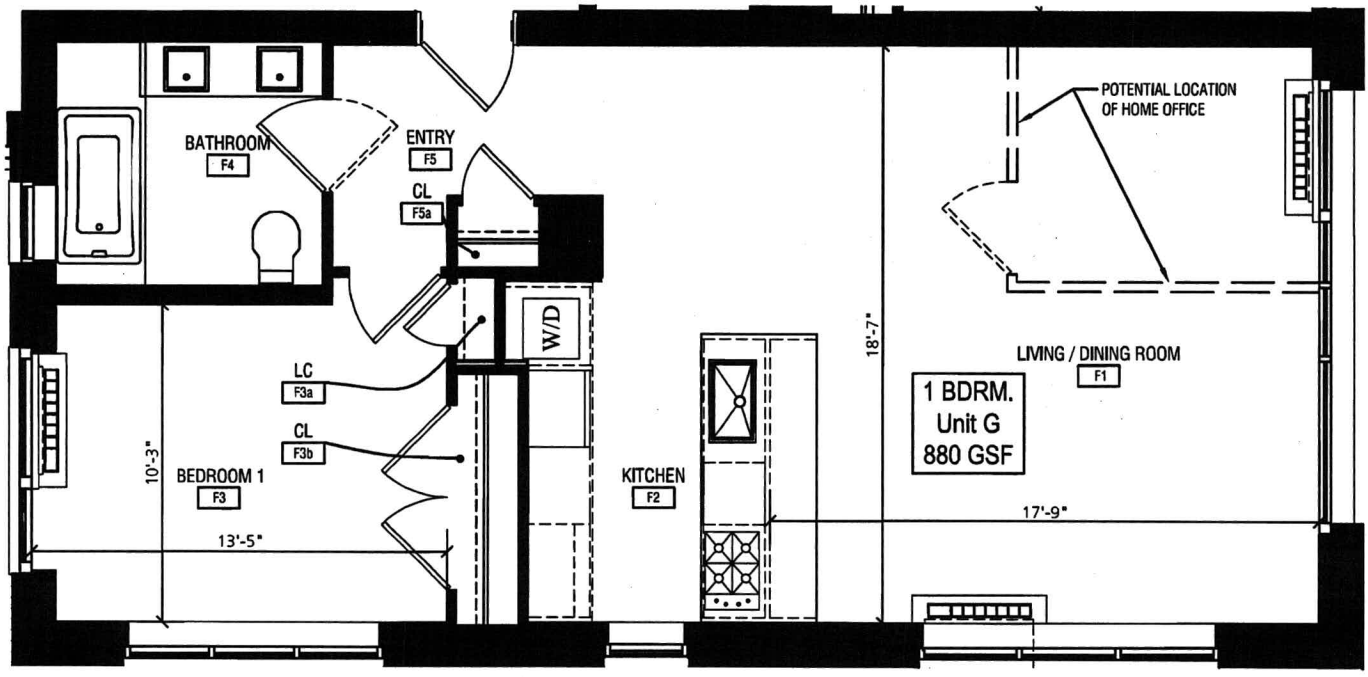
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DATE: February 09, 2009

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ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT G 2ND THRU 5TH FL: 880 G.S.F.

KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. G - SECOND THRU FIFTH FLOOR

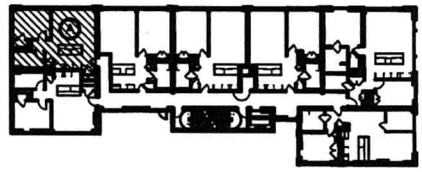
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ESSEX BERRY STREET, LLC

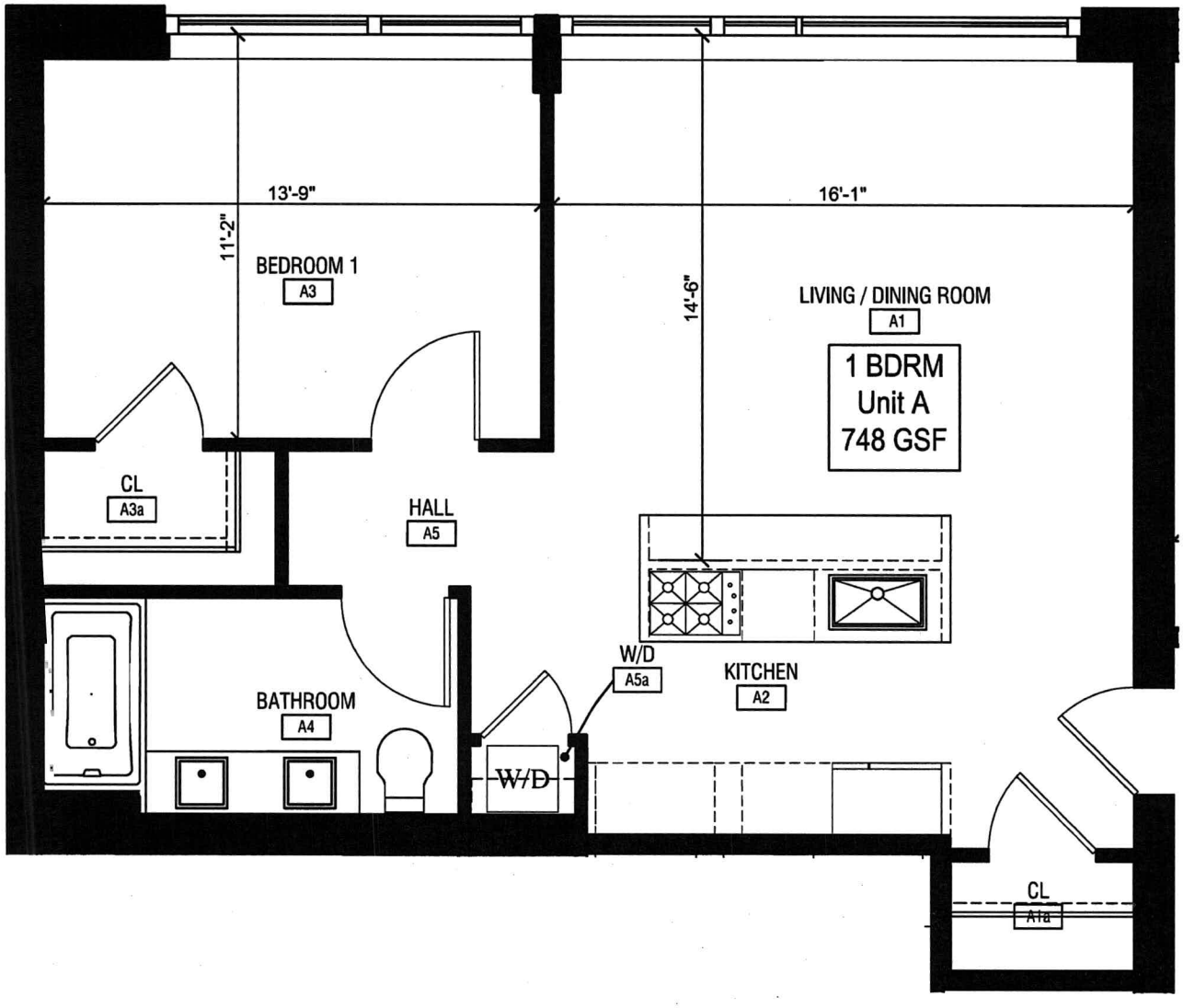
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ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT A 6TH FL: 748 G.S.F.

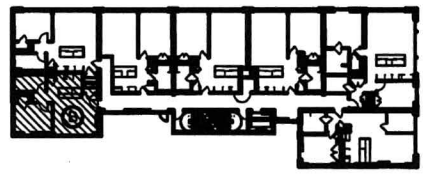
KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. A - SIXTH FLOOR
70 BERRY STREET
ESSEX BERRY STREET, LLC

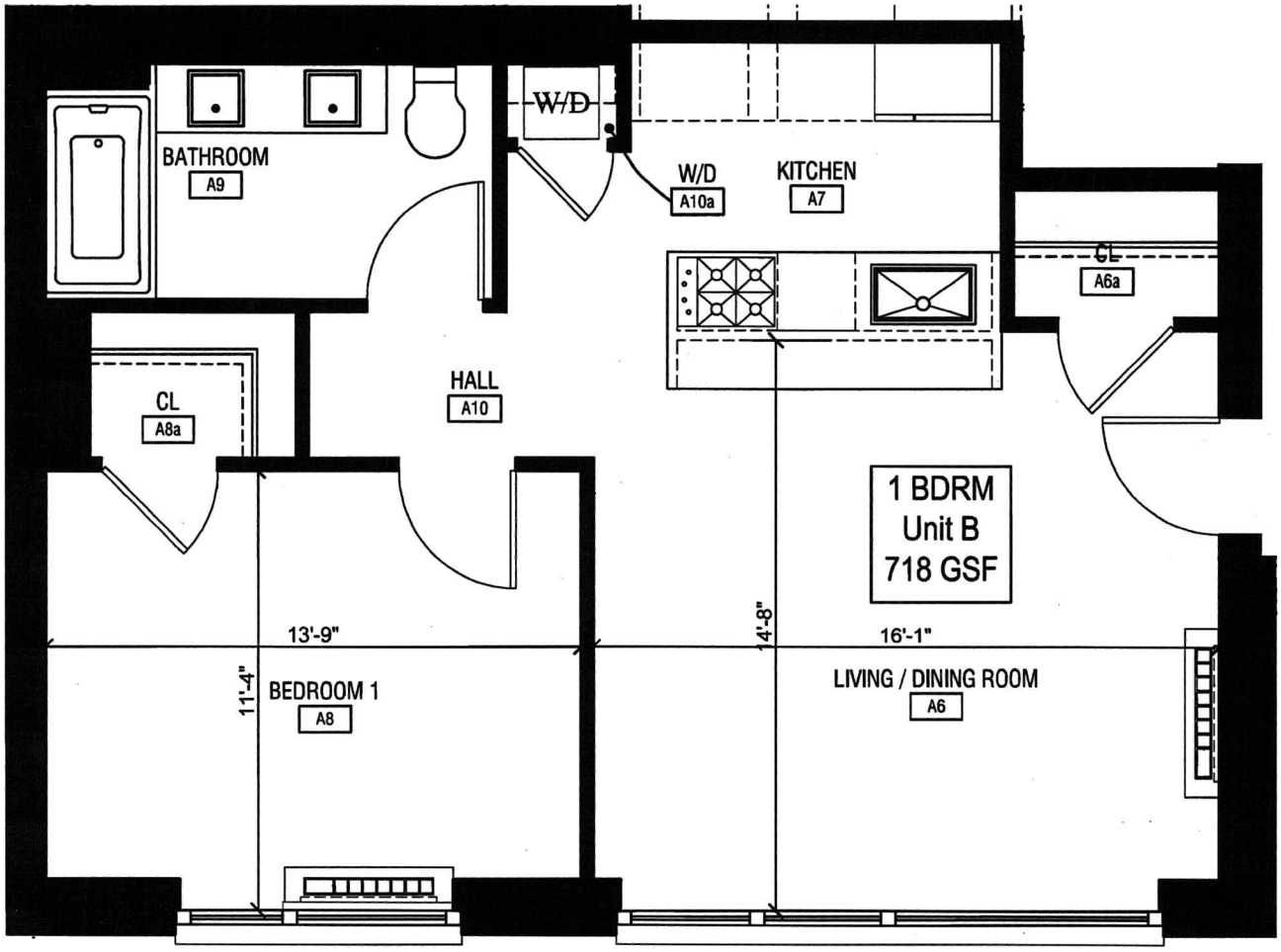
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ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT B 6TH FL: 718 G.S.F.

KSQ

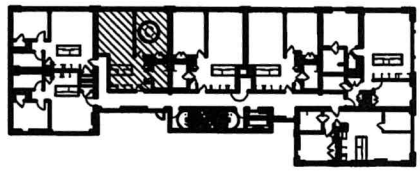
KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. B - SIXTH FLOOR
70 BERRY STREET
ESSEX BERRY STREET, LLC

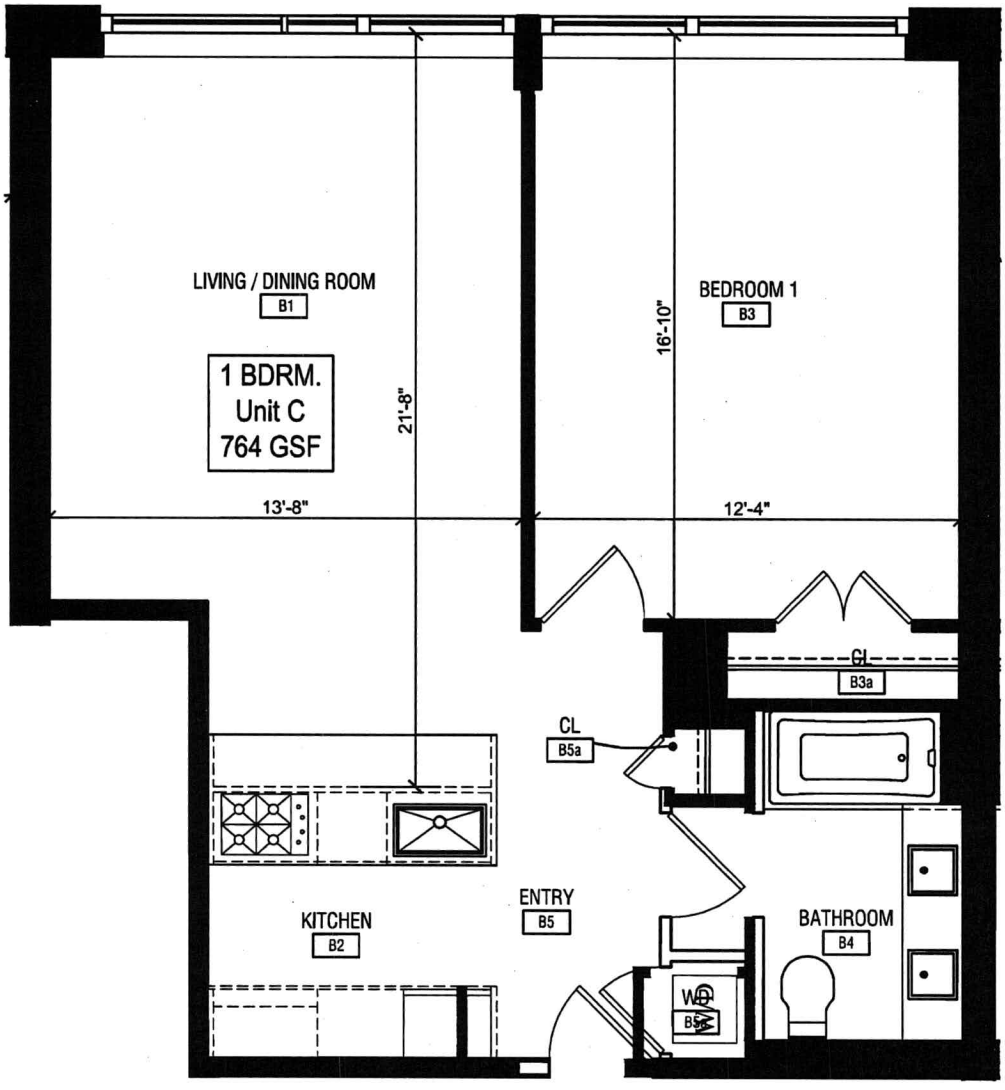
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DATE: February 09, 2009

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ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT C 6TH FL: 764 G.S.F.

KSQ

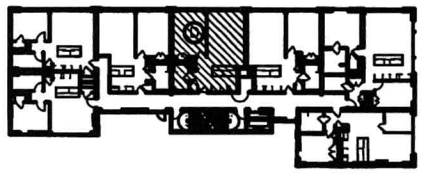
KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. C - SIXTH FLOOR
70 BERRY STREET
ESSEX BERRY STREET, LLC

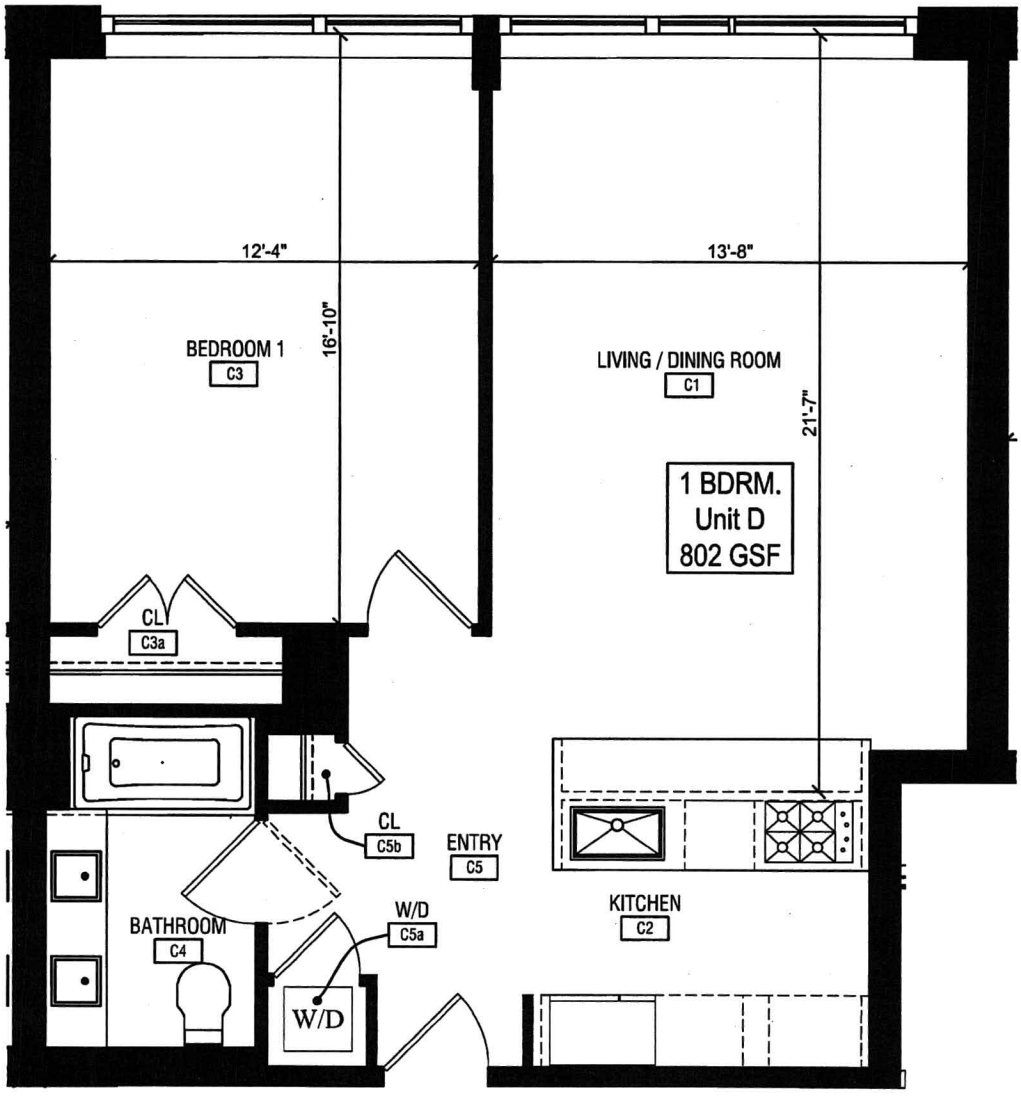
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ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT D 6TH FL: 802 G.S.F.

KSQ

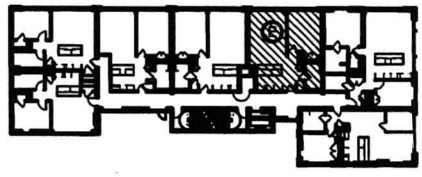
KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. D - SIXTH FLOOR
70 BERRY STREET
ESSEX BERRY STREET, LLC

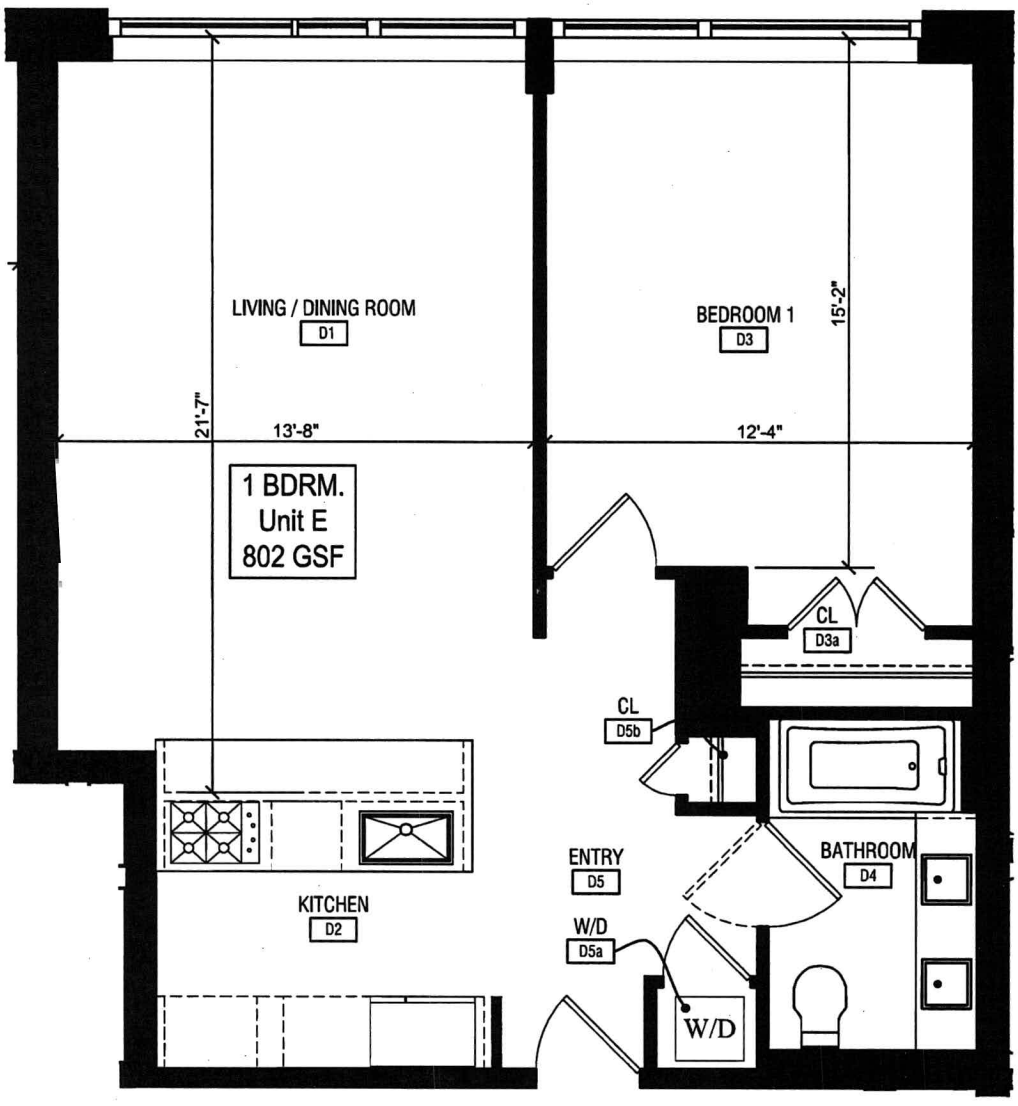
SCALE: NTS
DATE: February 09, 2009

0 1 2 5 10 FT

ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT E 6TH FL: 802 G.S.F.

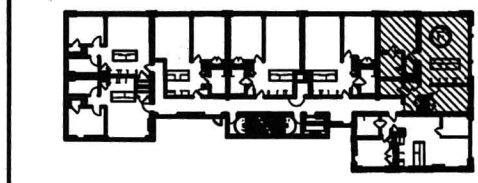
KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. E - SIXTH FLOOR
70 BERRY STREET
ESSEX BERRY STREET, LLC

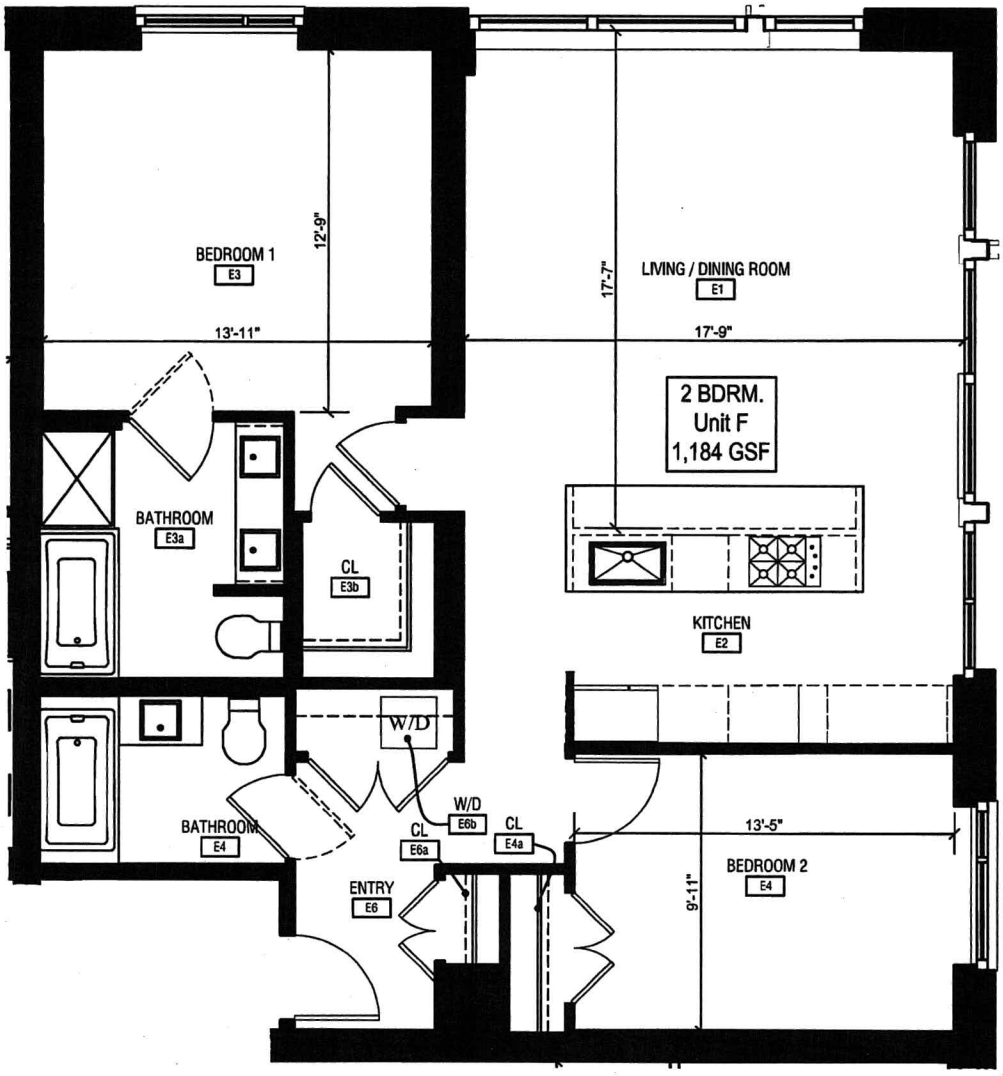
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ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT F 6TH FL: 1,184 G.S.F.

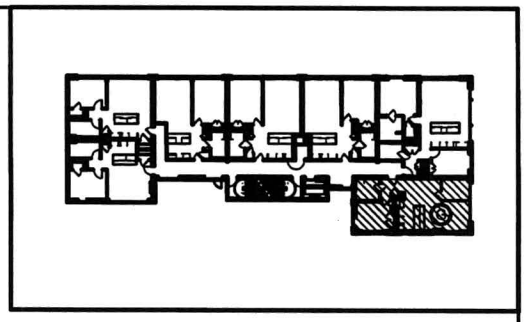
KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. F - SIXTH FLOOR
70 BERRY STREET
ESSEX BERRY STREET, LLC

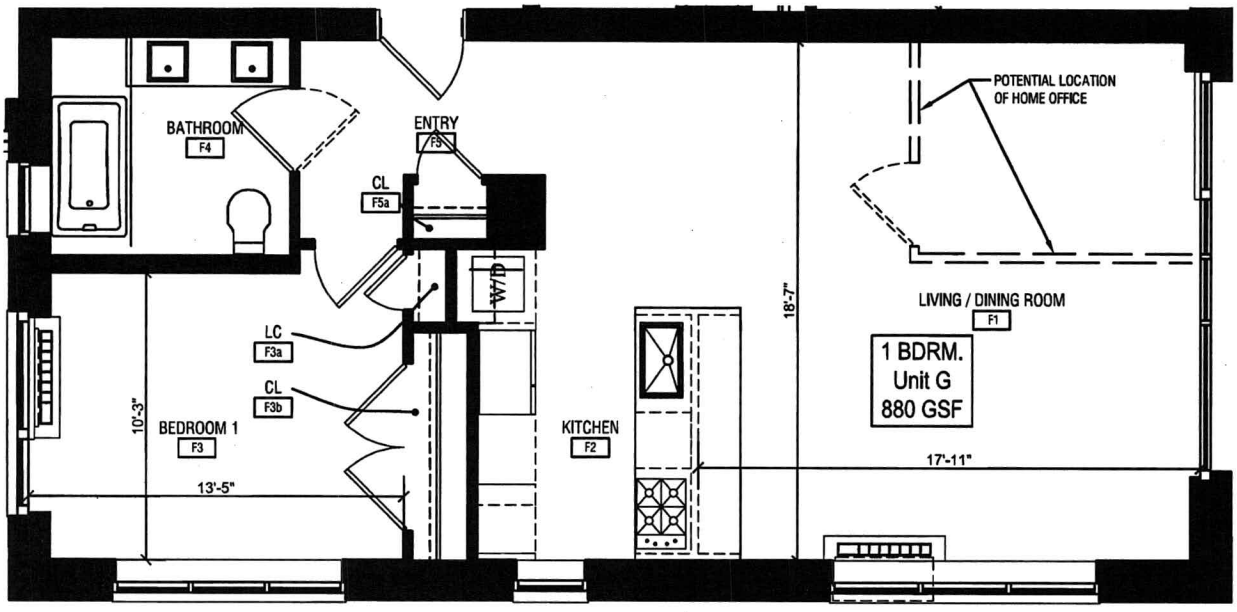
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DATE: February 09, 2009

0 1 2 5 10 FT

ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT G 6TH FL: 884 G.S.F.

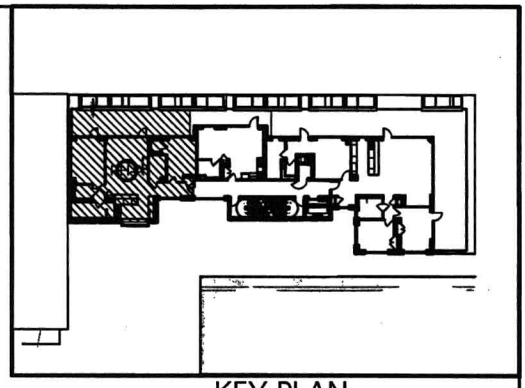
KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. G - SIXTH FLOOR
70 BERRY STREET
ESSEX BERRY STREET, LLC

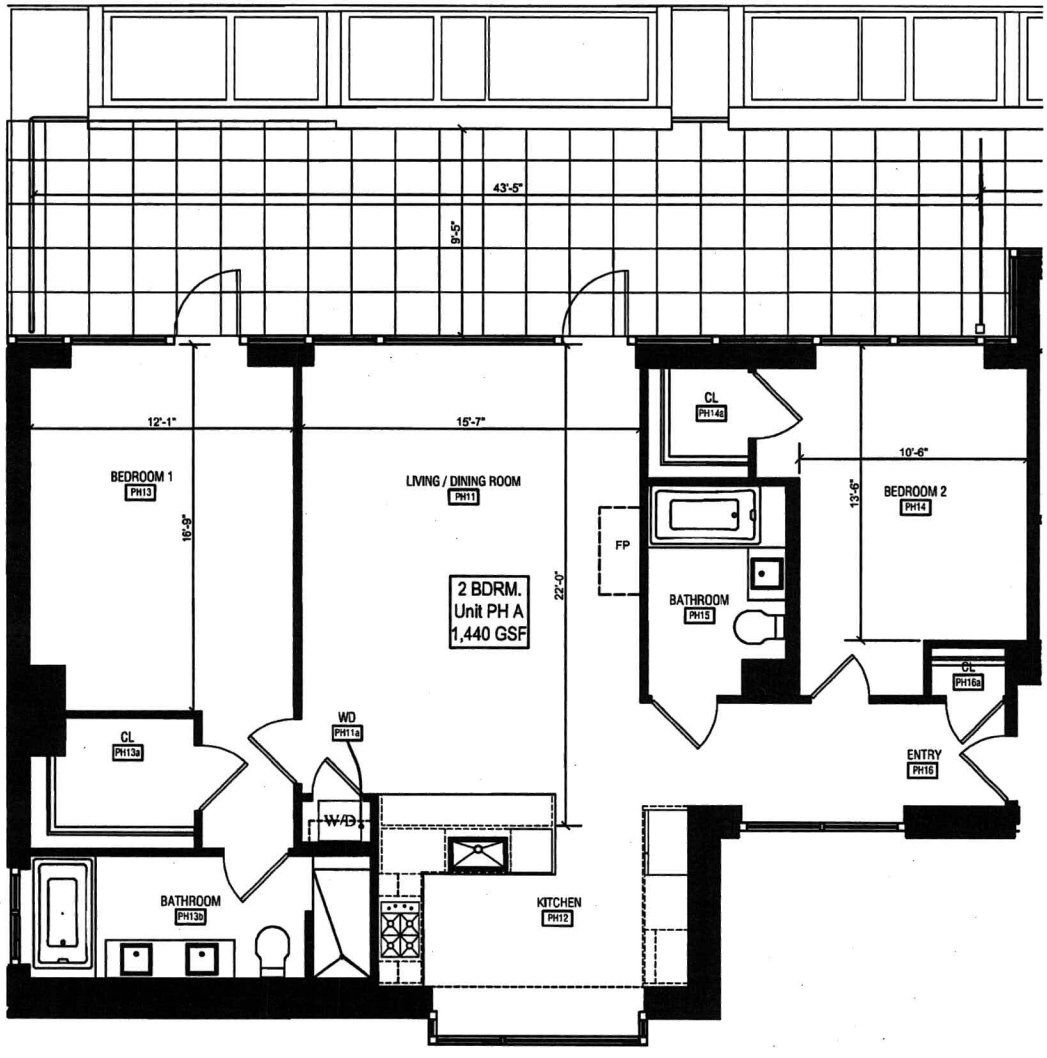
SCALE: NTS
DATE: February 09, 2009

0 1 2 5 10 FT

ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT PH A PENTHOUSE FL: 1,340 G.S.F.

KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. PH A - PENTHOUSE FLOOR

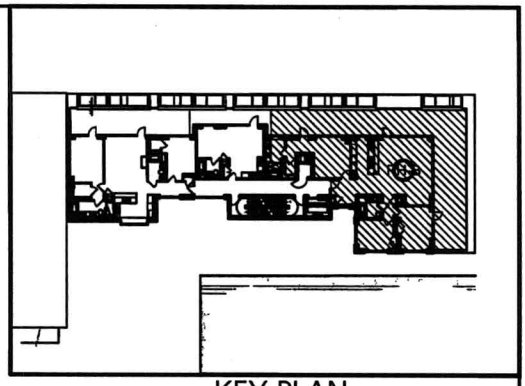
70 BERRY STREET

ESSEX BERRY STREET, LLC

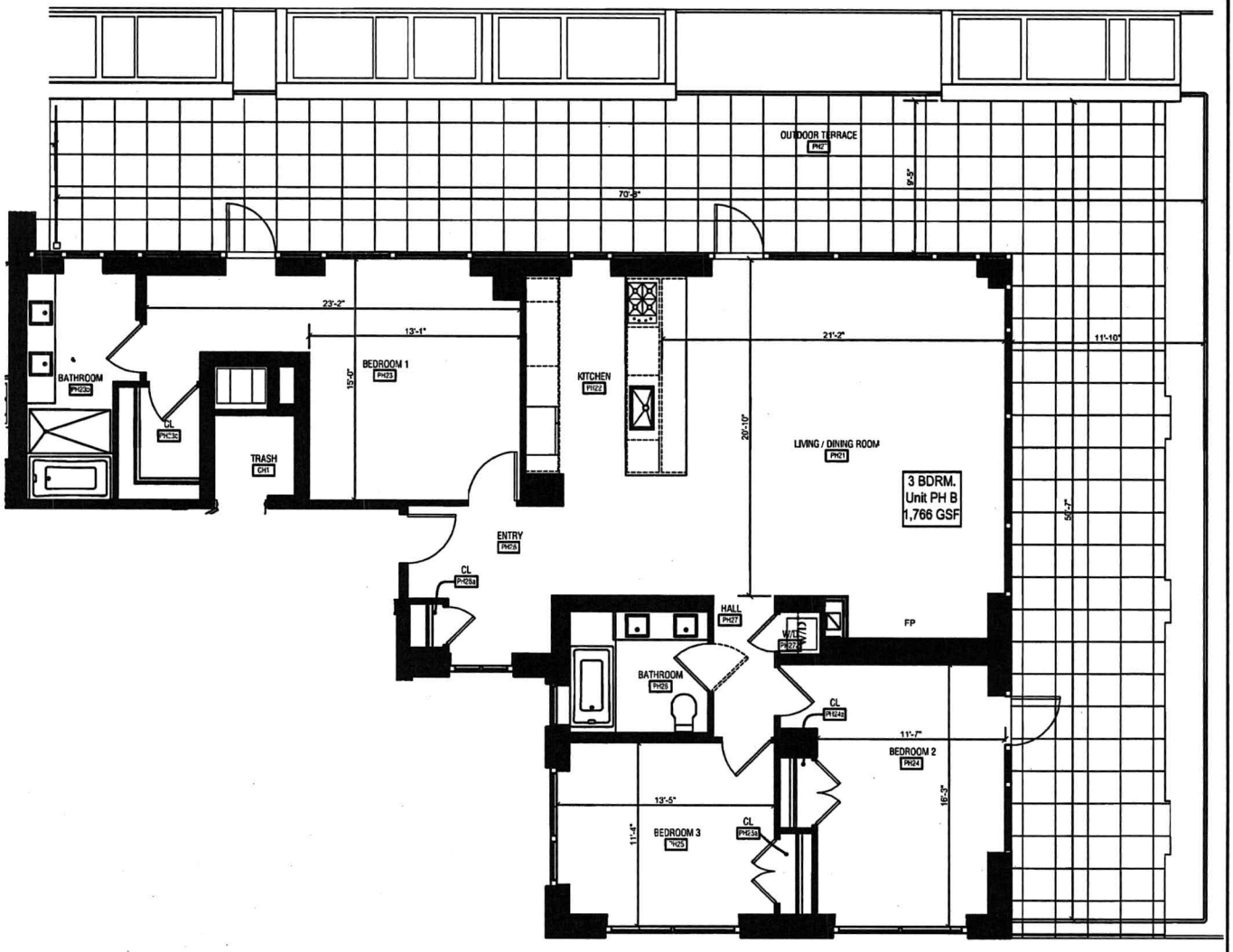
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DATE: February 09, 2009

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ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT PH B PENTHOUSE FL: 1,766 G.S.F.

KSQ

KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. PH B - PENTHOUSE FLOOR

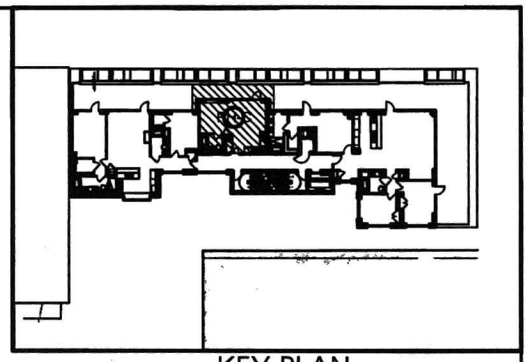
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ESSEX BERRY STREET, LLC

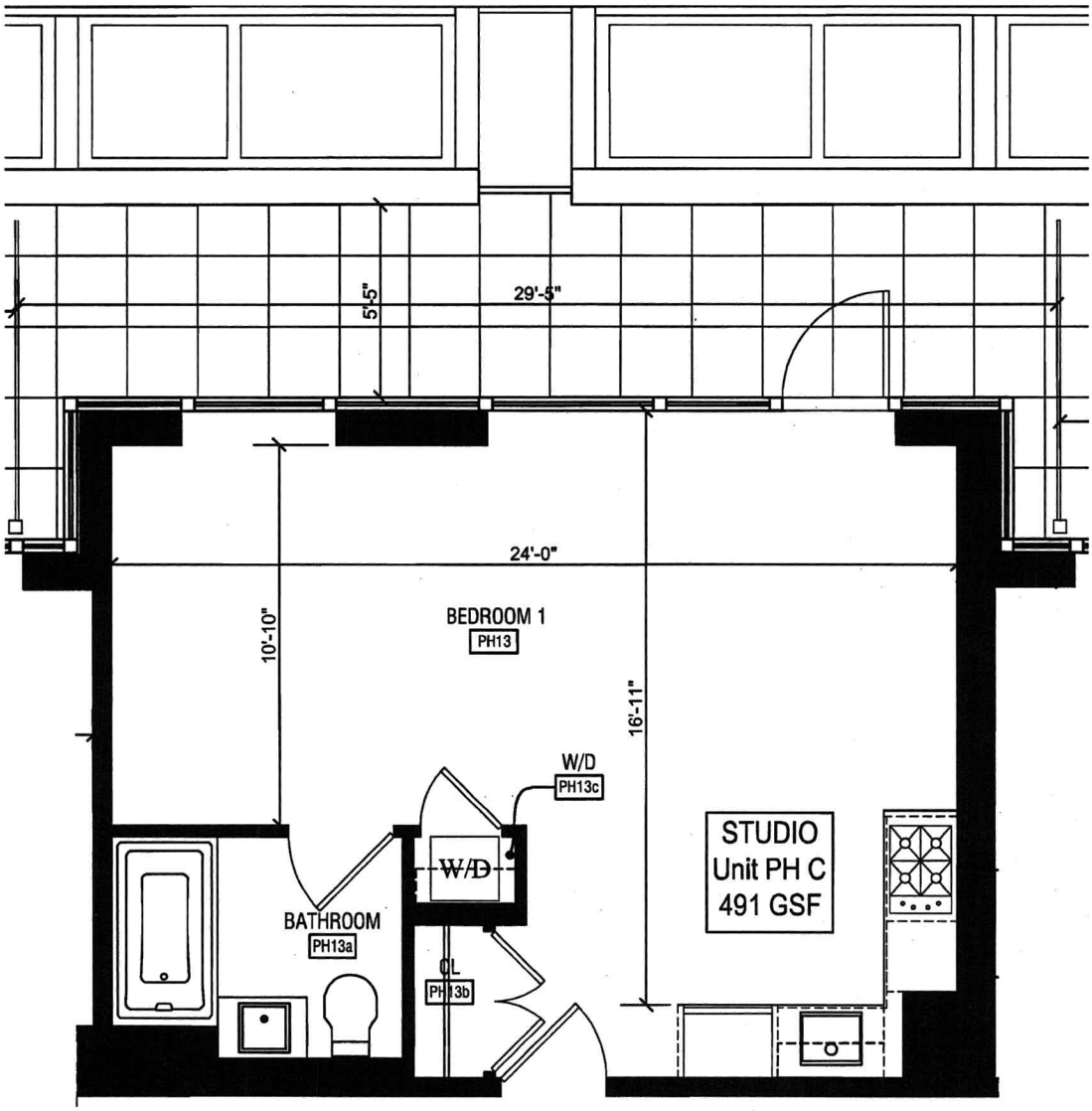
SCALE: NTS
DATE: February 09, 2009

0 1 2 5 10 FT

ALL AREAS AND DIMENSIONS ARE APPROXIMATE AND ARE SUBJECT TO CONSTRUCTION VARIANCES.



KEY PLAN



UNIT SUMMARY

APT PH C PENTHOUSE FL: 491 G.S.F.

KSQ ARCHITECTS, PC
ARCHITECTURE • PLANNING DESIGN
TULSA • NEW YORK

APT. PH C - PENTHOUSE FLOOR

70 BERRY STREET

ESSEX BERRY STREET, LLC

SCALE: NTS
DATE: February 09, 2009

EXHIBIT 6

DECLARATION OF CONDOMINIUM

DECLARATION

Establishing a Plan for Condominium Ownership

of the Premises known as

70 Berry Street Condominium

and

having a street address of
70 Berry Street, Brooklyn, New York 11211
Pursuant to Article 9-B of the Real Property Law
of the State of New York

Name:

70 Berry Street Condominium

Sponsor:
Declarant:

Essex Berry Street LLC
635 Madison Avenue
New York, New York 10022

Date of Declaration:

_____,2008

The land affected by the within instrument lies in

Block 2303, Lot 19

Tax Map of the Borough of Brooklyn,
County of Kings, City of New York

When Recorded, Return to:
Eiseman Levine Lehrhaupt & Kakoyiannis, P.C.
805 Third Avenue
New York, New York 10022
(212) 752-1000
Attn: Peter Kakoyiannis, Esq.

DECLARATION

OF

70 BERRY STREET CONDOMINIUM

(Pursuant to Article 9-B of the Real Property Law of the State of New York)

Essex Berry Street LLC, a limited liability company organized under the laws of the State of New York having an office at c/o Essex Capital Partners Ltd., 635 Madison Avenue, New York, New York 10022 ("Declarant/Sponsor"), does hereby declare as follows:

ARTICLE 1

DEFINITIONS

All capitalized terms used in this Declaration that are not otherwise defined in the Articles hereof shall have the meanings set forth in Exhibit C annexed hereto, unless the context in which they are used shall otherwise require. All capitalized terms used in this Declaration that are defined in any of the Articles hereof shall have the meanings ascribed to them in such Articles, unless the context in which the same are used shall otherwise require. Each of the said capitalized terms shall be applicable to singular and to plural nouns, as well as to verbs of any tense.

ARTICLE 2

SUBMISSION OF THE PROPERTY

Sponsor hereby submits the Property to the provisions of the Condominium Act and pursuant thereto, does hereby establish a regime for the condominium ownership of the Property as more particularly set forth herein and in the By-Laws.

ARTICLE 3

NAME OF THE CONDOMINIUM

The Condominium shall be known as 70 Berry Street Condominium.

ARTICLE 4

THE LAND

Included in the Property is the Land which is more particularly described in Exhibit A annexed hereto.

ARTICLE 5

THE PROPERTY AND THE BUILDING

5.1. Included in the Property is a seven story structure above grade structure with thirty eight Residential Units.

5.2. The Building is classified as being of fireproof construction and is constructed of reinforced poured-in-place concrete, foundation walls, frames and slabs.

ARTICLE 6

THE UNITS

6.1. Exhibit B annexed hereto sets forth the following data with respect to each Unit necessary for the proper identification thereof: Unit designation; tax lot number; approximate location in the Building; approximate square foot area; number of rooms; the portions of the Common Elements to which such Unit has immediate access; and the Common Interest appurtenant to such Unit. The precise location of each Unit is shown on the Floor Plans.

6.2. Each Unit consists of the area measured horizontally from the exterior side of the exterior walls (columns, mechanical pipes, shafts, shaft ways, chases, chase ways and conduits are not deducted from the measurements of each unit) to the centerline of the partitions separating one unit from another unit, or separating one unit from corridors, stairs, elevators and other mechanical equipment spaces or any other Common Element not within a unit or to the exterior side of the opposite exterior walls. Each unit area measured vertically from the top of the floor (located under the finish flooring and sub-flooring materials) to the underside of the ceiling. Any Common Elements located within or appurtenant to any Unit shall not be considered as part of that Unit. The room count for each Residential Unit was determined by Sponsor's architect in accordance with industry practice for new construction condominiums and does not necessarily conform to the zoning room count or the method utilized by the Real Estate Board of New York.

6.3. Each Unit includes, and each Residential Unit Owner shall be responsible for, the Unit side of the front entrance door and any other entrance doors to the Unit, the interior walls, partitions, floors and floor coverings and plastered ceilings affixed, attached or appurtenant to the Unit, smoke detectors, window panes, fireplace, all plumbing, gas and heating fixtures and equipment such as refrigerators, dishwashers, washers and dryers, heating, ventilating and air conditioning units (including the fans inside the Units), heating equipment, ranges and other appliances, sinks, bathtubs, waterclosets and all other Facilities[2] as may be affixed, attached or appurtenant to the Unit and

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[2] As used herein, the words "facility" and "facilities" include, but are not limited to, the following fixtures, apparatus, equipment, personalty, appurtenances, installations, systems and other items (grouped more or less functionally) which are set forth only for the purpose of illustrating the broad scope of those terms: convector, radiator, heater, convertor, heat exchanger, mechanism, device, machinery, induction unit, fan coil unit, motor, pump, control, tank or tank assembly, condenser, compressor, fan, damper, blower, thermostate, thermometer, coil, vent, sensor, shut-off valve or other valve, gong, panel, receptacle, outlet, relay, alarm sprinkler head, electric distribution facility, wiring, wireway, switch, switchboard, circuit breaker, transformer, fitting, Siamese connection, hose, plumbing fixture, lighting fixture, other fixture, bulb, sign, telephone, meter, meter assembly, scaffolding, piping, line duct, conduit, cable, riser, main, shaft, soffit, pipe, pit, flue, lock or other hardware, rack, screen, strainer, trap, drain, catch basis, leader, filter, incinerator, canopy, closet, cabinet, door, railing, coping, step, furniture, mirror, furnishing, appurtenance, urn, carpeting, tile, marble or other floor covering, drapery, shade or other window covering, wallpaper or other wall covering, tree, shrubbery, flower or other plantings.

serving the Unit exclusively. Plumbing, gas and heating fixtures and equipment as used in the preceding sentence shall include exposed gas and water pipes from branch or fixture shut-off valves attached to fixtures, appliances and equipment and the fixtures, appliances and equipment to which they are attached, and any special pipes or equipment which a Residential Unit Owner may install within a wall or ceiling, or under the floor, but shall not include gas, water or other pipes, conduits, wiring or ductwork within the walls, ceilings or floors. Each Unit shall also include all lighting and electrical fixtures and appliances within the Unit and any special equipment, fixtures or Facilities affixed, attached or appurtenant to the Unit, to the extent located within a Unit from the panel and serving or benefiting only that Unit.

6.4. Any Common Elements located within a Unit shall not be considered a part of such Unit.

6.5. Notwithstanding anything contained in this Article to the contrary, each Residential Unit Owner will have the right, subject to the provisions of the By-Laws, exercisable at any time, to install, at such Residential Unit Owner's sole cost and expense, decorations, fixtures and coverings (including, without limitation, painting, finishing, carpeting, pictures, mirrors, shelving and lighting fixtures) on the surfaces of the walls, ceilings and floors that face the interior of such Residential Unit Owner's Unit and to a depth of one inch behind such surfaces for the purposes of installing nails, screws, bolts and the like, provided that no such installation shall impair the consistent exterior appearance, the structural integrity, sound integrity and mechanical and electrical systems of such Unit or of the Building or violate Law.

6.6. As of the date of the filing of this Declaration with the Register's Office, fee simple absolute title shall automatically vest in Sponsor in all Units, individually and collectively, without the need to execute specific and particular deeds or indentures for each and every Unit.

ARTICLE 7

THE COMMON ELEMENTS

7.1. The Common Elements of the Condominium (the "Common Elements") consist of the entire Property including the Land and all parts of the Building and improvements thereon other than the Units. The Common Elements include, but are not limited to, those rooms, areas, corridors, spaces and other parts of the Building and all Facilities located or contained therein for the common use of the Units and the Unit Owners (except for the Limited Common Elements, as described below) or which are necessary or convenient for the existence, maintenance, operation or safety of the Property. The Common Elements are comprised of the General Common Elements and the Limited Common Elements, all of which are described in Sections 7.2 through 7.3 of this Article 7, respectively, subject in all events however to any specific designation for any portion of the Property as may be reflected on the Floor Plans (whether or not consistent with the general descriptions contained in this Article).

7.2. General Common Elements:

The General Common Elements include those portions of the Building that are designated as "General Common Elements" on the Floor Plans and, to the extent not specifically identified as part of the General Common Elements on the Floor Plans, all other parts of the Property (other than those

areas and items specifically identified as part of a Unit and/or the Limited Common Elements) the common use of which is necessary or convenient for the existence, maintenance, operation or safety of the Property. More specifically, the General Common Elements consist of the following (whether or not covered by the preceding sentence):

7.2.1. The Land, together with all easements, rights and privileges appurtenant thereto (except as otherwise expressly provided in this Declaration).

7.2.2. All structural elements, foundations, foundation walls, main roof (except for such portions thereof as are part of the residential rooftop amenity area), footings, columns, girders, beams, supports, interior load-bearing walls, floor slabs and ceilings.

7.2.3. All structures on the roof (except for such portions thereof as are part of any residential rooftop amenity area, if applicable), including without limitation, the cooling tower including the structure provided for the cooling towers, if any.

7.2.4. All halls, passages and corridors, Building storage rooms, mechanical and other utility rooms, all fire staircases, landings, lobbies and stairs, areas and spaces (including their respective floors, ceilings and enclosing walls) located in the Building, serving or benefiting all or any combination of Units (and which are not part of the Limited Common Elements or any Unit).

7.2.5. Smoke detection alarm system, telephone system and cable television system.

7.2.6. Ventilation supply system consisting of pumps, motors, ductwork, fans and controls, steam and condensate return piping, serving or benefiting all or any combination of Units.

7.2.7. Hot water, chiller and condenser water systems.

7.2.8. All mechanical equipment and associated piping and controls and all utilities and mechanical and electrical transfers and equipment serving or benefiting all or any combination of Units.

7.2.9. All electrical risers, feeders, lines and equipment, including incoming service, emergency generator, main switchgear and distribution panelboards, conduits, wires, meters, transformers and panelboards, serving any combination of Residential Units, excluding, however, all such items located within a Unit and serving only that Unit.

7.2.10. All plumbing fixtures, equipment for distribution of cold water and equipment for producing and distributing hot water and chilled water (including pumps, valves, pressure reducers, meters and water heaters and chillers), excluding, however, all such items located within a Unit and serving only that Unit.

7.2.11. All fire protection equipment for distribution of sprinkler and standpipe systems, including the water storage tank and the structure provided therefore.

7.2.12. All storm and sanitary sewer equipment and pipes (including vent lines, ejectors, interceptors, filters and valves), excluding, however, all such items located within a Unit and serving only that Unit.

7.2.13. All electric service rooms, gas, steam and water meter rooms, generator rooms, building common storage rooms, washrooms, locker rooms, telephone rooms and other service, mechanical and utility rooms serving or benefiting all or any combination of Units.

7.2.14. All other parts, systems, installations and facilities of the Building (including shafts, pipes, wires, ducts, vents, flues, cables, conduits and lines) which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of all or any combination of Units.

7.2.15. All other parts of the Property either existing for the common use of all or any combination of Units or Unit Owners or that serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of the Property or all or any combination of Units.

7.2.16. All security monitors and equipment and other security facilities serving or benefiting all or any combination of Units.

7.2.17. Whether or not specifically identified as part of the General Common Elements (or identified at all) on the Floor Plans, all other parts of the Property and all Equipment existing in the Building or on the Property (other than those areas and items specifically identified on the Floor Plans as part of a Unit and/or Limited Common Elements) the common use of and/or benefit from which is necessary or convenient for the existence, maintenance, operation or safety of the Property.

7.3. Limited Common Elements:

The Limited Common Elements consist of those portions of the Property designated on the Floor Plans as Limited Common Elements; and also those Common Elements (other than vertical shaftways and penetrations) which exclusively serve or exclusively benefit one or more of the Residential Units or the Residential Unit Owners whether or not designated as Limited Common Elements (or designated at all) on the Floor Plans (but excluding any items therein or in the Building which are not part of the Property, including, without limitation, any equipment, wiring and devices owned by telecom providers). The Limited Common Elements include, without limitation, the following:

7.3.1. To the extent shown on the Floor Plans as Limited Common Elements, the residential lobby and entrance, elevators, service entrance and accessway to service elevators, all located on the First Floor;

7.3.2. All halls, passages, corridors, landings, lobbies, housekeeping areas, mechanical and other rooms, areas and spaces (including their respective floors, ceilings and enclosing walls) located in the Building which exclusively serve or benefit the Residential Units and are not part of any Unit;

7.3.3. The passenger elevator serving cellar and floors 1 through ___ together with the elevator cabs, overruns, bulkheads, shafts, pits, tanks, pumps, motors, fans, compressors, control and other related equipment in connection therewith, but excluding the walls of such elevator shafts (which are General Common Elements);

7.3.4. All Parking Spaces, storage areas and rooftop cabanas ;

7.3.5. All security monitors and equipment and other security facilities serving or benefiting only the Residential Units;

7.3.6. All other systems, installations and facilities of the Building (including shafts, pipes, wires, ducts, vents, cables, conduits and lines) which exclusively serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of the Residential Units;

7.3.7. The windows of the Residential Units;

7.3.8. The Balcony or Terrace appurtenant to any particular Residential Unit (although the benefited Residential Unit Owner shall have the responsibilities with respect thereto as are set forth in the By Laws);

7.3.9. Those stairs and stairways in the Building shown on the Floor Plans as Limited Common Elements or otherwise serving or benefiting only the Residential Units and are not part of any Unit (and excluding those stairs, stairways and fire stairways in the Building shown on the Floor Plans as constituting part of another Common Element or Unit);

7.3.10. All other Equipment existing in the Building or on the Property which exclusively serves or exclusively benefits all or a combination of the Residential Units or the Residential Unit Owners; and

7.3.11. All other areas benefiting only the Residential Units whether or not specifically identified as part of the Limited Common Elements (or identified at all) on the Floor Plans, all other parts of the Property and all Equipment existing in the Building or on the Property (other than those areas and items specifically identified on the Floor Plans as part of a Unit and/or the General Common Elements) exclusively serving or exclusively benefiting or necessary or convenient exclusively for the existence, maintenance, operation or safety of the Residential Units or their occupants.

ARTICLE 8

DETERMINATION OF COMMON INTEREST

8.1 The undivided percentage interest of each Unit in the Common Elements is based upon the approximate proportion that the floor area of the Unit at the date of this Declaration bears to the then aggregate floor area of all the Units, with such proportion reflecting the substantially exclusive advantages enjoyed by one or more but not all Units in a part or parts of the Common Elements.

8.2 The percentage interest of all Units in the Units in the Common Elements is apportioned in the same proportion that the Unit at the date of this Declaration bears to the then aggregate Common Interests of all of the Units in the Condominium.

ARTICLE 9

USE OF UNITS

9.1 As more particularly set forth in, and subject to the provisions of, the By-Laws, the Residential Units shall be used for residential purposes only (excluding "dormitory", "bed and breakfast" or other transient hotel-type use). The Parking Spaces may only be used to park standard size vehicles. A Unit owned or leased by an individual, corporation, partnership, fiduciary or any other entity (including, but not limited to, the United States government and any instrumentality thereof and foreign governments and any embassy, consulate, or other instrumentality thereof, any foreign government or any embassy, consulate or other instrumentality thereof) may only be occupied (unless the Condominium Board otherwise consents) by said individual, or an individual officer, director, stockholder or employee of such corporation, or by an individual partner or employee of such partnership, or by said individual fiduciary (including directors, officers, stockholders or employees of corporate fiduciaries or partners or employees of partnership fiduciaries) or by an individual beneficiary of said fiduciary, or an individual principal or employee of such other entity, respectively, or by Family Members or guests of any of the foregoing (and nothing contained in this sentence shall be deemed to prohibit the exclusive occupancy of any Unit by such Family Members or guests); however, the foregoing restrictions shall not apply to Unsold Units. Upon the prior written consent of Sponsor (or, where there are no longer any Unsold Units, the Condominium Board), any Unit may be used for any other lawful purposes, subject, however, to (1) the terms and conditions of the then existing certificate of occupancy for the Building and the By-Laws, (2) applicable Law, (3) the use of such Unit shall not adversely affect the use and enjoyment of neighboring or adjacent Units for residential purposes, and (4) the prior written permission of the Condominium Board is first obtained. Units may only be leased in accordance with the By-Laws and the Rules and Regulations.

9.2 Notwithstanding the foregoing or anything contained in the By-Laws or the Rules and Regulations to the contrary, Sponsor may, without the permission of the Condominium Board, (1) use or grant permission for the use of any Unsold Unit as a professional office or for any other purpose, provided such use is permitted by Law, and does not violate the then existing certificate of occupancy for the Building or any other governmental regulations, (2) use any Unsold Units as model Units and offices for the selling, leasing, management, operation and promotion of the Unsold Units or for any other purpose, subject only to compliance with Law and (3) lease any Unsold Unit to third parties for either long term or short term stays.

ARTICLE 10

EASEMENTS FOR THE ENJOYMENT OF THE COMMON ELEMENTS

10.1 Subject to the terms of this Declaration, the By-Laws and the Rules and Regulations, if applicable, Sponsor, the Residential Unit Owners, the Selling Agent, the Managing Agent, the Condominium Board and all Permitted Users of the foregoing shall have, in common with

all of the others, an easement for ingress and egress through, as well as for the use and enjoyment of, all of the General Common Elements, and the General Common Elements shall be subject to such easement. Notwithstanding the foregoing, however, no Person shall use or enjoy the General Common Elements except in accordance with the reasonable purposes for which they are intended and without encroaching upon the rights of other Persons to do so.

10.2 Each Unit Owner whose Unit has one or more appurtenant Limited Common Elements shall have an exclusive easement for the use thereof. The Units having the same are indicated on Exhibit B. Notwithstanding the foregoing, Sponsor, the Condominium Board, all Residential Unit Owners, and all permitted tenants and occupants of the Units, shall have, in common with all of the others, an easement for emergency" ingress and egress through the entrances and exits of the Building.

10.3 Sponsor and its Permitted Users shall have an easement in, over, under, through and upon the General Common Elements including but not limited to, lobbies, hallways and corridors, to use the same, without being subject to any fee or charge, for all purposes and activities in connection with the sale or renting of Unsold Units including, without limitation, the right to place "for sale", "for rent" and other signs and promotional materials, of such size and content as Sponsor shall determine. Notwithstanding anything to the contrary contained in Section 10 hereof, Sponsor and its invitees, licensees, contractors, employees, agents and tenants shall have an easement in, over, under, through and upon the Common Elements to use the same, without being subject to any fee or charge, for all purposes and activities in connection with the sale or renting of Unsold Units shall have the right to use any one or more Unsold Units as sales, rental and/or management offices and/or as model units. Such Unsold Units shall remain Units within the meaning of this Declaration, the By-laws and the Condominium Act, and shall not comprise a part of the Common Elements. In addition, Sponsor shall have the right, to the extent permitted by Law, to use one or more portions of the Common Elements (including but not limited to, lobbies, hallways and corridors), as designated by Sponsor in its sole discretion, without being subject to any fee or charge, for all purposes and activities in connection with the sale or renting of Unsold Units, which right shall include, without limitation, the right to place "for sale", "for rent" and other signs and promotional materials, of such size and content as Sponsor shall determine.

ARTICLE 11

OTHER EASEMENTS

11.1 Subject to the terms of the By-Laws and to the Rules and Regulations, each Residential Unit Owner shall have an easement in common with all other Residential Unit Owners to use, maintain, repair, alter and replace all Common Elements located in any of the other Units or elsewhere on the Property which serve such Residential Unit Owner's Unit, including an easement to connect to existing utilities, including without limitation, utilities for gas, electricity, steam and ventilation. Each Unit (including any Common Elements located therein) shall be subject to an easement in favor of all Residential Unit Owners to use, maintain, repair, alter and replace all Common Elements located in such Unit or elsewhere on the Property which serve other Units. All easements and rights of access described in this Section shall be exercised by the Condominium Board on behalf of all Residential Unit Owners. The Condominium Board shall have an easement and a right of access to each Unit and to the Common Elements contained therein to inspect the same,

to remove violations therefrom and to install, operate, maintain, repair, alter, rebuild, restore and replace any of the Common Elements located in, over, under, through, adjacent to, or upon the same, and each Unit and the Common Elements shall be subject to such easement and right of access. Such easements and rights of access shall be exercised by the Condominium Board, to the extent practicable, in such a manner as will not unreasonably interfere with the use of the Units for their permitted purposes. Such entry shall be permitted on reasonable prior notice based on the nature of the repair or replacement but in no event on less than two days' notice, except that no notice will be necessary in the case of an "emergency" (i.e., a condition requiring repair or replacement immediately necessary for the preservation or safety of the Building or for the safety of occupants of the Building, or other persons, or required to avoid the suspension of any necessary service in the Building). Plans and specifications with respect to any such proposed work shall be submitted by the Residential Unit Owner who has requested that the Condominium Board exercise any such easement or right of access, to the Residential Unit Owner whose Unit is to be accessed and all work is to be prosecuted diligently to completion. Notwithstanding any other provision of this Declaration, the By-Laws or the Rules and Regulations, any alterations carried out in connection with the easements granted hereinabove shall be such that neither the configuration nor the usable area of the affected Unit shall be materially adversely affected.

11.2 Sponsor for so long as it shall own any Unsold Unit, and the Condominium Board, on behalf of all Residential Unit Owners, shall have the right to grant such additional electric, gas, steam, cable television, telephone, water, storm drainage, sewer and other utility easements in, or to relocate any existing utility easements to, any portion of the Property as Sponsor or the Condominium Board, as the case may be, shall deem necessary or desirable for the operation and maintenance of the Building or any portion thereof, or for the general health or welfare of the Residential Unit Owners and their Permitted Users, provided that the granting of such additional utility easements or the relocation of existing utilities will not prevent or unreasonably interfere with the use of the Units for their permitted purposes, and shall not result in the imposition of any mechanic's lien against any of the Units. Any utility company and its employees and agents shall have the right of access to each Unit or the Common Elements in furtherance of such easement, provided such right of access shall be exercised in such manner as shall not unreasonably interfere with the use of the Units for their permitted purposes. Notwithstanding any other provision of this Declaration, the By-Laws or the Rules and Regulations, any alterations carried out in connection with the easements granted hereinabove shall be such that neither the configuration nor the usable area of the affected Unit shall be materially adversely affected.

11.3 Sponsor and its Permitted Users for so long as Sponsor shall own any Unsold Unit, shall have an easement for ingress and egress through all of the Common Elements in order to make alterations, additions, or improvements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon the Unsold Units.

11.4 Each Unit and the Common Elements shall have easements of subjacent support and necessity, and the same shall be subject to such easements in favor of all of the other Units and the Common Elements.

11.5 Sponsor and its Permitted Users shall each have an easement for so long as the Condominium shall remain in existence, to erect, use, lease, maintain, repair, replace and operate antennae, satellite dishes and other communications equipment on any part of the roof and/or

facade of the Building and elsewhere on the Common Elements and to utilize any risers, conduits, piping, cables, ducts and electrical panels and rooms, telephone/cable panels and rooms in connection therewith. The exercise of the easement and these rights do not require the consent of the Condominium Board or the Residential Unit Owners and shall be without charge to Sponsor. Any obligations of Sponsor under any lease, license or other right of use granted by Sponsor with respect to the roof shall be the obligation of Sponsor, as the case may be, and not of the Condominium, and any rights of Sponsor, including, without limitation, the right to receive rent or other consideration for such lease, license or other right of use, shall be the right of Sponsor and not of the Condominium or any other Residential Unit Owner. In connection with such easement and related rights, Sponsor and each of its respective Permitted Users shall have, to the extent necessary or advisable for such erection, use, lease, maintenance, repair, replacement and operation, an easement in common with all Residential Unit Owners for ingress, egress and the use of any Common Elements. The Units shall each be subject to such easement.

11.6 The Condominium and Building shall be designated and known as 70 Berry Street Condominium. Sponsor shall own and control all rights and interest, appurtenant to the name of the Condominium and/or the Building. Only Sponsor shall have the right to change or assign the name of the Condominium subject to the consent of the Condominium Board. Sponsor shall have an exclusive easement for so long as the Condominium shall remain in existence to erect, maintain, repair and replace, from time to time, a plaque and/or sign ("Plaque"), without charge, on the exterior portion of the Building setting forth the name and address of Sponsor, or such other information as the Sponsor desires in its sole discretion. Only Sponsor shall the right to remove the Plaque, unless mandated by Law.

11.7 If (a) any portion of the Common Elements encroaches upon any Unit or upon any other portion of the Common Elements, (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements or (c) any such encroachment shall hereafter occur as a result of (i) the settling or shifting of the Building, (ii) any alteration, repair or restoration of the Common Elements made by or with the consent (when required by the By-Laws) of the Condominium Board, or made by Sponsor in accordance with this Declaration or the By-Laws or (iii) any alteration, repair or restoration of the Building (or any portion thereof) or of any Unit or Common Element after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all any portion of any Unit or the Common Elements; then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same as long as the Building shall stand.

11.8 The Residential Unit Owners shall have an easement for access through the basement to the meter room and any other machinery which services the entire building or the Residential Units.

11.9 In addition to the specific easements set forth in this Article 11 and in Article 10 hereof, the Property and every portion thereof shall be subject to all easements made with the City of New York or with any utility companies or other Persons in effect prior to the recording of this Declaration.

ARTICLE 12

ALTERATIONS, ADDITIONS, IMPROVEMENTS AND CHANGES TO UNSOLD UNITS

12.1 Except to the extent prohibited by Law, Sponsor shall have the right, without the vote or consent or approval of the Condominium Board, other Residential Unit Owners, the Selling Agent, the Managing Agent or the Mortgage Representatives, if any, to:

(a) make alterations, additions, improvements, or repairs, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon Unsold Units and their appurtenant Limited Common Elements, if any;

(b) change the layout of, or number of rooms in, any Unsold Units;

(c) amend the Certificate of Occupancy for the Building as it relates to the Unsold Units;

(d) change the size and/or number of Unsold Units by (w) subdividing one or more Unsold Units into two or more separate Units, (x) combining separate Unsold Units (including those resulting from such subdivision or otherwise) into one or more Units, (y) altering the boundary walls between any Unsold Units, or (z) otherwise, including incorporating Common Elements (such as a portion of a hallway used exclusively by the occupant(s) of such Unsold Unit) which exclusively benefit an Unsold Unit into such Unsold Unit; and

(e) if appropriate, reapportion among the Unsold Units affected by such change in size or number pursuant to the preceding clauses their Common Interests and Common Interest provided, however, that, with respect to any such alteration, addition, improvement, or change in, to, of, or upon any Unsold Unit:

(i) no physical modifications shall be made to any other Unit and the Common Interest (other than Unsold Units), as the case may be, or interior dimensions of any other Units (other than Unsold Units) shall not be changed by reason thereof, unless the owner of such other affected Unit shall consent thereto;

(ii) Sponsor shall comply with Law;

(iii) Sponsor shall agree to hold the Condominium Board and all other Residential Unit Owners harmless from any liability arising therefrom; and

(iv) such alteration, addition, improvement, repair or change shall not jeopardize the soundness or structural integrity of any part of the Building or the safety of any tenant or other persons at the Property.

Notwithstanding the foregoing, however, the aggregate amounts of the Common Interests of all the Units shall always remain at 100%, and no reapportionment of the Common Interest appurtenant to any Unit shall be made unless there is first delivered to the Condominium Board a written certification stating that the new Common Interest of the affected Unit has been based upon the factors set forth in Article 8 hereof. The certification referred to in the preceding sentence shall be delivered by Sponsor or any other Person reasonably acceptable to the Condominium Board. By written permission of the Condominium Board, which permission shall not be unreasonably withheld or delayed, any other Residential Unit Owner may be given with respect to such Unit the same rights and be subject to the same limitations and conditions as are set forth in this Article with respect to Unsold Units. Notwithstanding the other provisions of this Article, no reapportionment of the Common Interests appurtenant to any Unit shall be made unless there is first delivered to the Condominium Board a written certification stating that the new Common Interest of the affected Unit has been based upon the factors set forth in Article 8 hereof. The certification referred to in the preceding sentence shall be delivered by the Residential Unit Owner or any other Person reasonably acceptable to the Condominium Board. The provisions of this Article may not be added to, amended, modified, or deleted without the prior written consent of Sponsor.

12.2 **Alterations**

(a) No Residential Unit Owner may make any alteration, addition, improvement or repair in or to such Unit Owner's Unit that affects the structure of the Building and/or the Building's systems without the prior written approval of the Board but, as more fully set forth in the Declaration and By-Laws, this provision does not apply to the Sponsor or an Unsold Residential Unit Owner. Except as otherwise permitted in the Declaration and By-Laws, no Unit Owner may make any alteration, addition, improvement or repair in or to the Common Elements without the prior written approval of the Board. The Board may impose fees upon such Unit Owner to reimburse the Condominium for costs incurred in connection with the review or supervision of such Unit Owner's work.

(b) The Board, at its option, may require a Residential Unit Owner to execute an agreement in form and substance satisfactory to the Board setting forth the terms and conditions under which such alteration, addition, improvement or repair may be made. Any Unit Owner making or permitting an alteration, addition, improvement or repair in its Unit is required by the By-Laws to (i) obtain such insurance as the Board or the Managing Agent may require, (ii) indemnify the Board, all other Unit Owners and the Managing Agent against any liability arising from the work, (iii) reimburse the Board for its architectural, engineering and legal fees incurred in connection with such work, (iv) employ such architects, engineers, contractors, workers, suppliers and other laborers who are reasonably acceptable to the Board and Managing Agent; and (v) perform such work in a manner which will not interfere with, or cause any labor disturbances or stoppages (which may result from, among other things, the use of non-union labor) in, the work of Sponsor, the Board, or other contractors or subcontractors employed by such parties or otherwise in the Building. In addition, no work or change by or on behalf of a Residential Unit Owner will be permitted without the consent of the Board (which consent may be withheld or conditioned in the sole discretion of such Board) if such work or change would result in a delay in obtaining a temporary or permanent Certificate of Occupancy for the Building, or any amendment to, or extension of, the same if theretofore issued.

(c) The foregoing restrictions affecting Residential Units shall not apply to Sponsor or its designee in respect of the Unsold Residential Units. There are no restrictions on the ability of Sponsor or its designee to alter or improve any Unsold Residential Unit (including, without limitation, dividing, subdividing and combining one or more Unsold Residential Units or portions of same).

(d) Furthermore, an initial purchaser of an Unsold Residential Unit shall have the right, without the approval of the Board, to make any alterations, additions, improvements or repairs in or to such Unit, provided that such purchaser obtains all necessary approvals required by law and that Sponsor has consented to the same in writing at or prior to the closing of title to such Unit, which consent Sponsor may withhold or condition in its sole and absolute discretion.

(e) Except to the extent prohibited by law, and subject to the provision of the preceding subparagraph.

(f) Generally, all alterations, additions or improvements in or to the Common Elements will be made by the Board. Except as otherwise provided in the By Laws, the costs of alterations, additions or improvements to the General Common Elements will be charged to all Unit Owners as a Common Expense; and costs attributable to the Limited Common Elements will be charged to all Residential Unit Owners in the proportion that their respective Common Interests bear to the aggregate Common Interests of all Residential Unit Owners. Whenever, in the judgment of the Board, the Common Elements require additions, alterations, improvements, or repairs which are capital in nature and would cost more than $250,000 (subject to increase by the CPI Increase Factor), in the aggregate, in any calendar year, such additions, alterations, improvements or repairs may not be made unless the same have been approved by the Unit Owners owning a majority of the Common Interests of all Units liable for the cost thereof pursuant to the preceding sentence, including Sponsor, if it then owns any Unit, at a duly constituted meeting of Unit Owners and by the representatives of institutional mortgagees of Units, if any, appointed pursuant to the By Laws (the "Mortgagee Representatives"), or unless the same is a non-capital repair or necessary to comply with applicable Legal Requirements, to remedy any violation imposed against the Property, to comply with a proper work order of an insurer of the Property, or for the health or safety (but not the general comfort or welfare) of the residents or occupants of the Property. In any such event, the Board may, in its discretion, assess each Unit Owner liable therefor for his or her pro-rata share of the cost of such additions, alterations, or improvements, according to his or her Common Interest, as part of the Common Charges.

(g) Any additions, alterations, or improvements costing $250,000 (subject to increase by the CPI Increase Factor) or less, in the aggregate, in any calendar year or which is a non-capital repair may be made by the Board without the approval of the Unit Owners.

(h) Notwithstanding the foregoing, elevator landings which serve fewer than three Residential Units may be decorated and/or furnished by the adjoining Unit Owners as they desire, at their expense, provided that each such Unit Owner consents in writing thereto, and the Board gives its written consent to such decoration and/or furnishing, which consent of the Board may be granted or withheld in the Board's sole discretion. After an elevator landing is decorated and/or furnished by the Unit Owners serviced by the same, the Owners of such Units, and not the

Board, will be responsible for keeping the decor and furnishings in a first class condition and state of repair and performing, at their joint expense, all repairs and maintenance necessary or desirable in order to accomplish the same.

(i) In addition, as set forth in the By-Laws and to the extent permitted by law, the Owner or Owners of any one or more Residential Units, if such Unit or Units are the only Unit or Units serviced or benefited by any Common Elements adjacent or appurtenant thereto (for example, that portion at the end of a hallway that is directly adjacent to the Unit or Units located at the end of such hallway) and not affecting access or service (including, without limitation, heating, ventilating and air-conditioning) to any other Unit or to any other portion of the Common Elements shall, with the consent of the Board (which consent shall not be unreasonably withheld or delayed and shall not be required if the Unit Owner or Owners shall be Sponsor or its designee), have the right to use such Common Elements exclusively (including the right, in the above example of a portion of a hallway, to enclose such portion), and no amendment to the Declaration or reallocation of Common Interests shall be made by reason thereof. In such an event, however, such Unit Owners shall, at their sole expense, (i) operate, maintain and repair such Common Element for so long as such Owners exercise such exclusive right of use and (ii) restore such Common Element to its original condition, reasonable wear and tear excepted, after such Owners cease to exercise such exclusive right of use.

(j) In addition, Sponsor (or its designee or other owner of Unsold Residential Units) shall have such rights as are described in the Declaration, to erect, maintain, repair and replace, or permit their tenants to erect, maintain, repair or replace, from time to time, one or more signs on the Property for the purpose of advertising the availability for sale or rental of any Unsold Residential Unit or the operation of any business of Sponsor, a tenant, occupant managing agent.

(k) Any alteration, addition, improvement or repair in or to a Unit or any Common Elements must comply with all Legal Requirements.

12.3 In the event any Unit is subdivided into two or more Units in accordance with the foregoing provisions of this Article, all newly established Units, as well as the Unit Owners, tenants and occupants thereof, shall be subject to and bound by, and shall comply with, the provisions of this Declaration, the By-Laws and the rules and Regulations, as they may be amended from time to time.

The signatures of the Condominium Board or any other Unit Owner shall not be required on any application or other document necessary or convenient to the exercise by the Declarant of any of its rights or powers under this Article 12, including but not limited to any application or document required by the Department of Buildings, the Real Property Assessment Bureau of the City of New York or any other governmental agency in connection with an amendment to the certificate of occupancy of the building or the establishment of separate tax lots for any newly created Units and reapportionment of assessed valuation by reason thereof.

ARTICLE 13

ACQUISITION OF UNIT BY THE CONDOMINIUM BOARD

If (a) any Residential Unit Owner surrenders the Unit, together with its Appurtenant Interests to the Condominium Board pursuant to the terms of the By-Laws or Section 339-x of the Condominium Act, or (b) the Condominium Board, pursuant to the By-Laws or otherwise, either acquires or leases a Unit, together with its Appurtenant Interests, purchases, a Unit, together with its Appurtenant Interests, at a foreclosure or other similar sale, then, in any such event, title to any such Unit and such Appurtenant Interests shall be held by the Condominium Board or its designee, corporate or otherwise, on behalf of all Residential Unit Owners, in proportion to their respective Common Interests. Any lease or sublease of any Unit leased or subleased by the Condominium Board or its designee shall be held by the Condominium Board or its designee, corporate or otherwise, on behalf of all Residential Unit Owners, in proportion to their respective Common Interests.

Sponsor or its designees reserve the right to own, use, rent or lease any numbers of Units.

ARTICLE 14

POWER OF ATTORNEY TO SPONSOR AND THE CONDOMINIUM BOARD

14.1 Each Residential Unit Owner, by acceptance of a deed or otherwise succeeding to title to a Unit, shall be deemed to have irrevocably nominated, constituted and appointed as such Residential Unit Owner's attorney in-fact, coupled with an interest and with power of substitution, (i) Sponsor, to amend the Condominium Documents pursuant to the terms of Article 18 hereof, and (ii) the Persons who shall from time to time constitute the Condominium Board, jointly, to:

(a) employ counsel for purposes of protesting the New York City real property tax assessments with the Tax Commission and instituting tax certiorari proceedings on behalf of the Residential Unit Owners for the reduction of the assessed valuation of their Units, such Residential Unit Owners agreeing not to protest said assessments and bring such tax certiorari proceedings at their own initiative and on their own behalf,

(b) acquire or lease or license any Unit, together with its Appurtenant Interests whose owner desires to sell, convey, transfer, assign, lease, or surrender the same or acquire any Unit, together with its Appurtenant Interests that becomes the subject of a foreclosure or other similar sale, in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Residential Unit Owners;

(c) convey, sell, lease, mortgage, or otherwise deal with (but not to vote the Common Interest, appurtenant to) any Unit so acquired or to sublease any Unit so leased; and

(d) execute, acknowledge and deliver (1) any declaration or other instrument affecting the Condominium that the Condominium Board deems necessary or appropriate

to comply with any law applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Condominium or (2) any consent, covenant, restriction, easement, or declaration, or any amendment thereto, affecting the Condominium or the Common Elements that the Condominium Board deems necessary or appropriate or (3) any protests and tax certiorari proceeding affecting Units.

14.2 In confirmation of the foregoing power of attorney, each Residential Unit Owner, upon the request of either Sponsor or the Condominium Board, shall duly execute, acknowledge and deliver to the requesting party, for recording in the Register's Office, a Unit Power of Attorney in the form set forth as Exhibit E to this Declaration.

ARTICLE 15

TERMINATION OF CONDOMINIUM

The Condominium shall continue and the Property shall not be subject to an action for partition (unless terminated by casualty loss, condemnation or eminent domain, as more particularly provided in the By-Laws) until such time as withdrawal of the Property from the provisions of the Condominium Act is authorized by a vote of 80% in number and Common Interest of all Residential Unit Owners. No such vote shall be effective, however, without the written consent (which consent shall not be unreasonably withheld or delayed) of the Mortgage Representatives, if any. In the event said withdrawal is authorized as aforesaid, but only in such event, the Property shall be subject to an action for partition by any Residential Unit Owner or lienor as if owned in common, in which event the net proceeds of sale shall be divided among all Residential Unit Owners in proportion to their respective Common Interests; provided, however, that no payment shall be made to a Residential Unit Owner until there has first been paid from out of Residential Unit Owner's share of such net proceeds all liens on the Unit (other than mortgages which are not Permitted Mortgages), in the order of priority of such liens.

ARTICLE 16

COVENANT OF FURTHER ASSURANCES

16.1 Any Person who is subject to the terms of this Declaration, whether such Person is a Residential Unit Owner, a member or officer of the Condominium Board or a Permitted User of either or otherwise, shall, upon prior reasonable written request at the expense of any such other Person requesting the same, execute, acknowledge and deliver to such other Person such instruments, in addition to those specifically provided for herein, and take such other action as such other Person may reasonably request to effectuate the provisions of this Declaration or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

16.2 If any Residential Unit Owner (other than the Sponsor), the Condominium Board or any other Person who is subject to the terms of this Declaration fails or

refuses, within 10 business days after request therefor, either (i) to execute, acknowledge or deliver any instrument, or to take any action which the Condominium Board, Residential Unit Owner or other Person is required to execute, acknowledge and deliver or to take pursuant to this Declaration, or (ii) to deliver a written notice to the Person requesting such execution, acknowledgement or delivery, and to the Condominium Board stating the reasons why such Residential Unit Owner, Condominium Board or other Person refuses to execute, acknowledge or deliver such instrument or take such action, then the Condominium Board or other Person is hereby authorized as attorney-in-fact for such Residential Unit Owner, Condominium Board or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action in the name of such Residential Unit Owner, Condominium Board or other Person and such document or action shall be binding on such Residential Unit Owner, Condominium Board or other Person.

16.3 If any Residential Unit Owner, the Condominium Board or any other Person who is subject to the terms of this Declaration fails or refuses, within 10 days after request therefor, either (i) to execute, acknowledge or deliver any instrument, or to take any action which such Residential Unit Owner, Condominium Board or other Person is required to execute, acknowledge and deliver pursuant to this Declaration at the request of Sponsor or (ii) to deliver a written notice to Sponsor and to the Condominium Board stating the reasons why such Residential Unit Owner, Condominium Board or other Person refuses to execute, acknowledge or deliver such instrument or take such action, then Sponsor is hereby authorized, as attorney-in-fact for such Residential Unit Owner, Condominium Board or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument or to take such action in the name of such Residential Unit Owner, Condominium Board or other Person and such document or action shall be binding on such Residential Unit Owner, the Condominium Board or other Person, as the case may be.

ARTICLE 17

COVENANTS RUNNING WITH THE LAND

17.1 All provisions of this Declaration, the By-Laws and the Rules and Regulations which are annexed hereto and made a part hereof, including, without limitation, the provisions of this Article, shall to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the owner of all or any part thereof, or interest therein, and owner's heirs, executors, administrators, legal representatives, successors and assigns, but the same are not intended to create, nor shall they be construed as creating, any rights in or for the benefit of the general public. All present and future owners, tenants, subtenants, licensees, and other occupants of Units shall be subject to and shall comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time, are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were

recited and stipulated at length in each and every deed or conveyance or lease or use and occupancy agreement thereof.

17.2 If any provision of this Declaration or the By-Laws is invalid under, or would cause this Declaration and the By-Laws to be insufficient to submit the Property to the provisions of, the Condominium Act, such provision shall be deemed deleted from this Declaration or the By-Laws, as the case may be, for the purpose of submitting the Property to the provisions of the Condominium Act but shall nevertheless be valid and binding upon and inure to the benefit of the owners of the Property and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under other applicable Law to the extent permitted under such applicable Law with the same force and effect as if, immediately after the recording of this Declaration and the By-Laws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land. If any provision which 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 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.

17.3 Subject to Section 17.2, if this Declaration and the By-Laws are insufficient to submit the Property to the provisions of the Condominium Act, the provisions of this Declaration and the By-Laws shall nevertheless be valid and binding upon and inure to the benefit of the owners of the Property, and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under applicable Law to the extent permitted under such applicable Law with the same force and effect as if, immediately after the recording of this Declaration and the By-Laws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land.

ARTICLE 18

AMENDMENTS TO THIS DECLARATION

18.1 Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions or deletions affecting Sponsor, any provision of this Declaration affecting the General Common Elements of all Residential Unit Owners may be added to, amended, modified or deleted by the affirmative vote of at least 66-2/3% in number and in Common Interest of all Residential Unit Owners taken in accordance with the provisions of the By-Laws; provided, however, that the Common Interest appurtenant to each Unit as expressed in this Declaration shall not be altered without the written consent of all Residential Unit Owners directly affected. Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions or deletions affecting Sponsor, no amendment, modification, addition or deletion shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) and of the Mortgage Representatives (as defined in the By-Laws), if any. No such amendment, modification, addition or deletion shall be effective until recorded in the Register's

Office. Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions or deletions affecting Sponsor, any such amendment, modification, addition or deletion shall be executed by either the Condominium Board as attorney-in-fact for the Residential Unit Owners, coupled with an interest or the Sponsor, and the Condominium Board or the Sponsor is hereby authorized by such Residential Unit Owners so to act as their attorney-in-fact. Subject to the rights of Sponsor set forth herein, this Declaration may not be amended, modified, added to or deleted unless (in addition to the consent, if required, of the Mortgage Representatives, if any, as set forth above) 80% in number and in Common Interest of all Residential Unit Owners affected thereby, approve such amendment, modification, addition or deletion in the manner set forth above.

18.2 Sponsor shall have the right, at its sole cost and expense and without the vote or consent of any other Residential Unit Owners, the Condominium Board, or the Mortgage Representatives (if any), to execute, acknowledge and record (or, at Sponsor's sole option, to require the Condominium Board or any other Residential Unit Owners to execute, acknowledge and record) in the Register's Office and elsewhere, if required by Law, one or more amendments to this Declaration (including, but not limited, to Exhibit B hereto), together with such documents, plans and maps as Sponsor deems appropriate to effectuate the same:

(i) to reflect any changes in Unsold Units and/or the reapportionment of the Common Interest of the affected Unsold Units resulting therefrom made by Sponsor in accordance with the terms of Article 12 hereof,

(ii) required by (x) an Institutional Lender designated by Sponsor to make a loan secured by a mortgage on any Unsold Unit, (y) any governmental agency having regulatory jurisdiction over the Condominium, or (z) any title insurance company selected by Sponsor to insure title to any Unsold Unit,

(iii) to reflect the certification by a registered architect or professional engineer, certifying that the floor plans filed as part of an amended Declaration are an accurate copy of portions of the plans of the Building and fully and fairly depict the layout, location, designation and approximate dimensions of the Units as-built or (a) utility easements or (b) to assign storage areas, if any, as limited common elements or (c) technical corrections to the Declaration to conform to other documents including but not limited to the as-built plans and the Offering Plan or (d) to effectuate permissible changes in unsold Units,

(iv) all expenses in connection with the preparation, recordation and filing of any such amendment shall be paid by the Owner or his designee.

provided, however, that any amendment made pursuant to the terms of subparagraph (i) or (ii) of this Section shall not (1) change the Common Interest of any Unit other than a Unit owned by Sponsor, or (2) require a material, physical modification of any Unit other than a Unit owned by Sponsor, or (3) adversely affect the priority or validity of the lien of any purchase money mortgage or any mortgage held by an Institutional Lender unless the owner of such affected Unit (in the event described in subparagraph (1) or (2) of this Section) or the holder of such mortgage (in the event described in

subparagraph (3) of this Section) shall consent thereto by joining in the execution of such amendment.

18.3 Any amendment to this Declaration may be executed; (i) if on behalf of Sponsor pursuant to the terms of Section 18.2 hereof, by Sponsor, or (ii) if on behalf of the Residential Unit Owners or by the Condominium Board, by any officer of the Condominium. If the amendment requires the approval of a specific percentage of Residential Unit Owners pursuant to the terms of this Declaration or the By-Laws, then there shall be attached to such amendment an original executed Secretary's Certificate, certifying that the requisite number and percentage of Residential Unit Owners approved the amendment at a duly constituted meeting or (when permitted in this Declaration or the By-Laws) in writing without a meeting, in which Certificate shall be described the number and percentage of Residential Unit Owners so consenting and (if voted upon at a meeting) the date and time of the meeting.

18.4 Notwithstanding anything contained in the Condominium Documents to the contrary, but subject to any limitation imposed by the Condominium Act, no amendment to the Condominium Documents shall be effective in any respect against the Sponsor or Unsold Residential Unit Owner if the same would (i) unreasonably interfere with the sale, lease, use, or other disposition of any Unit owned by either of them, (ii) abridge, modify, suspend, eliminate, or otherwise affect any right, power, easement, privilege, or benefit granted to Sponsor or Unsold Residential Unit Owner unless the Sponsor or Unsold Residential Unit Owner shall consent to such amendment in writing, or (iii) impose any discriminatory charge or fee against Sponsor, unless the Sponsor shall consent to such amendment in writing.

18.5 The provisions of this Article may not be modified, amended, added to or deleted, in whole or in part, without the consent of Sponsor if the same relate to Sponsor, or the Unsold Residential Unit Owner affected if the same relates to Unit(s).

ARTICLE 19

CONSENTS BY SPONSOR

When the consent, approval, satisfaction, or permission of Sponsor is required under this Declaration or the By-Laws, such consent, approval, satisfaction, or permission shall not be required when Sponsor or its designee, successor or assignee no longer owns any Unsold Units.

ARTICLE 20

PERSON TO RECEIVE SERVICE

The Secretary of State of the State of New York (the "Secretary of State") is hereby designated to receive service of process in any action which may be brought against the Condominium or the Board. The Condominium and the Board shall each notify the Secretary of State of the address to which a copy of any process received should be mailed.

ARTICLE 21

INCORPORATION BY REFERENCE

The terms, covenants, conditions, descriptions and other information contained in (i) the property description annexed hereto as Exhibit A; (ii) the description of the Units annexed hereto as Exhibit B; (iii) the table of definitions annexed hereto as Exhibit C; (iv) the By-Laws annexed hereto as Exhibit D; (v) the Unit Power of Attorney annexed hereto as Exhibit E; and (vi) the Floor Plans are, by this reference, each incorporated herein and made a part of this Declaration as if set forth at length in the text hereof.

ARTICLE 22

WAIVER

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

ARTICLE 23

SEVERABILITY

Subject to the provisions of Section 17.2 and 17.3 of Article 17 hereof, if any provision of the Condominium Documents is invalid or unenforceable as against any Person or under certain circumstances, the remainder of the Condominium Documents and the applicability of such provision to other Persons or circumstances shall not be affected thereby. Each provision of the Condominium Documents shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by Law. Any conflict between any provisions of the Condominium Documents and the Condominium Act, or any questions regarding the interpretation of any of the Condominium Documents, shall be governed by the Condominium Act.

ARTICLE 24

SUCCESSORS AND ASSIGNS

The rights and/or obligations of Sponsor as set forth in this Declaration and the By-Laws shall inure to the benefit of and be binding upon any successor or assignee or designee of Sponsor or, with the consent of Sponsor, any transferee of all or group of then Unsold Units. Sponsor shall have the right, at any time, in its sole discretion, to assign or otherwise transfer its interest therein, whether by merger, consolidation, lease, assignment, or otherwise.

ARTICLE 25

CAPTIONS

The index hereof and the captions herein inserted are included only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

ARTICLE 26

CERTAIN REFERENCES

26.1 A reference in this Declaration to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural and vice versa, unless the context otherwise requires.

26.2 The terms "herein," "hereof" or "hereunder" or similar terms used in this Declaration refer to this entire Declaration and not to the particular provision in which the terms are used, unless the context otherwise requires.

26.3 Unless otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of this Declaration.

ARTICLE 27

COVENANT OF FURTHER ASSURANCES

27.1 (a) General. Any Person subject to terms of the Condominium Documents, whether such Person is a Unit Owner, a tenant or subtenant of a Unit Owner, an occupant of a Unit, a member of the condominium board, an officer of the condominium, or otherwise, shall, at the expense of any other Person so requesting, execute, acknowledge and deliver to such other Person such instruments, in addition to those specifically provided for in the Condominium Documents, and take such other action as such other Person may reasonably request in order either to effectuate the provisions of the Condominium Documents or any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

(b) Failure to Deliver or Act.

1. If any Unit Owner or other Person subject to the terms of the Condominium Documents fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten business (10) days after request therefore, to take any action that such Unit Owner or Person is required to execute, acknowledge and deliver or to take pursuant to the Condominium Documents, then the Condominium Board is hereby authorized, as attorney-in-fact for such Unit Owner or other Person, coupled with an interest, to execute, acknowledge and deliver such

instrument, or to take such other action, in the name of such Unit Owner or other Person, and such document or action shall be binding on such Unit Owner or other Person.

2. If the Condominium Board, any Unit Owner or other Person subject to the terms of the Condominium Documents fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten business (10) days after request therefore, to take any action that the Condominium Board, such Unit Owner or Person is required to execute, acknowledge and deliver or to take pursuant to the Condominium Documents at the request of the Declarant, then the Declarant is hereby authorized, as attorney-in-fact for the Condominium Board, such Unit Owner or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of the Condominium Board, such Unit Owner or other Person, and such document or action shall be binding on the Condominium Board, such Unit Owner or other Person, as the case may be.

ARTICLE 28

GENERAL

Except as required by Law, neither Sponsor nor any of its principals shall be subject to any of the restrictions and/or prohibitions with regard to the Units set forth in this Declaration or the By-Laws annexed hereto.

IN WITNESS WHEREOF, Sponsor has caused this Declaration to be executed as of the ___ day of 200__.

SPONSOR/DECLARANT:

Essex Berry Street LLC

By: _____
Name:
Title:

State of New York)
)ss.:
County of)

On the _____ day of _____ in the year 200__ before me, the undersigned, personally appeared _____, personally known to me or proved to me that 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.

_____
Signature and Office of individual
taking acknowledgment.

EXHIBIT A

DESCRIPTION OF THE LAND

[TO BE ATTACHED]

EXHIBIT B

70 BERRY STREET CONDOMINIUM

70 Berry Street
Brooklyn, NEW YORK

DESCRIPTION OF THE UNITS

UNIT	NUMBER OF BEDROOMS/ BATHS	APPROXIMATE TOTAL SQ. FT. UNIT	BALCONY /TERRACE	BLOCK TAX LOT NO.	PERCENTAGE OF COMMON INTEREST	LOCATION IN PORTION OF BUILDING FACING DIRECTION SET FORTH BELOW	COMMONELEMENTS TO WHICH UNIT HAS IMMEDIATE ACCESS

(TO BE RECORDED PRIOR TO RECORDING OF DECLARATION OF CONDOMINIUM)

EXHIBIT C

DEFINITIONS

For convenience of presentation, general definitions of certain of the terms used in the Plan are set forth below, which definitions are subject in most cases to the more particular definitions of such terms set forth in the Declaration, the By-Laws and the Condominium Act. They include the following:

"Adverse Effect", or "adverse effect", as used in the Condominium Documents, shall mean, with respect to any action or proposed change and with respect to any Residential Unit Owner or Residential Unit Owners, that such action or change could, if realized, (i) increase the Common Charges payable by such Residential Unit Owner or Residential Unit Owners, (ii) materially interfere with such Residential Unit Owner's access to the Unit, (iii) obstruct or degrade the view from the windows of the Unit or (iv) otherwise materially diminish the use and enjoyment of the Unit.

"Building" shall mean the building located at 70 Berry Street, Brooklyn, New York 11211, in which the Units of the Condominium will be located.

"Buildings Department" shall mean the Department of Buildings of The City of New York or any successor agency.

"By-Laws" shall mean the by-laws governing the operations of the Condominium, which are set forth as Exhibit D to the Declaration, as the same may be amended from time to time.

"Closing of Title" or "Closing" shall mean the date upon which, among other things, a Unit and its appurtenant Common Interest is conveyed pursuant to a Purchase Agreement.

"Common Charges" shall mean the charges allocated and assessed by the Condominium Board to the Units pro-rata, in accordance with their respective Common Interests (except as otherwise provided in the Declaration or in the By-Laws or in the First Year's Budget) to meet the Common Expenses.

"Common Elements" shall mean the Property, other than the Units themselves, as set forth in Article 7 herein.

"Common Expenses" shall mean all costs and expenses to be incurred generally by the Unit Owners pursuant to the Declaration and/or the By-Laws in connection with: (i) the repair, maintenance, replacement, restoration and operation of, and any alteration, addition, or improvement to, the Common Elements; (ii) the establishment and/or maintenance of a general operating reserve, or a reserve fund for working capital, for replacements with respect to the Common Elements, or to make up any deficit in the Common Charges for any prior year(s); and (iii) generally, the conduct of the affairs of the Condominium.

"Common Expenses" shall mean all costs and expenses in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the Common Elements and the provision of services to Unit Owners.

"Common Interest" shall mean the Common Elements appurtenant to each Unit, as determined in accordance with the Declaration. The total of all Common Interest percentages appurtenant to all Units equals 100%. The Common Interest attributable to each Unit is set forth on Exhibit B annexed to the Declaration.

"Condominium Act" shall mean the New York Condominium Act, as amended from time to time, and presently found in the New York Real Property Law, Article 9-B.

"Condominium Board" shall mean the Condominium Board of the Condominium who will manage the affairs of the Condominium.

"Condominium Documents" shall mean the Declaration, the By-Laws and the General Common Elements Rules and Regulations of the Condominium and the Floor Plans.

"Condominium" shall mean the 70 Berry Street Condominium which was established pursuant to the terms of the Declaration and which is governed pursuant to the terms of the By-Laws.

"CPI Increase Factor" shall mean an increase proportionate to any increase in the cost of living from the date of the initial recording of the Declaration, as reflected by the change in the Consumer Price Index (CPI-U; All Items; 1982-84 = 100 standard reference base period) for New York, New York (or the smallest measured area including New York, New York), as published by the Bureau of Labor Statistics, United States Department of Labor or, if the same ceases to be published, a commonly used substitute therefor reasonably selected by the Board.

"Declaration" shall mean the instrument creating the Condominium, as the same may be amended from time to time.

"Deposit" shall mean all deposits, downpayments, advances or payments, including both the initial 10% and the additional 10%, made and to be made by Purchasers prior to the closing of each individual transaction.

"Effective Date" shall mean the date upon which Sponsor has declared the Plan effective pursuant to the provisions of the General Business Law.

"Facilities" shall mean all personal property and fixtures now or hereafter existing in, on, or under the Land or the Building and either existing for the common use of the Units or the Residential Unit Owners or necessary or convenient for the existence, maintenance, or safety of the Property.

"Filing Date" shall mean the date a letter is issued by the Department of Law accepting the Plan or an amendment to the Plan, as the case may be, for filing.

"First Closing" shall mean the Closing of Title with respect to the first General Common Elements Unit to be conveyed to a Purchaser pursuant to the terms of the Plan.

"First Year's Budget" shall mean the Section of the Plan entitled "Schedule B - First Year's Budget". The First Year's Budget is sometimes referred to herein as "Schedule B".

"Floor Plans" shall mean the floor plans of the Units certified by a professional engineer or licensed architect, filed in the Register's Office simultaneously with the recording of the Declaration, together with any supplemental floor plans thereto.

"Force Majeure" shall mean delays caused by weather, casualty, labor, difficulties, (including work stoppages and strikes), late delivery or inability to obtain materials, government restrictions or other events beyond Sponsor's reasonable control.

"General Common Elements" shall mean those certain portions of the Property (other than the Units), as defined in 7.2 of this Declaration.

"Insurance Trustee" shall mean be a bank or trust company having an office located in the City of New York, designated by the Board and having a capital surplus and undivided profits of $500,000,000 or more. In the event the Insurance Trustee resigns or is replaced by the Board, the Board shall appoint a new Insurance Trustee which shall be a commercial bank or trust company having an office located in The City of New York and having a capital surplus and undivided profits of $500,000,000 or more, subject to increase by the CPI Increase Factor. The Board shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a Common Expense. The Insurance Trustee shall hold all such proceeds in accordance with Section 254(4) of the Real Property Law of the State of New York.

"Initial Control Period" shall mean the period ending upon the later to occur of: (a) the fifth anniversary of the First Closing; or (b) the closing of title to Units representing more than 75%, both in number and in aggregate Common Interests, of all Units.

"Land" shall mean the land being in the Borough of Brooklyn, County of Kings, designated as Block 2303 Lot 19 on the Tax Map of the Real Property Assessment Department of The City of New York as and more particularly described in Exhibit A to the Declaration.

"Law" shall mean the laws and ordinances of any or all of the Federal, New York State, New York City, County and Borough governments, including, without limitation, the Buildings Department, the Landmarks Preservation Committee, the rules, regulations, orders and directives of any or all departments, subdivisions, bureaus, agencies, or offices thereof or of any other governmental, public or quasi-public authorities having jurisdiction over the Property and/or the Condominium which are applicable at the time in question.

"Limited Common Elements" shall mean those portions of the Property (other than the Units and the General Common Elements), existing for the use and enjoyment of certain Unit Owners (Residential) to the exclusion of all other Unit Owners, as more particularly described in the Declaration and the Floor Plans.

"Managing Agent" shall mean the managing agent or manager named in the Plan or any successor managing agent at the time in question.

"Permanent Certificate of Occupancy" shall mean the permanent certificate of occupancy to be issued for the Building by the Buildings Department.

"Permitted Encumbrances" shall mean those matters encumbering title to a Unit subject to which a Purchaser agrees to take title, as more particularly described on Schedule A annexed to the form of Purchase Agreement.

"Permitted Mortgage" shall mean a first mortgage permitted to be placed upon a Unit pursuant to the provisions of the By-Laws.

"Permitted Mortgagee" shall mean any holder of a Permitted Mortgage at the time in question.

"Person" shall mean any natural person, partnership, corporation, limited liability company, trust, estate, fiduciary, unincorporated association, syndicate, joint venture, organization, government or any department or agency thereof, or any other entity.

"Plan" shall mean that certain Condominium Offering Plan relating to the Property, as accepted for filing by the Department of Law of the State of New York pursuant to Section 352-e of the General Business Law of the State of New York and any and all amendments thereto.

"Plans and Specifications" shall mean the plans and specifications for the construction of the Building which (to the extent required by Law) have been or will be filed with the Buildings Department and which may from time to time be amended in accordance with the provisions of the Plan.

"Presentation Date" shall mean the date on which the Plan or an amendment thereto, as the case may be, is personally delivered or the fifth day after mailing to prospective Purchasers and Residential Unit Owners following acceptance of the Plan or an amendment thereto for filing with the Department of Law.

"Property" shall mean the Land, the Building (and any structures attached thereto), the Units, all the improvements erected or to be erected on the Land, all easements, rights and appurtenances pertaining thereto and all other property, real, personal, or mixed, used or intended to be used in connection therewith.

"Purchase Agreement" shall mean the agreement to purchase a Unit, the form of which is set forth in Part II of the Plan.

"Purchaser" shall mean a purchaser of a Unit pursuant to a Purchase Agreement.

"Resident Register's Office" shall mean the Office of the Register of the City of New York of the County in which the Property is located.

"Residential Unit Owner" shall mean any Person (including Sponsor, if Sponsor owns any Unit) who holds fee title, of record, to one or more Units at the time in question. All such Residential Unit Owners are, collectively, referred to as the "Residential Unit Owners".

"Rules and Regulations" shall mean the Rules and Regulations of the Condominium promulgated in accordance with the By-Laws.

"Sales Office" shall mean the sales office for the Sponsor or Selling Agent, at a location to be designated by either Sponsor or Selling Agent from time to time.

"Schedule A" shall mean the Section of the Plan entitled "Schedule A - Purchase Prices and Related Information".

"Schedule B" shall mean the Section of the Plan entitled "Schedule B - First Year's Budget". Schedule B is sometimes referred to herein as the "First Year's Budget".

"Selling Agent" shall mean the Selling Agent or Co-Selling Agent named in the Plan or any successor Selling Agent at the time in question.

"Special Assessments" shall mean the charges allocated and assessed by the Condominium Board to the Residential Unit Owners, pro-rata in accordance with their respective Common Interest (except as otherwise provided in the Declaration or in the By-Laws), in accordance with the By-Laws of the Condominium.

"Sponsor" shall mean Essex Berry Street LLC and (if applicable) a Person designated by Sponsor.

"Unit" shall mean any of the Units designated as a Unit in the Declaration together with its Common Interest. All such Units are, collectively, referred to as the "Units".

"Unsold Residential Unit Owner" shall mean Sponsor or a principal of Sponsor and (if applicable) a Person designated by Sponsor.

"Unsold Unit" shall mean any Unit owned or retained, by way of lease or any other arrangement by which management and/or financial responsibility is retained, by Sponsor or a principal of Sponsor at the time in question. All such Unsold Units are, collectively, referred to as the "Unsold Units".

EXHIBIT D

TO THE DECLARATION

UNIT POWER OF ATTORNEY

[TO BE INSERTED]

EXHIBIT E

BY-LAWS

OF

70 BERRY STREET CONDOMINIUM

BY-LAWS

ARTICLE 1

GENERAL

Section 1.1. Purpose. The purpose of these By-Laws is to set forth the rules and procedures concerning the conduct of the affairs of the Condominium. The Condominium covers the Property, which consists of: (i) the Land, which is more particularly described in Exhibit A to the Declaration; (ii) the Building, which includes, without limitation, the Units, the Common Elements and all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith; and (iii) 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. The purpose of the Condominium is to carry on the acquisition, construction, management, maintenance and care of the Common Elements and to perform related functions with respect to the other portions of the Property.

Section 1.2. Definitions. All capitalized terms used in these By-Laws that are not otherwise defined in any of the Articles hereof shall have the meanings set forth in Exhibit C to the Declaration, unless the context in which the same are defined in any of the Articles hereof shall have the meanings ascribed to them in such Articles, unless the context in which the same are used shall otherwise require. Each of the aforedescribed capitalized terms shall be applicable to singular and to plural nouns, as well as to verbs of any tense. Unit Owner as referred to herein shall mean at the Unit Owner of the Residential Units. The Owners of the Residential Units shall be referred to as the Residential Unit Owner.

Section 1.3. Applicability of By-Laws. These By-Laws are applicable to the Property and to the use and occupancy thereof.

Section 1.4. Application of By-Laws. All present and future Unit Owners, mortgagees, lessees, sublessees and occupants of Units, and employees and guests of Unit Owners, as well as all other Persons who may use the Property, are and shall be subject to the Declaration, these By-Laws and the Rules and Regulations, as each of the same may be amended from time to time. The acceptance of a deed or other instrument of conveyance, or the succeeding to title to, or the execution of a lease or sublease for, or the act of occupancy of, a Unit shall constitute an agreement that the provisions of the Declaration, these By-Laws and the Rules and Regulations, as each of the same may be amended from time to time, are accepted, ratified and will be complied with.

ARTICLE 2

CONDOMINIUM BOARD

Section 2.1. General. As more particularly set forth in Sections 2.4, 2.5 and 2.6 hereof, the affairs of the Condominium shall be governed by the Condominium Board. In exercising its powers and performing its duties under the Declaration and these By-Laws, the Condominium Board shall act as, and shall be, the Agent of the Residential Unit Owners, subject to, and in accordance with, the terms of the Declaration and these By-Laws.

Section 2.2. Status of the Condominium Board. 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. 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 he designated from time to time by the Condominium Board.

Section 2.4. Powers and Duties of the Condominium Board

(A) The Condominium Board shall have all of the powers and duties necessary for, or incidental to, the administration of the affairs of the Condominium, provided, however, that the Condominium Board shall not have such powers and duties that by Law, or pursuant to the terms of the Declaration and these By-Laws, may not be delegated to the Condominium Board by the Unit Owners. Without intention to limit the generality of the foregoing in any respect, the Condominium Board shall have the following specific powers and duties:

(i) to operate, maintain, repair, restore, add to, improve, alter and replace the Common Elements, including, without limitation, as the Condominium Board shall deem necessary or proper in connection therewith, (a) the purchase and leasing of supplies, equipment and material and (b) the employment, compensation and dismissal of personnel;

(ii) to acquire by purchase, abandonment or otherwise in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of the Residential Unit Owners, all rights, titles and interests in any Unit or real and personal property deemed necessary or proper by the Condominium Board for use in connection with the ownership and operation of the Property as a condominium;

(iii) to maintain complete and accurate books and records with respect to the finances and the operation of the Condominium, including without limitation: (a) detailed accounts, in chronological order, of receipts and expenditures affecting the Property; (b) detailed books of account of the Condominium Board; (c) other financial records, as well as other books of account of the Condominium, as may be required to be

kept pursuant to the terms of these By-Laws; and (d) minutes and other records of all meetings held pursuant to the terms of these By-Laws;

(iv) to adopt a budget for the Condominium for each fiscal year thereof, setting forth, without limitation: (a) a detailed accounting of the anticipated Common Expenses for the ensuing fiscal year and (b) a detailed projection of all sources and amounts of income necessary to discharge the same;

(v) to approve the amount and the means and methods of payment of, and collection of, the Common Charges and Special Assessments from the Unit Owners;

(vi) to borrow money on behalf of the Condominium in accordance with Section 339-jj of the Real Property Law when required in connection with the operation, maintenance, repair, restoration, improvement, alteration and replacement of the Common Elements, provided, however, that: (a) the affirmative consent of at least 66 2/3% of the members of the Condominium Board shall be required for the borrowing of any sum in excess of $500,000 in any one fiscal year (regardless of the balance of any loans outstanding from previous fiscal years); (b) with respect to the operation, maintenance, repair, restoration, improvement, alteration and replacement of the General Common Elements or the Limited Common Elements, the affirmative consent of at least 66 2/3%, in aggregate Common Interest, of all Unit Owners shall be required for the borrowing of any sum in excess of $500,000 in any one fiscal year (regardless of the balance of any loans outstanding from previous fiscal years); (c) no lien to secure repayment of any sum borrowed may be created on any Unit or its Appurtenant Interests without the consent of the owner of such Unit; and (d) the documentation executed in connection with any such borrowing shall provide that, if any sum borrowed by the Condominium Board pursuant to this subparagraph (vi) shall not be repaid by the Condominium Board, any Unit Owner who pays to the creditor thereunder such proportion of the then outstanding indebtedness represented or secured thereby as such Unit Owner's Common Interest, bears to the aggregate Common Interests of all Residential Unit Owners shall be entitled to obtain from the creditor a release of any judgment or other lien that the said creditor shall have filed, or shall have the right to file against such Unit Owner's Unit;

(vii) to open and maintain bank accounts on behalf of the Condominium and to designate the signatories required therefor which shall at no time be less than two and that each check drawn on such account shall need at least two signatures;

(viii) to use the Common Charges and Special Assessments collected from Unit Owners, as well as all other funds held by the Condominium Board or received in connection with the operation of the Property, for the administration of the Condominium, including, without limitation: (a) the payment of Common Expenses and (b) the making of restorations, additions, alterations and improvements to the Common Elements;

(ix) to obtain insurance for the Property, including the Units, pursuant to the terms of Section 5.4 hereof;

(x) to adjust and settle claims under insurance policies obtained pursuant to the terms of Section 5.4 hereof, and to execute and deliver releases upon such adjustment and settlement on behalf of: (a) all Residential Unit Owners (except as otherwise provided herein); (b) all holders of mortgages and other liens on Units; and (c) all holders of any other interest in the Property;

(xi) to make, or to contract with others for the making of, repairs, maintenance, additions and improvements to, and alterations, restorations and replacements of, the Property after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings, all in accordance with the terms of these By-Laws;

(xii) to obtain and keep in force fidelity bonds, in amounts deemed appropriate by the Condominium Board, but in no event less than $100,000, for: (a) all members of the Condominium Board; (b) all officers and employees of the Condominium; and (c) the Managing Agent, and the premiums on all such fidelity bonds shall constitute a part of the Common Expenses;

(xiii) to accept the surrender of any Unit pursuant to the terms of paragraph (D) of Section 6.2 hereof, in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of all Residential Unit Owners;

(xiv) to purchase, lease, or otherwise acquire Units offered for sale, lease or assignment by their owners, in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of all Unit Owners but only with the consent of a Majority of Unit Owners;

(xv) to purchase Units at foreclosure or other judicial sales, in the name of the Condominium Board or its designee, corporate or otherwise and on behalf of all Unit Owners but only with the consent of a Majority of Unit Owners;

(xvi) to sell, lease, license, mortgage and otherwise deal with Units, storage areas acquired by, and to sublease Units leased by, the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, provided, however, that the Condominium Board or its designees shall in no event be entitled to vote the interest appurtenant to any such Unit;

(xvii) subject to the rights of the Sponsor or the owner of Unsold Units to adopt and amend the Rules and Regulations and to levy and authorize collection of fines against Unit Owners for violations of the Rules and Regulations and these By-Laws (any such fines and fees shall be deemed to constitute Common Charges payable by Unit Owners of the Unit against which they are levied);

(xviii) to enforce by legal means the terms, covenants and conditions contained in the Condominium Documents and to bring or defend against any proceedings that may be instituted on behalf of, or against, the Unit Owners;

(xix) to incorporate, to the extent and in the manner provided in the Condominium Act, provided, however, that: (a) the certificate of incorporation and By-Laws of any such resulting corporation shall conform as closely as practicable to the terms of the Declaration and these By-Laws and (b) the terms of the Declaration and these By-Laws shall prevail in the event of any inconsistency or conflict between the terms thereof and the terms of such certificate of incorporation and By-Laws;

(xx) to organize corporations to act as the designees of the Condominium Board in acquiring title to, or leasing of; Units and in acquiring rights, titles and interests in real and personal property for use in connection with the ownership and operation of the Property as a condominium;

(xxi) to execute, acknowledge and deliver: (a) any and all declarations (including a declaration of single zoning lot) or other instrument affecting the Property that the Condominium Board deems necessary or appropriate to comply with any law applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Building and (b) any consent, covenant, restriction, easement, or declaration affecting the Property that the Condominium Board deems necessary or appropriate;

(xxii) to prepare, execute, acknowledge and record on behalf of all Unit Owners, as their attorney in fact, coupled with an interest, a restatement of the Declaration or these By-Laws, whenever, in the Condominium Board's estimation, it is advisable to consolidate and restate all amendments, modification, additions and deletions theretofore made to the same;

(xxiii) to prepare, execute, acknowledge and institute on behalf of all Unit Owners, as their attorney-in-fact, coupled with an interest, protests of real property tax assessments and tax certiorari proceedings with respect to all Units and to assess any costs incurred thereby as a Common Expense;

(xxiv) to commence summary eviction proceedings in the name of or on behalf of the Condominium Board and/or Unit Owner or Unit Owners against an authorized guest and/or a Tenant of a Residential Unit Owner if such authorized Guest and/or Tenant does not conform to the Rules and Regulations of the Condominium, annexed hereto as Schedule A, as said Rules and Regulations may at any time and from time to time, be modified, amended or added to in accordance with the terms of these By-Laws. All costs in connection with the removal of the authorized guest and/or Tenant, including reasonable attorney's fees, shall be borne by the Unit Owner;

(xxv) to impose move-in fees and charges and transfer fees in connection with the sale or lease of a Unit, provided no such fees or charges or other conditions of transfer or lease may be imposed upon Sponsor;

(xxvi) to prepare, execute and administer the Rules and Regulations and Common Charges as to the Units;

(xxvii) to acquire in the name of the Condominium Board or its designee, corporate or otherwise, and on behalf of all Residential Unit Owners, terminated or surrendered to the Condominium; and

(xxviii) to carry out any other duties imposed upon the Condominium Board pursuant to the Declaration and these By-Laws.

(B) The Condominium Board shall be responsible for carrying out the duties imposed upon it under the Condominium Documents regardless of whether a Unit is vacant or occupied by the owner thereof or by a permitted lessee or other permitted occupant.

Section 2.5. Certain Limitations on the Powers of the Condominium Board. Notwithstanding anything to the contrary contained in these By-Laws until the end of the Initial Control Period the Condominium Board may not, without Sponsor's prior written consent:

(i) make any addition, alteration, or improvement to the Common Elements or to any Unit, unless the same shall be required by Law;

(ii) assess any Common Charges or Special Assessments for the creation or replacement of, or the addition to, all or any part of a reserve, contingency, or surplus fund;

(iii) increase or decrease the number of, or change the kind of employees from those described in the First Years Budget;

(iv) enter into any service or maintenance contracts for work or otherwise contract for work or otherwise provide services in excess of those described the First Year's Budget set forth in the Plan, except as is required to reflect normal annual increases in operating services incurred in the ordinary course of business;

(v) borrow money on behalf of the Condominium; or

(vi) exercise a right of refusal to lease or purchase a Unit.

The written consent of Sponsor shall not be necessary to perform any function or take any action described in clauses (i) through (vi) above, if; and only if, the performance of such action or the carrying out of such action is necessary (and no other alternative is available) to enable the Condominium Board to: (i) comply with Law; or (ii) remedy any notice of violation; or (iii) remedy any work order of the Condominium's insurer.

Section 2.6. Exercise and Delegation of Powers and Duties.

(A) Any act within the power of the Condominium Board to perform, and deemed necessary or desirable to be performed by the Condominium Board, shall be performed by the Condominium Board or shall be performed on its behalf and at its direction by the agents, employees, or designees of the Condominium Board.

(B) The Condominium Board may appoint an Executive Committee by duly adopted resolution, which Executive Committee shall have, and may exercise, all of the powers of the Condominium Board, subject to both the exceptions and limitations as the Condominium Board may from time to time deem appropriate, during the intervals between the meetings of the Condominium Board. In addition, the Condominium Board may from time to time appoint, by duly adopted resolutions, such other committees as the Condominium Board may deem appropriate to perform such duties and services as the Condominium Board shall direct, each of which committees shall have, and may exercise, all of the powers delegated to it in its enabling resolution, subject, however, to the exceptions and limitations contained in paragraph (D) of this Section 2.6.

(C) The Condominium Board may employ a Managing Agent to serve at a compensation approved by the Condominium Board and to perform such duties and services as the Condominium Board shall direct. Subject to the exceptions and limitations contained in paragraph (D) of this Section 2.6, the Condominium Board may delegate to the Managing Agent any of the powers granted to the Condominium Board in these By-Laws.

(D) Notwithstanding anything to the contrary contained in this Section 2.6, the Executive Committee and the Managing Agent shall neither have nor be entitled to exercise, and the Condominium Board shall not delegate to either of them or to any other committee, the powers or duties described in subparagraphs (ii), (iv), (v), (vi), (xiii), (xiv), (xv) and (xvi) of paragraph (A) of Section 2.4 hereof. In addition, neither the Managing Agent nor any of the committees described in subsection (B) of this Section 2.6 shall have, or be entitled to exercise, any of the powers of the Condominium Board, except to the extent permitted by Law.

Section 2.7. Number, Election and Qualification of Members. During the Initial Control Period the Board shall consist of three members designated by the Sponsor; two members shall be affiliated with the Sponsor and one shall be a Unit Owner designated by the Sponsor. The Initial Control Period shall end at the later to occur of (a) five years from the first closing; or (b) the closing of title to 75% of the Units, in number and in percentage of Common Interests. Within 30 days after the end of the Initial Control Period the First Annual Meeting of Unit Owners shall be held at which time a new three member Board shall be elected by all Unit Owners including the Sponsor. In the event that the Sponsor does not have sufficient votes to elect a member of the Board, the Sponsor shall have the right to designate one Board member so long as the Sponsor owns one Unit. All Board members shall serve for a term of one year. Except for members designated by Sponsor pursuant to the terms of this Section 2.7 or of Section 2.10 or 4.9 hereof; all members of the Condominium Board shall be either: (i) individual Residential Unit Owners or adult family members of an individual Residential Unit Owner; or (ii) individual Permitted Mortgagees; or (iii) officers, directors, shareholders, partners, principals, employees, or beneficiaries of corporations, partnerships, fiduciaries, or any other entities that are Residential Unit Owners or Permitted Mortgagees. No individual may be elected to serve on the Condominium Board, (nor may continue to serve on the Condominium Board) if the Condominium Board has perfected a lien against such Unit and the amount necessary to release such lien has not been paid at the time of such election, or so long as such lien remains unpaid. In no event may more than one individual of a designated unit serve on the

Condominium Board or as an officer of the Condominium Board at the same time during the term of office. This Section may not be amended without the written consent of the Sponsor.

Section 2.8. Term of Office of Members. Board Members shall serve for one year. Notwithstanding anything to the contrary contained in this Section 2.8, however, each member of the Condominium Board shall serve until a successor shall be elected and qualified or designated, as the case may be.

Section 2.9. Removal and Resignation of Members.

(A) Any member of the Condominium Board who was elected thereto either by the Residential Unit Owners, pursuant to the terms of Section 4.9 hereof, or by the Condominium Board, pursuant to the terms of Section 2.10 hereof; may be removed from office, with or without cause, by a vote of a majority of Residential Unit Owners. Any member of the Condominium Board who was designated as such by Sponsor pursuant to the terms of Section 2.7, 2.10, or 4.9 hereof; may be removed, with or without cause, only by Sponsor or the Owners of Unsold Units as may be the case. If any member of the Condominium Board who was designated by Sponsor or the Owners of Unsold Units is removed, the successor shall also be designated by Sponsor or the Owners of Unsold Units as may be the case. Any Member of the Condominium Board whose proposed removal is to be acted upon at a meeting of the Residential Unit Owners shall be given prior written notice thereof and an opportunity to be present and heard thereat.

(B) Any member of the Condominium Board may resign such member's membership at any time by giving written notice thereof to the Condominium Board. In addition, any member of the Condominium Board who shall cease to be qualified for membership pursuant to the terms of Section 2.7 hereof shall be deemed to have resigned such member's membership effective as of the date upon which such qualification shall cease.

Section 2.10. Vacancies.

(A) Any vacancy on the Condominium Board that is caused by the removal, resignation, or death of a member who was elected thereto by the Residential Unit Owners shall be filled by an individual who is qualified to be a member pursuant to the terms of Section 2.7 hereof and who is elected by a vote of the majority of the members of the Condominium Board elected or designated by the Residential Unit Owners then in office. A special meeting of the Condominium Board shall be held for the purpose of filling any such vacancy promptly after the occurrence thereof; and the election held thereat shall be effective to fill such vacancy even if the number of members present at such meeting shall not constitute a quorum.

(B) Any vacancy on the Condominium Board that is caused by the removal, resignation, or death of a member who was designated as such or elected by Sponsor or Owner of Unsold Residential Units shall be filled by an individual designated by Sponsor or Owner of Unsold Residential Units Owners(s) as may be the case.

(C) Each member of the Condominium Board who is elected thereto or designated as such to fill a vacancy pursuant to the terms of paragraph (A) or (B), respectively,

of this Section 2.10 shall serve as a member of the Condominium Board for the remainder of the term of the member replaced and until a successor shall be selected and qualified at the appropriate annual meeting of the Residential Unit Owners pursuant to the terms of Section 4.9 hereof.

Section 2.11. Organizational Meeting of the Condominium Board. The first meeting of the Condominium Board following each annual meeting of the Residential Unit Owners shall be held within 10 days of such annual meeting, at such time and place as shall be both fixed informally by a majority of the members of the Condominium Board and designated by the Secretary in a written notice given to all members thereof by personal delivery, mail, or telegram not later than five business days prior to such date. At such meeting, the officers of the Condominium Board shall be elected.

Section 2.12. 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 members thereof; provided that at least 4 such meetings shall be held during each fiscal year. Written notice of all regular meetings of the Condominium Board shall be given by the Secretary to each member thereof by personal delivery, mail, overnight courier, facsimile or e-mail, at least 5 business days prior to the day named for such meeting.

Section 2.13. Special Meetings of the Condominium Board. The President may call a special meeting of the Condominium Board whenever the President deems the same to be necessary or desirable. However, the President shall call such a meeting upon the written request of 3 or more members of the Condominium Board or when requested any one (1) Member of the Sponsor's Board Members. Written notice of all special meetings shall be given by the Secretary to each member thereof by personal delivery, mail, overnight courier, facsimile, or e-mail at least two (2) business days prior to the day named for such meeting, which notice shall state the time, place and purpose of the meeting.

Section 2.14. Waiver of Notice of Meetings. Any member of the Condominium Board may, at any time, waive notice of any meeting thereof in writing, and such waiver shall be deemed equivalent to the giving of notice. Attendance by a member of the Condominium Board at any meeting thereof shall constitute a waiver by the member of notice of the time and place thereof. If all of the members of the Condominium Board are present at any meeting thereof, no notice of such meeting shall be required and any business may be transacted at such meeting.

Section 2.15. Quorum of the Condominium Board. A quorum of the Condominium Board is required to be present at a Condominium Board meeting in order to make any determination or to transact any business. To constitute a quorum of the Condominium Board, attendance of a majority of the members of the Condominium Board will be required to be present at the Condominium Board meeting.

In connection therewith, one or more members of the Condominium Board may participate in any meeting thereof by means of a conference telephone or similar communications equipment permitting all individuals participating in the meeting to hear each other at the same time, and such participation shall constitute presence at such a meeting for all purposes. If, at any meeting of the Condominium Board, there shall be less than a quorum

present, a majority of the members of the Condominium Board in attendance may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting originally called but for the lack of a quorum may be transacted without further notice.

Section 2.16. Conduct of Meetings. The President shall preside at all meetings of the Condominium Board, and the Secretary shall faithfully record the minutes thereof; which minutes shall include the full text of all resolutions duly adopted by the Condominium Board and a record of all transactions and proceedings occurring thereat. The then current edition of Robert's Rules of Order, or any other rules of procedure from time to time acceptable to a majority of the Condominium Board, shall govern the conduct of the meetings of the Condominium Board unless the same shall be in conflict with the terms of the Declaration, these By-Laws, or the Condominium Act.

Section 2.17. Decisions by the Condominium Board. Except as otherwise provided in the Declaration or these By-Laws. The vote of a majority of the members attending a duly constituted meeting of the Condominium Board at which a quorum is present shall decide all matters on behalf of the Condominium Board.

Alternatively, any decision that is required or permitted to be made by the Condominium Board may be made without a meeting thereof if all of the members of the Condominium Board shall individually or collectively consent in writing to such decision, and all such written consents shall be duly filed by the Secretary of the Condominium in the minutes of the Condominium Board.

Section 2.18. Compensation of Members. No member of the Condominium Board shall receive any compensation from the Condominium for acting as such.

Section 2.19. Common or Interested Members of the Condominium Board. Each member of the Condominium Board shall perform duties, and shall exercise powers, in good faith and with a view to the interests of the Condominium. To the extent permitted by Law, no contract or other transaction between the Condominium Board and either (i) any of its members or (ii) any corporation, partnership, fiduciary, firm, association, or other entity in which any of the members of the Condominium Board are officers, directors, employees, partners, fiduciaries, beneficiaries, or principals, or are otherwise interested, pecuniarily or otherwise, shall be deemed either void or voidable because either (a) any such member of the Condominium Board was present at the meeting or meetings of the Condominium Board during which such contract or transaction was discussed, authorized, approved, or ratified, or (b) the vote of any such member was counted for such purpose, provided, however, that either:

(x) the fact thereof is disclosed to, or known by, the Condominium Board or a majority of the members thereof and noted in the minutes thereof; and the Condominium Board shall authorize, approve, or ratify such contract or transaction in good faith by a vote of a majority of the entire Condominium Board, less the number of such members; or

(y) the fact thereof is disclosed to, or known by, a Majority of Residential Unit Owners, and a Majority of Residential Unit Owners shall authorize, approve, or ratify such contract or transaction.

Any such member of the Condominium Board may be counted in determining the presence of a quorum of any meeting of the Condominium Board that authorizes, approves, or ratifies any such contract or transaction, but no such member shall be entitled to vote thereat to authorize, approve, or ratify such contract or transaction.

Section 2.20. Indemnification.

2.20.1 Indemnification of Board Members and Officers.

Section 20-1.1. To the extend permitted by Law, the members of the Condominium Board shall have no personal liability with respect to any contract, act or omission of the Condominium Board or of any Managing Agent or manager in connection with the affairs or operation of the Condominium (except in their capacities as Residential Unit Owners) and the liability of any Residential Unit Owner with respect thereto shall be limited as set forth in Section 4.13 hereof. Every contract made by the Condominium Board or by the Managing Agent shall state that it is made by the Condominium Board or the Managing Agent, only as agent for all Residential Unit Owners and that the members of the Condominium Board or the Managing Agent shall have no personal liability thereon (except in their capacities as Residential Unit Owners). Any such contract may also provide that it covers the assets, if any, of the Condominium Board. To the extent permitted by Law, the members of the Condominium Board shall have no liability to Residential Unit Owners except that a member of the Condominium Board shall be liable for such member's own bad faith or willful misconduct. All Residential Unit Owners shall jointly and severally, to the extent of their respective interests in their Units and their appurtenant Common Interests, indemnify each member of the Condominium Board against any liability or claim except those arising out of such member's own bad faith or willful misconduct. The Condominium Board may contract or effect any other transaction with any member of the Condominium Board, any Residential Unit Owner, Sponsor or any affiliate of any of them without incurring any liability for self-dealing, except in cases of bad faith or willful misconduct.

Section 20-1.2. Neither the Condominium Board nor any member thereof shall be liable for either:

(i) any failure or interruption of any utility or other services to be obtained by, or on behalf of, the Condominium Board or to be paid for as a Common Expense except when any' such failure or interruption is cause by the acts of bad faith or willful misconduct of the Condominium Board or any member thereof; or

(ii) any injury, loss or damage to any individual or property, occurring in or upon either a Unit or the Common Elements and either: (a) caused by the elements, by any Residential Unit Owner, or by any other Person; (b) resulting from electricity, water, snow, or ice that may leak or flow from a Unit or any portion of the Common Elements; or (c) arising out of theft or otherwise.

ARTICLE 3

OFFICERS

Section 3.1. General. The principal officers of the Condominium shall be the President, the Vice President, the Secretary and the Treasurer. The Condominium Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as in its discretion may be necessary or desirable. All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed, upon the direction of the Condominium Board, by any two officers of the Condominium or by such lesser number of officers or by such other Person or Persons as may be designated from time to time by the Condominium Board.

Section 3.2. President. The President shall be the chief executive officer of the Condominium and shall preside at all meetings of the Residential Unit Owners and of the Condominium Board. The President shall have all of the general powers and duties that are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York (hereinafter referred to as the "BCL"), including, but not limited to, the power to appoint the members of all committees created by the Condominium Board from amongst the Residential Unit Owners from time to time as the President may decide, in the President's discretion, are appropriate to assist in the conduct of the affairs of the Condominium.

Section 3.3. Vice President. The Vice President shall take the place of the President and perform the President's duties whenever the President shall be absent or unable to act. If both the President and the Vice President are unable to act, the Condominium Board shall appoint some other member of the Condominium Board to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall be imposed upon the Vice President from time to time by the Condominium Board or by the President.

Section 3.4. Secretary. The Secretary shall keep the minutes of all meetings of the Residential Unit Owners and of the Condominium Board. The Secretary shall have charge of such books and papers as the Condominium Board shall direct and, in general, shall perform all of the duties that are incident to the office of secretary of a stock corporation organized under the BCL.

Section 3.5. Treasurer. The Treasurer shall have the care and custody of the funds and securities of the Condominium and shall be responsible for keeping full and accurate financial records and books of account thereof, showing all receipts and disbursements necessary for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all funds and other securities in the name of the Condominium Board or in the name of the Managing Agent in such depositories as may from time to time be designated by the Condominium Board and, in general, shall perform all of the duties incident to the office of treasurer of a stock corporation organized under the BCL.

Section 3.6. Election, Term of Office and Qualification of Officers. Each of the officers of the Condominium shall be elected annually by a majority vote of all members of the Condominium Board taken at the organizational meeting of each new Condominium Board, and shall serve at the pleasure of the Condominium Board. The President, Vice President, and the Treasurer shall be elected from amongst the members of the Condominium Board. Such officers need not be Residential Unit Owners and need not have any interest in the Condominium if they are designated by Sponsor. Such officers must be Residential Unit Owners if they are elected by the other Residential Unit Owners. The other officers of the Condominium Board need not be Residential Unit Owners and need not have any interest in the Condominium.

Section 3.7. Removal and Resignation of Officers. Any officer of the Condominium Board may be removed from office, with or without cause, by an affirmative vote of a majority of the members of the Condominium Board. In addition, any officer may resign at any time by giving written notice to the Condominium Board. Finally, if the President, Vice President, or the Treasurer of the Condominium shall cease to be or shall be suspended as a member of the Condominium Board during their term of office, such officer shall be deemed to have resigned office effective upon the date upon which the membership shall cease. Notwithstanding the above, a Sponsor or Owner of Unsold Units designated or elected office may be removed by the Sponsor or Owner of Unsold Units, as may be the case.

Section 3.8. Vacancies. Any vacancy in an office shall be filled by a majority vote of the Condominium Board at any regular meeting of the Condominium Board or at a special meeting thereof called for such purpose. Notwithstanding the above, any vacancy in an office designated or elected by Sponsor or Owner of Unsold Units shall only be filled by a Sponsor or Owner of Unsold Units, as may be the case.

Section 3.9. Compensation of Officers. No officer of the Condominium shall receive any compensation from the Condominium for acting as such.

Section 3.10. Indemnification of Officers. Each officer shall be indemnified as set forth in Paragraph 2.20.

ARTICLE 4

RESIDENTIAL UNIT OWNERS

Section 4.1. Annual Meetings of the Residential Unit Owners. The first annual meeting (the "First Annual Meeting") of the Residential Unit Owners shall be held approximately 30 days after the later to occur of (i) the first anniversary of the First Closing; or (ii) the closing of title with Purchasers under the Plan of Units representing at least 75% both in number and in aggregate Common Interests of all Units offered for sale. At such meeting, a three (3) member Condominium Board shall be elected, as provided in Article 2.7 hereof. Thereafter, annual meetings of the Residential Unit Owners shall be held on or about the anniversary date of the First Annual Meeting. At each such subsequent meeting, the Residential Unit Owners (including Sponsor) shall elect successors to the members of the Condominium Board whose term of office

expires on the day of such meeting and shall transact such other business as may properly come before such meeting.

Section 4.2. Special Meetings of the Residential Unit Owners. The President shall call a special meeting of the Residential Unit Owners whenever so directed by a duly adopted resolution of the Condominium Board or upon receipt by the Secretary of a petition calling for such a meeting signed by Unit Owners having, in the aggregate, not less than twenty five (25%) percent of the Common Interests of all Unit Owners. Each such resolution or petition shall set forth, in reasonable detail, the purposes for calling such a meeting, and no business shall be transacted at such special meeting except business reasonably related to such stated purposes.

Section 4.3. Place of Meetings. Meetings of the Unit Owners shall be held at the principal office of the Condominium or at such other suitable and convenient place in the Borough in which the Property is located as may be designated by the Condominium Board.

Section 4.4. Notice of Meetings.

(A) The Secretary of the Condominium shall give notice of each annual or special meeting of the Unit Owners to all Unit Owners then of record entitled to vote at such meeting, which notice shall set forth the purpose, time and place of such meeting. Such notice may be given to any Unit Owner by personal delivery, mail, or telegram addressed to the Unit Owner's address at the Property, not less than 10 nor more than 40 days prior to the day fixed for the meeting. Any Unit Owner may designate an address for the giving of notice other than such Unit Owner's address at the Property by giving written notice thereof to the Secretary of the Condominium not less than 10 days prior to the giving of notice of the applicable meeting.

(B) If the business to be conducted at any meeting of the Unit Owners shall include the consideration of a proposed amendment to the Declaration or to these By-Laws, the notice of such meeting shall be mailed to all Unit Owners at least 30 days prior to the day fixed for such meeting and shall be accompanied by a copy of the text of such proposed amendment.

Section 4.5. Quorum of the Unit Owners. Except as otherwise provided in these By-Laws, the presence, in person or by proxy, of Unit Owners owning Units to which 40% or more of the aggregate Common Interests appertain shall constitute a quorum at all meetings of the Unit Owners. If, at any meeting of the Unit Owners, there shall be less than a quorum present, a majority of the Unit Owners present at such meeting, either in person or by proxy, may adjourn the meeting to a time and date not less than 48 hours from the time fixed for the original meeting.

Section 4.6. Conduct of Meetings. The President shall preside at all meetings of the Unit Owners, and the Secretary shall faithfully record the minutes thereof, which minutes shall include the full text of all resolutions duly adopted by the Unit Owners and a record of all transactions and proceedings occurring thereat. The then current edition of Robert's Rules of Order, or any other rules of procedure acceptable to a majority of the Unit Owners present at any meeting, in person or by proxy, shall govern the conduct of the meetings of the Unit Owners, unless the same shall be in conflict with the terms of the Declaration, these By-Laws, or the Condominium Act. All votes of the Unit Owners shall be tallied by the persons appointed by the presiding officer of the meeting.

Section 4.7. Order of Business. The order of business at all meetings of the Unit Owners shall be as follows:

(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;

(E) Reports of members of the Condominium Board;

(F) Reports of committees;

(G) Election of inspectors of election (when so required);

(H) Election of members of the Condominium Board (when so required);

(I) Unfinished business; and

(J) New business.

The order of business at meetings of Residential Unit Owners can be adjusted in the sole discretion of the Condominium Board.

Section 4.8. Voting.

(A) Subject to the terms of Section 4.9 hereof, each Unit Owner (including Sponsor for so long as Sponsor shall own any Unsold Unit) shall be entitled to cast a vote at all meetings of the Unit Owners for each percentage of Common Interest attributable to such Unit Owner's Unit(s).

(B) Notwithstanding the terms contained in paragraph (A) hereof, no Unit Owner may vote at any meeting of the Unit Owners if the Unit Owner is in default in payment of Common Charges or prior to the election as Director or Officer if the Condominium Board has perfected a lien against such Unit Owner's Unit and the amount necessary to release such lien has not been paid at least two (2) days prior to such meeting. In addition, neither the Condominium Board nor any designee thereof shall be entitled to vote the Common Interest appurtenant to any Unit owned by the Condominium Board or such designee. The Common Interests of all Units whose owners are precluded from voting pursuant to the terms of this paragraph (B) will be excluded when computing the aggregate Common Interests of all Unit Owners for voting purposes.

(C) A fiduciary shall be the voting member with respect to a Unit owned in a fiduciary capacity. In addition, if 2 or more Persons own a Unit, they shall designate 1 Person amongst them to vote the Common Interest appurtenant to their Unit in a writing given to the

Secretary of the Condominium, and the vote of such designee shall be binding upon all of such Persons. Failing such a designation, all of such Persons shall mutually vote such Common Interest under 1 ballot without division, and the concurrence of all such Persons shall be conclusively presumed if any one of them purports to vote such Common Interest without protest being contemporaneously made to the individual presiding over the meeting at which such vote is taken. If protest is made, the Common Interest appurtenant to such Unit shall be counted solely for the purpose of determining whether a quorum is present for such voting.

(D) The owner of any Unit may designate any Person to act as a proxy on such Unit Owner's behalf. The designation of any such proxy shall be made in a written notice both signed and dated by the designator and delivered to the Secretary of the Condominium at or before the appointed time for the meeting(s) during which the same is to be effective. Any such designation shall be revocable at any time upon written notice given to the Secretary of the Condominium; however, no revocation of such designation shall be effective with respect to any votes cast by such proxy prior to the receipt of such revocation notice by the Secretary of the Condominium or, if such revocation is made at a meeting of the Unit Owners during which the Secretary of the Condominium is not in attendance, by the individual acting as the secretary of such meeting, except with respect to the designation of a Permitted Mortgagee to act as the proxy of its mortgagor(s), no designation to act as a proxy shall be effective for a period in excess of 6 months after the date thereof.

Section 4.9. Election of Members to the Condominium Board.

(A) When voting for members of the Condominium Board, each Residential Unit Owner (including Sponsor for so long as Sponsor shall own any Unsold Units) shall be entitled to cast 1 vote for each 01% of Common Interest attributable to the Unit(s) per member to be elected. However, nothing contained herein shall be deemed either to permit any Unit Owner to cumulate the votes attributable to the ownership of a Unit in favor of any one (1) or more members to be elected. In addition, the terms of paragraphs (B), (C) and (D) of Section 4.8 hereof shall apply to all elections of members of the Condominium Board.

(B) All elections of members of the Condominium Board shall be by written ballot, and each ballot cast shall state: (i) the name of the voting Unit Owner and, if such ballot is cast by proxy, the name of the proxy; (ii) the designation number(s) of the Unit(s) owned by the voting Unit Owner; (iii) the percentage(s) of the Common Interest appurtenant to such Unit(s); and (iv) the names of the candidates for whom such ballot is cast (the number of which names shall not exceed the number of members to be elected). Any ballot that is not cast in conformity with this paragraph (B) shall not be counted. All election ballots shall be retained in the records of the Condominium, appropriately segregated by election for a period of 2 years.

(C) Subject to the terms of paragraph (D) of this Section 4.9, all elections of members of the Condominium Board shall be determined by plurality vote of Unit Owners present, in person or by proxy, at a duly convened meeting.

(D) At meetings of the Unit Owners, after the Initial Control Period, Sponsor will have the right to vote all of the Common Interests attributable to the Unsold Units as it sees fit. Subsequent to the Initial Control Period, and for so long as Sponsor continues to own at least

one (1) Unsold Unit, Sponsor shall have the right to designate one (1) Member to the Condominium Board, and shall have the right to vote its Common Interest attributable to the Unsold Units for the remaining Members of the Condominium Board. There is no restriction on the right of the Sponsor to vote for Members of the Condominium Board who are not related to or affiliated with Sponsor.

(E) Within 30 days after the Initial Control Period, one of the two Members of the Condominium Board who were designated by Sponsor shall resign and their replacements shall be filled by a vote of the Residential Unit Owners (including Sponsor for so long as Sponsor shall own any Unsold Unit) at a special meeting called for such purpose.

Section 4.10. Intentionally Omitted..

Section 4.11. Action Without a Meeting. Any action required or permitted to be taken by the Unit Owners at a duly constituted meeting may be taken without such a meeting if the number of Unit Owners sufficient (both in absolute number and in aggregate Common Interests whenever applicable) to approve such an action at a duly constituted meeting of the Unit Owners pursuant to the Declaration or to these By-Laws consent in writing to the adoption of a resolution approving such action. All written consents given by Unit Owners pursuant to this Section 4.11 shall be retained in the records of the Condominium together with a true copy of the resolutions to which they relate.

Section 4.12. Title to Units. Title to any Unit may be taken by any Person or by any two or more Persons as joint tenants, tenants in common, or tenants by the entirety, as may be appropriate. The sale of a Unit to a corporation, partnership, limited partnership, trust or any other entity (including any entity or person entitled to diplomatic or sovereign immunity) shall require the delivery to the Condominium Board or its managing agent at closing (i) any and all documents as are reasonably requested by the Condominium Board, including without limitation, a personal guaranty, a subjection to jurisdiction, occupancy agreement and escrow agreement.

Section 4.13. Contractual Liability of Unit Owners. Every contract made by the Condominium Board, by any officer of the Condominium, or by any superintendent or Managing Agent of the Building shall state (if obtainable and in addition to the limitation of liability of the members of the Condominium Board and the officers of the Condominium pursuant to the terms of Sections 2.20 and 3.10 hereof, respectively) that the liability of any Residential Unit Owner with respect thereto shall be limited to: (i) such proportionate share of the total liability thereunder as the Common Interest of such Unit Owner bears to the aggregate Common Interests of all Unit Owners in the case of a contract relating to the General Common Elements and (ii) such Unit Owner's interest in the Unit and its Appurtenant Interests, unless otherwise provided by Law.

ARTICLE 5

OPERATION OF THE PROPERTY

Section 5.1. Maintenance and Repairs to the Residential Units and Licensed Spaces.

Reference to Units in this Section shall apply to the Residential Units and to Common Elements and Limited Elements and General at apply to said Residential Units.

(A) Except as otherwise provided in the Declaration or in these By-Laws, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary:

(i) in or to any Unit and all portions thereof (including, but not limited to, the interior walls, partitions, ceilings and floors in the Unit, kitchen and bathroom fixtures and appliances, window panes, fireplace and flue, all entrance doors and their frames and saddles, exposed plumbing, gas and heating fixtures and equipment, air conditioning units, lighting and electrical fixtures and any Common Elements incorporated therein pursuant to paragraph (B) of Section 5.8 hereof, but excluding any other Common Elements contained therein) shall be performed by the owner of such Unit at such Residential Unit Owner's sole cost and expense; and

(ii) in or to the General Common Elements (other than any General Common Elements incorporated into one or more Units pursuant to the terms of paragraph (B) of Section 5.8 hereof) shall be performed by the Condominium Board and the cost and expense thereof shall be charged to all Residential Unit Owners as a Common Expense;

(iii) in or to the Limited Common Elements shall be performed (a) by the Condominium Board as a Common Expense, if involving structural or extraordinary maintenance, repairs, or replacements (including, but not limited to, the repair of any leaks that are not caused by the acts or omissions of the Residential Unit Owner having direct and exclusive access thereto), or (b) by the Residential Unit Owner having direct and exclusive access thereto at such Residential Unit Owner's sole cost and expense, if involving painting, decorating and non-structural ordinary maintenance, repairs or replacements, (including without limitation, the removal of snow, ice and accumulation of water on any Terrace.

Promptly upon obtaining knowledge thereof, each Residential 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. All painting, decorating, maintenance, repairs and replacements performed hereunder or otherwise, whether by or at the behest of a Residential Unit Owner or the Condominium Board, shall be performed in such a manner as shall not unreasonably disturb or interfere with any Residential Unit Owners or the tenants and occupants of any Units.

(B) Notwithstanding anything to the contrary provided in paragraph (A) of this Section 5.1, if any painting, decorating, maintenance, repairs, or replacements to the Property or any part thereof, whether structural or non-structural, ordinary or extraordinary, is necessitated by the negligence, misuse, or abuse of (i) any Residential Unit Owner, the entire cost and expense thereof shall be borne by such Residential Unit Owner, or (ii) the Condominium Board, the entire cost and expense thereof shall be borne by the Condominium as a Common Expense

attributable to all Residential Unit Owners if relating to the General Common Elements and/or the Limited Residential Common Elements except, in all events, to the extent that such cost and expense is covered by the proceeds of any insurance maintained pursuant to the terms of these By-Laws. Similarly, each Residential Unit Owner shall be responsible for any and all damage to any Unit or to the Common Elements resulting from such Residential Unit Owner's failure to maintain, repair, or replace the Unit or any portion thereof as required herein.

(C) Each Unit and all portions of the Common Elements shall be kept in first-class condition, order and repair (and free of snow, ice and accumulation of water with respect to any roof or other part of the Property exposed to the elements) by the Residential Unit Owner or the Condominium Board, whichever is responsible for the maintenance thereof as set forth herein, and such Residential Unit Owner or the Condominium Board, as the case may be, shall promptly make or perform, or cause to be made or performed, all maintenance work, including, without limitation, painting, repairs and replacements that is necessary in connection therewith. The Condominium Board shall be responsible for the maintenance and repair of all sidewalks surrounding the Building (including, cleaning and snow and ice removal) as if the sidewalks were General Common. The exterior and interior glass surfaces of all windows located in any Residential Unit shall not be colored or painted by the Residential Unit Owner. All glass surfaces located in any Unit shall be cleaned as follows: the exterior and interior glass surfaces are to be washed and cleaned by the Residential Unit Owner at such Residential Unit Owner's sole cost and expense, except for those exterior glass surfaces which are considered curtainwall windows which are to be washed and cleaned by the Condominium Board, at the Condominium Board's sole cost and expense. Any replacement of glass windows in any Unit because of breakage or otherwise shall be made by the Residential Unit Owner thereof (except curtain wall glass windows which shall be made by the Condominium Board), each at the sole cost and expense of the Residential Unit Owner (unless such breakage is caused by the Condominium Board or any other Residential Unit Owner, in which event such replacement of glass windows will be at the sole cost and expense of the Condominium Board or such Residential Unit Owner). Notwithstanding the foregoing, prior to the replacement of any glass window the Residential Unit Owner must obtain the prior written approval of the Condominium Board, with respect to the type of replacement windows installed. In addition, the public areas of the Building and those residential areas exposed to public view shall be kept in good appearance, in conformity with the dignity and character of the Building, as determined by the Condominium Board in its sole discretion, by (i) the Condominium Board, with respect to such parts of the Building required to be maintained by it, and (ii) each Residential Unit Owner, with respect to the interior surfaces of windows and shades, venetian or other blinds, drapes, curtains or other window decorations in or appurtenant to such Residential Unit Owners Unit. To promote a consistent appearance of the Building from the outside, (x) no Residential Unit Owner shall be permitted to enclose, erect a greenhouse and/or alter a Terrace appurtenant to a Unit, in such a way that will alter the conformity of the Building, without the prior written approval of the Condominium Board.

(D) In the event that any Residential Unit Owner, after receipt of written notice from the Condominium Board, fails or neglects in any way to perform any of its obligations with respect to the painting, decorating, maintenance, repair or replacement of its Unit as provided in this Section 5.1 (or of any Common Elements for which such Residential Unit Owner is responsible under the Declaration or these By-laws), the Condominium Board may perform or cause to be performed such painting, decorating, maintenance, repair or

replacement unless such Residential Unit Owner, within 5 days after receiving notice of such default by the Condominium Board, cures such default, or in the case of a default not reasonably susceptible to cure within such period, commences and thereafter prosecutes to completion, with due diligence, the curing of such default. All sums expended and all costs and expenses incurred in connection with the making of any such painting, decorating, maintenance, repair or replacement in such Residential Unit Owner's Unit or to any such Common Element for which such Residential Unit Owner is responsible, together with interest thereon at the rate of 2% per month (but in no event in excess of the maximum rate permitted by Law), shall be immediately payable by such Residential Unit Owner to the Condominium Board and shall, for all purposes hereunder, constitute Common Charges payable by such Residential Unit Owner.

Section 5.2. Alterations, Additions, Improvements, Maintenance or Repairs in and to Units.

(A) Subject to the terms of paragraph (B) of this Section 5.2, no Residential Unit Owner may make any structural alteration, addition, improvement or repair, in or to the Unit or its appurtenant Limited Residential Common Elements without the prior written approval of the Condominium Board. In the event, however, that the Condominium Board shall fail to answer any written, reasonably detailed request for such approval within 30 days after such request is received, such failure to respond shall constitute the Condominium Board's consent thereto. Prior to, and as a condition of, the granting of any such approval, the Condominium Board may, at its sole option, require the Residential Unit Owner to procure and agree to maintain during the course of such work such insurance as the Condominium Board may reasonably prescribe and to execute an agreement, in form and substance satisfactory to the Condominium Board, setting forth the terms and conditions under which such alteration, addition, or improvement, may be made, including, without limitation, the indemnity referred to in paragraph (D) hereof and the days and hours during which any such work may be done. The Condominium Board may impose charges upon the Residential Unit Owner to reimburse the Condominium for architectural, engineering, legal and other fees incurred in reviewing the Residential Unit Owner's request for approval and in monitoring the work performed until completion.

(B) Notwithstanding anything to the contrary contained in paragraph (A) of this Section 5.2, however, Sponsor and/or Owner(s) of the Unsold Residential Unit(s) shall (B) have the right, pursuant to the terms of Article 12 of the Declaration, to (i) make any alterations, additions, improvements, or repairs in or to any Unsold Unit or its appurtenant Limited Common Elements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, and (ii) subdivide, combine and change the boundary walls of any Unsold Units, all without the approval of the Condominium Board.

Notwithstanding the foregoing, all Residential Unit Owners, including Sponsor, prior to the making of any alteration, addition, improvement or repair in or to their respective Unit and its appurtenant Limited Common Elements, if any, must (i) procure and maintain such insurance as the Condominium Board may reasonably require, (ii) indemnify' the Condominium Board and the Managing Agent against any liability arising from the work and (iii) abide by the Rules and

Regulations of the Condominium, including, but limited to, the days and hours during which work may be done.

(C) All alterations, additions, improvements and repairs by Residential Unit Owners shall be made in compliance with Law. In connection therewith, the Condominium Board shall execute applications to any departments of the City of New York, or to any other governmental agencies having jurisdiction thereof, for any and all permits required in connection with the making of alterations, additions, improvements, or repairs in or to a Unit provided that, with respect to all such work of a structural nature to a Unit or its appurtenant Limited Common Elements (but other than that of the nature described in paragraph (B) hereof), the same was approved by the Condominium Board pursuant to the terms of paragraph (A) hereof.

(D) Neither the Condominium Board nor any Residential Unit Owner (other than the Residential Unit Owner making any alterations, improvements, additions, or repairs, or causing any of the same to be made, in or to the Unit and appurtenant Limited Common Elements) shall incur any liability, cost, or expense either (i) in connection with the preparation, execution, or submission of the applications referred to in paragraph (C) hereof (ii) to any contractor, subcontractor, materialperson, architect, or engineer on account of any alterations, improvements, additions, or repairs made or caused to be made by any Residential Unit Owner; or (iii) to any Person asserting any claim for personal injury or property damage arising therefrom. Any Residential Unit Owner making any alterations, improvements, additions, or repairs, or causing any of the same to be made, in or to the Unit and appurtenant Limited Common Elements, if any, shall agree (in a writing executed and delivered to the Condominium Board, if the Condominium Board shall so request), and shall be deemed to agree (in the absence of such writing), to indemnify and hold the Condominium Board, the members of the Condominium Board, the officers of the Condominium, the Managing Agent and all other Residential Unit Owners harmless from and against any such liability, cost and expense.

(E) In addition to the requirements set forth above in this Section 5.2, until a permanent certificate of occupancy is obtained for the Building, no Residential Unit Owner shall make any alterations in or to the Unit without first notifying Sponsor in writing and complying with Sponsor's requirements with respect to the alterations. Such requirements may include, but need not be limited to, the requirements that:

(i) such work not include any change that would result in a delay in obtaining a temporary or permanent certificate of occupancy for the Building, or any amendment to, or extension of, the certificate of occupancy if theretofore issued;

(ii) the Residential Unit Owner post a bond or other similar security that is reasonably acceptable to Sponsor in any amount sufficient (in Sponsor's reasonable judgment) to insure the diligent completion of the work and the filing of any required notices or certificates with all governmental authorities having jurisdiction with respect to such work and the completion of the work;

(iii) such work not be commenced until the Residential Unit Owner 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;

(iv) such work be diligently prosecuted to completion in compliance with all plans, specifications, notices and/or certifications and in conformity with all permits and licenses;

(v) Sponsor and its representatives shall be given reasonable opportunity, from time to time, to inspect such work as it progresses;

(vi) promptly after the completion of such work, all necessary inspections and approvals of the work 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, notices and certifications;

(vii) the Residential Unit Owner shall indemnify and hold Sponsor harmless from any cost, expense, claim, or liability arising, directly or indirectly, from such work, including, without limitation, any cost, expense, claim, or liability incurred or suffered by Sponsor due to any violation of Law or due to any delay in obtaining a temporary or permanent certificate of occupancy for the Building (or any amendment to, or extension of, the certificate of occupancy if theretofore issued) as a result of such work or the failure to make all appropriate governmental filings in connection with same; and

(viii) 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 (including, without limitation, services directly or indirectly at the behest, for the benefit, or for the account of Sponsor, any other Residential Unit Owner, or the Condominium Board), such work shall be performed solely by union members.

If any Residential Unit Owner commences any such alterations in violation of the foregoing terms and conditions, or fails to comply with the reasonable requirements of Sponsor in connection with the alterations, Sponsor shall be entitled to cause such work by the Residential Unit Owner to be halted, including, without limitation, to cause the Managing Agent to deny access to the Building to the Residential Unit Owner's workers and suppliers, until the Residential Unit Owner complies with the same. During the period until the Residential Unit Owner is permitted hereunder to resume its work, Sponsor shall have the right to perform any and all work in and to the Unit as shall be necessary, in Sponsor's sole judgment, in order to avoid any delay in obtaining a temporary or permanent certificate of occupancy for the Building (or any amendment to, or extension of, the certificate of occupancy if theretofore issued), 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 Residential Unit Owner. The cost and expense of any such work performed by Sponsor shall be borne by such Residential Unit Owner and shall be paid to Sponsor within 15 days of Sponsor's written demand therefore.

Section 5.3. Alterations, Additions, or Improvements to the Common Elements. Except as otherwise provided in the Declaration or in these By-Laws, all necessary or desirable

alterations, additions, or improvements in or to any of the Common Elements shall be made by the Condominium Board, and the cost and expense thereof shall constitute a Common Expense attributable to all Residential Unit Owners. Notwithstanding the foregoing, however, whenever the cost and expense of such alterations, additions, or improvements would, in the judgment of the Condominium Board, exceed $500,000 with respect to the General Common Elements and/or the Limited Common Elements, at any one time, in any fiscal year, such proposed alterations, additions or improvements shall not be made unless first approved by the Residential Unit Owners (including Sponsor if Sponsor then owns any Unsold Unit) owning 66 2/3% of the aggregate Common Interests at a duly constituted meeting of the Residential Unit Owners, and by the Mortgage Representatives, if any. Except as otherwise provided in the Declaration and in these By-Laws, all such alterations, additions, or improvements costing $500,000 or less, in any fiscal year may be made as aforesaid without the approval of either the Residential Unit Owners or any Mortgage Representatives. Notwithstanding the foregoing, no additions, alterations, or improvements shall be made to any of the Common Elements, regardless of the cost thereof, unless the prior written consent of Sponsor is first obtained, provided, however, that Sponsor's written consent is not necessary if such additions, alterations, or improvements to the Common Elements is required to (i) comply with Law; or (ii) remedy any notice of violation; or (iii) remedy any work order of the Condominium's issuer. In no event will the limitations imposed in the preceding sentence continue beyond the earlier to occur of (i) five (5) years from the First Closing or (ii) until such time as Sponsor no longer owns 25% both in number and in aggregate Common Interests of all Units.

Section 5.4. Insurance.

(A) If the same shall be obtainable, the Condominium Board shall obtain, and shall maintain in full force and effect, special multi-peril insurance policies including fire with extended "all risk" coverage, replacement cost coverage and agreed valuation, vandalism and malicious mischief endorsements, insuring the entire Building (other than the space defined by the dimensions of the Units and any appliances, fixtures, improvements or any furniture, furnishings, decorations, belongings, or other personal property contained therein) together with all service machinery contained therein and covering the interests of the Condominium, the Condominium Board, all of the Residential Unit Owners and all Permitted Mortgagees, as their respective interest may appear. Each of the said policies shall contain:

(i) waivers of (a) subrogation, (b) any defense based upon co-insurance or other insurance, (c) invalidity arising out of any acts of the insured, and (d) pro-rata reduction of liability;

(ii) a provision that any adjustment of loss will be made by the Condominium Board and that all proceeds thereof shall be paid to either the Condominium Board or the Insurance Trustee, as provided in Section 5.5 hereof.

(iii) a New York standard mortgagee clause in favor of each Permitted Mortgagee, which shall provide that the proceeds thereof shall be paid to such Permitted Mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Condominium Board and the Insurance Trustee set forth in subparagraph (ii) above and in Section 5.5 hereof; and

(iv) a provision that such policy may not be either canceled or substantially modified except upon at least 30 days prior written notice to the Condominium Board and all insureds who may have requested such notice, including Permitted Mortgagees.

Duplicate originals or certificates of insurance of all such policies and of all renewals thereof, together with proof of payment of premiums, shall be on file at the office of the Managing Agent. Copies thereof shall be delivered to any Unit Owner or Permitted Mortgagee on written request thereof.

(B) The Condominium Board shall also obtain and maintain, to the extent it deems practicable:

(i) comprehensive general liability insurance, covering all claims for personal injury or property damage arising out of any occurrence on the Property and listing as co-insureds (a) the Condominium Board and each member thereof, (b) the Managing Agent or manager (if any), (c) each officer and employee of the Condominium and (d) each Unit Owner (except, however, that such insurance shall not cover any liability of a Unit Owner arising from occurrences within the own Unit or its Limited Common Elements, if any);

(ii) rent insurance;

(iii) worker's compensation and New York State disability benefits insurance;

(iv) boiler and machinery insurance;

(v) water damage insurance;

(vi) officers and directors liability insurance;

(vii) fidelity insurance and bonds covering all officers, directors and employees of the Condominium and Managing Agent;

(viii) plate glass insurance;

(ix) commercial umbrella insurance; and

(x) such other insurance as the Condominium Board shall from time to time determine.

Each of the aforementioned policies of insurance shall also cover cross-liability claims of one insured against another.

(C) All policies of insurance to be maintained by the Condominium Board shall contain such limits as the Condominium Board shall from time to time determine, provided, however, that:

(i) with respect to insurance policies maintained by the Condominium Board pursuant to paragraph (A) hereof, the coverage shall be in an amount equal to not less than 80% of the full replacement cost of the Building, exclusive of footings and foundations, without deduction for depreciation, as approved by a fire insurance company, a qualified insurance broker, or another qualified source;

(ii) with respect to insurance policies maintained by the Condominium Board pursuant to subparagraph (i) of paragraph (B) hereof, such policies shall contain single limits of not less than $1,000,000 in the aggregate; and

(iii) with respect to insurance policies maintained by the Condominium Board pursuant to subparagraph (ii) of paragraph (B) hereof, the coverage shall be in an amount equal to the aggregate of all of the Residential Unit Owners' Common Charges for one year.

Any insurance policies maintained by the Condominium Board may also provide for such deductible amounts as the Condominium Board shall determine. The Condominium Board shall review the limits of each insurance policy, as well as the amount of any deductible sum thereunder, at least once each year.

(D) The cost of all insurance maintained by the Condominium Board pursuant to this Section 5.4, together with the fees and disbursements of any Insurance Trustee appointed by the Condominium Board pursuant to the terms of these By-Laws, shall be borne by the Unit Owners as a Common Expense.

(E) Unit Owners are required to carry other insurance, at their expense, insuring the contents of their Units and their respective Limited Common Elements and liability insurance with respect to acts occurring therein. All such policies shall contain waivers of subrogation and provide that the liability of the carriers issuing the insurance maintained by the Condominium Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner affording protection of at least $250,000.00 per occurrence, plus at least $500,000.00 umbrella liability coverage, naming the Condominium Board as additional insured".

Section 5.5. Casualty or Condemnation.

(A) In the event that either (i) the Building or any part thereof is damaged or destroyed by fire or other casualty ("Casualty Loss") or (ii) the General Common Elements and/or Limited Common Expense, or any part thereof is taken in condemnation or by eminent domain ("Taking"), the net insurance proceeds payable under the insurance policies maintained by the Condominium Board pursuant to the terms of Section 5.4 hereof by reason of such Casualty Loss or the net condemnation awards receivable by reason of such Taking, as the case may be, shall be payable either to the Condominium Board, if the same shall be $1,000,000 or

less in the aggregate, or to the Insurance Trustee, if the same shall exceed $1,000,000 in the aggregate. In either instance, all such monies actually received ("Trust Funds") shall be held in trust for the benefit of all Residential Unit Owners, with respect to the portion thereof allocated to a Casualty Loss to or Taking of the General Common Elements, the Limited Common Elements and the Units and their Permitted Mortgagees and shall be disbursed pursuant to the terms of this Section 5.5. Notwithstanding anything to the contrary contained either in this paragraph (A) or elsewhere in this Section 5.5, however, no Residential Unit Owner whose Unit, its appurtenant Limited Common Elements, if any, or any portion thereof are taken in condemnation or by eminent domain (whether or not all or a part of the Common Elements are contemporaneously taken) shall be deemed to have waived whatever rights that the Residential Unit Owner may have to pursue a separate claim against the condemning authority by reason thereof.

(B) Subject to the terms of paragraph (D) hereof, the Condominium Board shall arrange for the prompt repair or restoration ("Work") of: (i) in the event of a Casualty Loss, the portion(s) of the Building (including all Units and the bathroom and kitchen fixtures installed therein on the date of recording the Declaration and all service machinery contained therein, but not including appliances, fixtures, improvements made therein by a Residential Unit Owner, or any furniture, furnishings, decorations, belongings, or other personal property supplied or installed by either Residential Unit Owners or the tenants of Residential Unit Owners) affected by such Casualty Loss, or (ii) in the event of a Taking, the portion(s) of the Common Elements or the Units affected by such Taking. If, pursuant to the immediately preceding sentence, Work is to be performed in or to Units, Common Elements that service or enclose Units and other Common Elements, or any combination of the foregoing, the Work shall be performed to the extent practicable, first in or to the Units, next in or to the Common Elements that service or enclose Units and then in or to the balance of the Common Elements. Each Residential Unit Owner whose Unit, its appurtenant Limited Common Elements, if any, or any portion thereof, shall be the subject of all or part of any Work shall have the right subject to the terms of Section 5.2 hereof, to supervise any redecorating of the Unit or of such Limited Common Element, if any.

(C) In the event that Work shall be performed pursuant to the terms of paragraphs (B) and (D) of this Section 5.5, the Condominium Board or the Insurance Trustee, as the case may be, shall disburse the Trust Funds to the contractors engaged in the Work in appropriate progress payments. If the Trust Funds shall be less than sufficient to discharge the cost and expense of performing the Work, the Condominium Board shall levy a Special Assessment against all Residential Unit Owners for the amount of such deficiency in proportion to their respective Common Interests, for Work to the General Common Elements or Limited Common Elements and all proceeds of such Special Assessment shall become part of the Trust Funds. If, conversely, the Trust Funds shall prove to be more than sufficient to discharge the cost and expense of performing the Work, such excess shall be paid to all Residential Unit Owners in proportion to their respective Common Interests, with respect to Work to the Common Elements, except that no payment shall be made to a Residential Unit Owner until there has first been paid, out of such Unit Owner's share of such excess, such amounts as may be necessary to reduce unpaid liens on the Unit Owner's Unit (other than mortgages that are not Permitted Mortgages) in the order of priority of such liens. Notwithstanding the foregoing, however, in the event that the Unit Owners are assessed pursuant to the terms of the second sentence of this paragraph (C) for any projected

deficiency in the amount of the Trust Funds available to the Condominium Board and, after the payment of all costs and expenses incurred in connection with the Work, any portion of the Trust Funds remaining unspent, such excess Trust Funds shall, to the extent of such Special Assessment, be deemed to be, and shall constitute, an unspent Special Assessment and shall be paid to the Unit Owners so assessed in proportion to their respective Common Interests, with respect to Work to the Common Elements, free of any claim of any lienor (including without limitation, any Permitted Mortgagee).

(D) If either 75% or more of the Building is destroyed or substantially damaged by fire or other casualty or 75% or more of the Common Elements are taken in a Taking, the Work shall not be performed unless 75% or more of all Unit Owners (including Sponsor if Sponsor shall then own any Units), in aggregate Common Interests, shall promptly resolve to proceed with the same. In the event that a sufficient number of Unit Owners shall so resolve, the Work shall be performed pursuant to the terms of paragraphs (B) and (C) hereof. Conversely, in the event that a sufficient number of Unit Owners shall either fail or refuse to so resolve, the Work shall not be performed and the Property shall be subject to an action for partition by any Unit Owner or lienor, as if owned in common, in which event the net proceeds of the resulting sale, together with any Trust Funds, shall be paid to all Unit Owners in proportion to their respective Common Interest, to the extent allocated to destroyed or damaged portions of the General Common Elements or the Limited Common Elements, except that no payment shall be made to a Unit Owner until there first has been paid, out of such Unit Owner's share of such funds, such amounts as may be necessary to pay off any Permitted Mortgage and other unpaid liens on the Unit Owner's Unit in the order of priority of such liens.

(E) In the event that the damage resulting from a Casualty Loss shall (i) render one or more Units wholly or partially unusable for the purposes permitted and in the Declaration or (ii) destroy the means of access to one or more Units, the installments of Common Charges otherwise payable by the owner of any Unit so affected thereby shall proportionately abate until such Unit shall again be rendered usable for such purposes and/or until the means of access thereto shall be restored, as the case may be. Notwithstanding the foregoing, however, if such Casualty Loss shall be caused by the act, the omission to act, or the negligence of the owner of a Unit so affected thereby, by a Family Member of such Residential Unit Owner, or by a tenant or other occupant of such Unit, such installments of Common Charges shall abate only to the extent of any proceeds of rent insurance actually collected by the Condominium Board with respect to such Unit.

(F) If (i) a portion of any Unit shall be taken in condemnation or by eminent domain and (ii) the Condominium shall not be terminated by reason of a simultaneous Taking pursuant to the terms of paragraph (D) hereof, the Common Interest appurtenant to such Unit shall be adjusted in the proportion that the total floor area of such Unit and its appurtenant Limited Common Elements, if any, after such Taking bears to the total floor area of such Unit and its appurtenant Limited Common Elements, if any, prior to such Taking. The Condominium Board shall promptly prepare and record an amendment to the Declaration reflecting the new Common Interest, appurtenant to such Unit, which amendment shall be executed by the owner of such Unit together with the holders of record of any liens thereon (or, in lieu of execution by such Residential Unit Owner and lienors, the same may execute a consent to such amendment in recordable form). Following the Taking of a portion of a Unit and the recording of the

aforementioned amendment to the Declaration, the votes appurtenant to such Unit shall be based upon the new Common Interest of such Unit, and, in the event of a Taking of an entire Unit, the right to vote appurtenant to such Unit shall wholly terminate. In either event, the Common Interests and Common Interest, where applicable, of the other remaining Units shall be adjusted accordingly and reflected in an amendment to the Declaration duly executed and acknowledged by the Condominium Board and the owners of all of the other or remaining Units together with the holders of the Permitted Mortgages.

(G) As used in this Section 5.5, the terms:

(i) "Prompt repair or restoration" shall mean that the Work is to be commenced not more than either: (a) 60 days after the date upon which the Insurance Trustee notifies the Condominium Board that it has received Trust Funds sufficient to discharge the estimated cost and expense of the Work, or (b) 90 days after the date upon which the Insurance Trustee notifies the Condominium Board that it has received Trust Funds insufficient to discharge the estimated cost and expense of the Work, or (c) in the event that the Trust Funds are payable to the Condominium Board pursuant to the terms of paragraph (A) of this Section 5.5, 60 days after the date upon which the Condominium Board notifies the Residential Unit Owners that it has received the Trust Funds, whether or not the same are sufficient to discharge the cost and expense of the Work;. In the event there are insufficient Trust Funds to discharge the estimated cost and expense of the Work, the Condominium Board shall levy a Special Assessment for the amount of such deficiency in accordance with paragraph (C) of this Section 5.5; and

(ii) "Promptly resolve" shall mean that a resolution shall be duly made not more than 60 days after the date upon which the Condominium Board notifies the Residential Unit Owners that it has received the Trust Funds and that the same are or are not sufficient to discharge the estimated cost and expense of the Work, as the case may be.

(H) Any dispute that may arise under this Section 5.5 between Residential Unit Owners or between any Residential Unit Owner(s) and the Condominium Board shall be resolved by arbitration pursuant to the terms of Article 10 hereof.

Section 5.6. Use of the Property.

(A) No nuisance shall be allowed on the Property, nor shall any use or practice be allowed that either is a source of annoyance to its residents or interferes with the peaceful possession or proper use of the Property by its residents or occupants. No immoral, improper, offensive, or unlawful use shall be made of the Property or any portion thereof, and all valid Laws relating to any portion of the Property shall be complied with at the sole cost and expense of the respective Residential Unit Owners or the Condominium, whoever shall have the obligation to maintain or repair such part of the Property.

(B) Nothing shall be done or kept in any Unit or in any of the Common Elements that would increase the rate of insurance for the Property, except upon the prior written consent of the

Condominium Board. No Residential Unit Owner shall permit anything to be done or kept in a Unit or in the Common Elements that will result in the cancellation of insurance on the Property or the contents thereof, or that would be in violation of any Law. No waste shall be committed in the Common Elements.

(C) Nothing shall be done in any Unit or in, on, or to the Common Elements that will impair the structural integrity of the Property or will structurally change the Building, except as is otherwise provided in the Declaration or in these By-Laws. In no event shall interior partitions contributing to the support of any Unit or the Common Elements be altered or removed.

Section 5.7. Use of the Units.

(A) In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of Units shall be restricted to, and shall be in accordance with, the terms contained in the balance of this Section 5.7.

(B) Subject to the terms of paragraphs (C) and (D) of this Section 5.7, each Unit shall be used for residential use only and not more than one family may occupy a Residential Unit at any one time. A Residential Unit owned or leased by an individual, corporation, partnership, fiduciary, or any other entity may be occupied only by an individual, or by an individual officer, director, stockholder, or employee of such corporation, or by an individual partner or employee of such partnership, or by an individual fiduciary (including directors, officers, stockholders, or employees of corporate fiduciaries and partners and employees of partnership fiduciaries), or by an individual beneficiary of said fiduciary, or by an individual principal or employee of such other entity, respectively, or by the Family Members and guests of any of the foregoing (and nothing herein contained shall be deemed to prohibit the exclusive occupancy of any such Unit by such Family Members or guests). Notwithstanding the foregoing, Sponsor (or, when there are no longer any Unsold Units, the Condominium Board) may, in its sole discretion, permit Persons other than those set forth above to occupy a Unit. In no event, however, shall a portion of a Unit (as opposed to the entire Unit) be sold, conveyed, leased, or subleased.

(C) The Condominium Board may, in its sole discretion, consent to the use of a Unit as a professional or business office or for any purpose other than that set forth in paragraph (B) hereof, provided that the nature and manner of such use complies with Law and does not violate the then existing Certificate of Occupancy covering the Building. Any such consent shall be in writing and shall be personal to such Residential Unit Owner. Any lessee of, or successor in title to, such Residential Unit Owner shall be required to obtain the prior written consent of the Condominium Board before using such Unit for any purpose other than that set forth in paragraph (B) hereof.

(D) Notwithstanding anything to the contrary contained in this Section 5.7, Sponsor may, without the consent of either the Condominium Board or the Residential Unit Owners:

(i) grant permission for the use of any Unsold Unit as a professional or business office or for any other purpose, provided that the nature and manner of such use complies with Law and the user thereof complies with all applicable governmental regulations; and

(ii) use any one or more Unsold Unit as model Units and offices for the sales promotion, rental, management and operation of the Unsold Units or for any other purpose, subject only to compliance with Law.

Section 5.8. Use of the Common Elements.

(A) Subject to the terms of paragraphs (E) and (F) of this Section 5.8, the Common Elements (including, without limitation, the electrical, heating, gas, plumbing and other mechanical systems and equipment of the Building and the Facilities) may be used only for the furnishing of the services and facilities, and for the other uses, for which they are reasonably suited and capable. In addition, no furniture, packages, or objects of any kind shall be placed in the lobbies, vestibules, public halls, stairways, public elevators, or any other part of the Common Elements (except for those areas designated as storage areas) without the prior written consent of the Condominium Board. The lobbies, vestibules, public halls, stairways and public elevators shall be used only for normal passage through them. Accordingly, all Residential Unit Owners shall require their tradesperson to utilize exclusively the elevator and entrance designated by the Condominium Board for transporting packages, merchandise, or other objects.

(B) Each Storage Area or Roof Cabana shall be used only for the storage of personal effects of the Residential Unit Owner, and in no event shall any food or other perishable item, or any flammable or explosive item, or any material which will pose a health or safety threat or which will result in the cancellation of insurance on the Building, or the contents thereof, or which would otherwise create a nuisance, be stored therein. Except for Sponsor, no Storage Area or Roof Cabana may be licensed independently of the ownership of a Residential Unit.

(C) The Condominium Board has the authority to promulgate additional rules regarding the use of and access to the Storage Area or Roof Cabana and the procedures for assigning such Storage Areas or Roof Cabanas. A Residential Unit Owner may transfer or surrender the Storage or Cabana License to another Residential Unit Owner for such consideration as the Condominium Board shall deem appropriate.

(D) Notwithstanding anything to the contrary contained in this Section 5.8, Sponsor may, without the consent of either the Condominium or the Unit Owners, use any unlicensed Storage Area or Roof Cabana for any purpose, provided such use is permitted by law.

(E) The owner or owners of any 2 or more Units, which Units are the only Units serviced or benefited by any Common Element adjacent or appurtenant to such Units (for example, that portion at the end of any residential hallway that is directly adjacent to any such Units located on opposite sides of such hallway) shall, with the consent of the Condominium Board (which consent shall not be unreasonably withheld or delayed), have the right to use such Common Elements exclusively, as if it were a part of such Units (including the right, in the above example of a portion of a hallway, to enclose such portion), and no amendment to the Declaration or reallocation of Common Interests shall be made by reason thereof. In such event, however, such owner or owners shall, at such owner's or their sole cost and expense, both (i) operate, maintain and repair such Common Element for so long as such owner or owners exercise such exclusive right of use and (ii) restore such Common Element to its original

condition, reasonable wear and tear excepted, after such owner or owners cease to exercise such exclusive right of use.

(F) The terms of paragraph (A) of this Section 5.8 shall not apply to the Sponsor for so long as there are any Unsold Units. Sponsor shall have the right, without charge or limitation, to: (i) erect and maintain signs, of any size or content determined by Sponsor on or about any portion of the Common Elements chosen by Sponsor including, the area adjacent to the main entrance of the Building; (ii) have its employees, contractors, subcontractors and sales agents present on the Property; and (iii) do all things necessary or appropriate, including the use of the Common Elements (such as lobbies, corridors and the like), to sell, lease, manage, or operate Unsold Units, to complete any work or repairs to the Building expressly undertaken by Sponsor and to comply with Sponsor's obligations under the Plan and the Condominium Documents. In no event, however, shall Sponsor be entitled to use any Common Elements in such a manner as will unreasonably interfere with the use of any Unit for its permitted purposes.

Section 5.9. Rights of Access.

(A) Each Residential Unit Owner shall grant to the Condominium Board, to the Managing Agent or manager (if any), or to any other Person authorized by any of the foregoing a right of access (including the right of forced entry if required in the discretion of the party seeking such entry) to the Unit and its appurtenant Limited Common Elements, if any, for the purposes of:

(i) making inspections of, or removing violations noted or issued by any governmental authority against, the Common Elements or any other part of the Property;

(ii) curing defaults hereunder or under the Declaration or violations of the Rules and Regulations committed by such Residential Unit Owner or correcting any conditions originating in the Unit and threatening another Unit or all or a portion of the Common Elements;

(iii) performing maintenance, installations, alterations, repairs, or replacements to the structural elements, mechanical or electrical services, or other portions of the Common Elements located within the Unit or elsewhere in the Building;

(iv) reading, maintaining, or replacing utility meters relating to the Common Elements, to the Unit, or to any other Unit; or

(v) correcting any condition that violates the provisions of any Permitted Mortgage encumbering another Unit.

Except in cases of emergency (that is, a condition requiring repairs or replacement immediately necessary for the preservation or safety of the Building or for the safety of the occupants of the Building or other individuals, or required to avoid the suspension of any necessary service in the Building), the foregoing rights of access shall be exercised only upon not less than one (1) day's advance notice and only in such a manner as will not unreasonably interfere with the use of the Units and their appurtenant Limited Common Elements for their permitted purposes. In cases of

emergency, however, such rights of access may be exercised immediately, without advance notice and whether or not the Residential Unit Owner is present.

(B) Each Unit Owner shall grant a right of access to the Unit and its appurtenant Limited Common Elements, if any, and the Condominium Board shall grant rights of access to the Common Elements, to Sponsor, the Condominium Board, and their contractors, subcontractors, agents and employees for the purpose of fulfilling Sponsor's obligations as set forth in the Plan or in any amendment thereto, provided that access thereto shall not be exercised, with respect to any Unit and its appurtenant Limited Common Elements, if any, in such a manner as will unreasonably interfere with the use of such Unit and its appurtenant Limited Common Elements, if any, for their permitted purposes.

Section 5.10. Modification of the Rules and Regulations. The Condominium Board shall have the right to amend, modify, add to, or delete any of the Rules and Regulations from time to time, provided, however, that any such amendment, modification, addition, or deletion may be overruled by a vote of at least 66 2/3% of all Unit Owners, in number and Common Interest. Copies of the text of any amendments, modifications, additions, or deletions to the Rules and Regulations shall be furnished to all Unit Owners not less than 30 days prior to the effective date thereof. Notwithstanding the foregoing, the Condominium Board shall not have the right to amend, modify, add to, or delete any of the Rules and Regulations if the same would materially and adversely affect Sponsor or an Unsold Residential Unit Owner(s), without the prior written consent of Sponsor, or said Unsold Residential Unit Owner.

Section 5.11. Real Estate Taxes. Pursuant to the classification system adopted by the State Legislature in its revision of the Real Property Tax Law (Section 305, Article 1902, and Section 581, applicable to the assessment of cooperative apartments and condominiums.), the residential units will be assessed in Tax Class (2??). Until the Units are separately assessed, each Unit Owner will pay to the Condominium Board his or her Unit's pro rata share of the Property's real estate taxes for the period in question. The share of the Property's taxes so allocated to each individual Unit will then be determined based upon the proportion that the respective Unit's initial offering price bears to the total initial offering price for all similar type of Units as set forth in Schedule A of the Offering Plan. The Condominium Board will pay such real estate taxes timely to the Department of Finance of The City of New York or directly to Sponsor if Sponsor has paid such taxes, so that no lien will be placed on the Property or any Unit. If Sponsor fails to pay real estate taxes attributable to any Unsold Residential Unit in a timely manner and as a result of such failure a lien is placed on the Property and/or any other Unit, Sponsor will immediately cause such lien to be removed at its sole cost and expense. If Unit Owners fail to pay their pro rata share of Real Estate Taxes as set forth above, the Board will be entitled to assess late charges and/or place a lien on their Units as if such unpaid share were Common Charges. (See "Collection and Lien for Non-Payment of Common Charges" in Part I, Section R, for further discussion.) A Unit Owner will not be responsible for the payment of, and will not be subject to any lien arising from the non-payment of real estate taxes assessed against any other Units. At such time as a Unit is separately assessed and separate tax bills are issued, the Unit Owner will pay such taxes directly to the taxing authority.

Section 5.12. Fuel. Unless and until fuel is billed directly to Residential Unit Owners by the supply company, in accordance with and subject to the provisions of the Plan, the cost and expense of fuel (for heating and cooling) serving or benefiting any Unit and/or Common Element shall be: (i) considered part of the expense of maintaining such Unit and/or Common Element, (ii) determined by the Condominium Board, (iii) paid by the Condominium Board, and (iv) charged to the Residential Unit Owners as a Common Expense for such portion attributable to the General Common Elements, the Units and/or the Limited Common Elements. In the event there is a particular or unique use being made of a Unit and/or Common Element, the Condominium Board shall cause a new survey to be made of the cost of which shall be borne by the Residential Unit Owners as a Common Expense.

Section 5.13. Water Charges and Sewer Rents. Unless and until water is separately metered in a Unit and water charges and sewer rents are billed directly to a Residential Unit Owner by the City Collector, in accordance with and subject to the provisions of the Plan, the cost and expense of water serving or benefiting a Unit and/or Common Element shall be: (i) considered part of the expense of maintaining such Unit and/or Common Element, (ii) determined by the Condominium Board, (iii) paid by the Condominium Board, and (iv) charged to: the Residential Unit Owners as a General Common Expense for such portion attributable to the Units and/or General Common Elements and/or Limited Common Elements.

Section 5.14. Electricity.

(A) Electricity for each Unit shall be either individually direct metered or submetered for each Unit (or portion thereof).

(B) If individually direct metered, each Unit Owner shall be required to pay the billing utility directly for electricity consumed in such Residential Unit Owner's Unit (or portion thereof) and in the Limited Common Elements to which such Unit has exclusive access.

(C) If the Units are submetered, each Unit Owner shall be required to pay bills for electricity consumed in such Unit Owner's Unit either to the Condominium Board or to the utility company or to the servicing company engaged by the Condominium Board to perform such services all at the direction of the Condominium Board. The Common Expenses shall include fees for administering and servicing the submeters. In the event that a Residential Unit Owner fails to pay for its submetered electricity, the Condominium Board shall be responsible to pay such expense on the Unit Owner's behalf and such electricity charges shall be deemed Common Charges allocable to the defaulting Residential Unit Owner and the Condominium Board shall have a lien for non-payment of the expense as provided in Article 6.4 of these By-Laws.

(D) Electricity for the Common Elements shall be supplied through one or more separate meters therefore and the cost thereof will be paid by the Condominium Board and will be borne by the Unit Owners as Common Charges.

(E) Any disputes with respect to submetering rates and billing must be submitted to Arbitration pursuant to Article 10 of these By-Laws."

Section 5.15. Records and Audits.

(A) The Treasurer of the Condominium, or the Managing Agent under the supervision of the Treasurer, shall keep full, detailed and accurate records and books of account with respect to the financial affairs of the Condominium, which records and books of account shall include, without limitation, (i) a listing of all receipts of and expenditures by the Condominium Board and the Managing Agent and (ii) a separate listing for each Unit, setting forth, among other things, the amount of each assessment of Common Charges and Special Assessments levied against such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid, as well as all Permitted Mortgages having an interest in such Unit.

(B) Within 4 months after the end of each fiscal year of the Condominium, the Condominium Board shall submit to each Unit Owner, and, if so requested, to any Permitted Mortgagee, an annual report of the receipts and expenditures of the Condominium prepared and certified by an independent certified public accountant. The cost of preparing and distributing each such report shall be borne by the Condominium Board as a Common Expense. The fiscal year of the Condominium shall be a calendar year.

ARTICLE 6

COMMON CHARGES

Section 6.1. Determination of Common Expenses and Fixing of Common Charges

(A) From time to time, but not less frequently than once a year, the Condominium Board shall: (i) prepare and adopt a budget for the Condominium, subject, in all respects, to the strictures set forth in Section 2.5 hereof (ii) determine the aggregate amount of Common Charges necessary to be charged to the Residential Unit Owners in order to meet the Common Expenses; and (iii) allocate and assess such Common Charges amongst the Residential Unit Owners in accordance with allocations set forth in the First Year's Budget. In addition to basing charges on Common Interest, the Condominium Board may also make allocations and assessments of common charges to the General Common Elements in accordance with submetering, contract allocations and usage (both projected and actual) so long as such allocations are reasonable under the circumstances and are in accordance with applicable provisions of law.

The Condominium Board shall advise all Residential Unit Owners promptly thereafter in writing of the amount of Common Charges payable by each of them, not later than 10 days prior to the date upon which the first installment of newly-determined Common Charges is due, shall furnish copies of the budget (in a reasonably itemized form) upon which such Common Charges are based to all Residential Unit Owners and to their respective Permitted Mortgagees whenever requested in writing by such Permitted Mortgagees. The Condominium Board may, subject to paragraph (E) of this Section 6.1, at its sole discretion, from time to time increase or decrease the amount of Common Charges allocated to the Units and payable by the Residential Unit Owners and may modify its prior determination of the Common Expenses for any fiscal year so as to increase or decrease the amount of Common Charges payable for such fiscal year or portion thereof; however, no such revised determination of Common Expenses shall have a retroactive effect on the amount of Common Charges payable by Residential Unit Owners for any period

prior to the date of such new determination. Notwithstanding the foregoing, however, the Condominium Board shall not reduce the Common Charges payable during any fiscal year occurring within the Initial Control Period solely as a result of either reducing the number of employees of the Condominium below the number employed (or anticipated in the First Year's Budget) for the Property on the date of recording the Declaration except with the Sponsor's prior written consent, or eliminate or reduce the insurance coverage below that provided for the Property on such date, except with the concurrence of a majority of the members of the Condominium Board elected by Residential Unit Owners other than Sponsor.

(B) The failure or delay of the Condominium Board to prepare or adopt a budget or to determine the Common Expenses for any fiscal year or portion thereof shall not be deemed a waiver or modification in any respect of the covenants and provisions hereof or a release of any Residential Unit Owner from the obligation to pay Common Charges. In such event, the Common Charges that were computed on the basis of the Common Expenses last determined for any fiscal year or portion thereof shall continue thereafter to be the Common Charges payable by the Residential Unit Owners until a new determination of the Common Expenses shall be made.

(C) In addition to the foregoing duty to determine the amount of Common Charges, the Condominium Board shall have the right, subject, in all respects, to the strictures contained in Section 2.5 hereof, to levy Special Assessments to meet the Common Expenses. All Special Assessments relative to the General Common Elements or the Limited Common Elements shall be levied against all Residential Unit Owners in proportion to their respective Common Interests. Special Assessments may be payable either in one lump sum or in installments, as the Condominium Board shall determine, provided, however, that the Condominium Board shall give each Residential Unit Owner not less than 15 days' written notice prior to the date upon which such Special Assessment, or the first installment thereof, shall be due and payable, which notice shall set forth, in reasonable detail, the nature and purpose thereof. The Condominium Board shall have all rights and remedies for the collection of Special Assessments as are provided herein for the collection of Common Charges (including, without limitation, the provisions of Section 6.4 hereof).

(D) The excess of all rents, profits and revenues derived from the rental or use of any space forming a part of, or included in, any General Common Element or Limited Common Element remaining after deduction of all expenses incurred in connection with generating the same shall constitute income of the Residential Unit Owners and shall be collected on behalf of the Residential Unit Owners by the Condominium Board and applied against the Common Expenses attributable to the General Common Elements or the Limited Common Elements, as appropriate for the fiscal year in which collected. In the event that such net rents, profits and revenues, together with the Common Charges and any Special Assessments collected from the Residential Unit Owners, for any year of operation shall exceed the Common Expenses for such year, then such excess shall be applied by the Condominium Board against the Common Expenses attributable to the General Common Elements or the Limited Common Elements depending on whether the excess relates to the General Common Elements for the next succeeding year(s) of operation. No Residential Unit Owner shall be entitled to a distribution of any portion of such excess unless the Condominium Board shall determine to distribute all or part of such excess to all Residential Unit Owners pro-rata, in proportion to their respective

Common Interests and any such distributions must be made out of the Common Charges collected from Residential Unit Owners.

Section 6.2. Payment of Common Charges

(A) All Residential Unit Owners (including Sponsor with respect to Unsold Units for so long as the same are owned thereby) shall be obligated to pay Common Charges and Special Assessments assessed by the Condominium Board pursuant to the terms of Section 6.1 hereof at such time or times (but not less than annually) as the Condominium Board shall determine. Unless otherwise determined by the Condominium Board, Common Charges shall be payable in installments on the first day of every month in advance. To the extent permitted by Law, the Condominium Board shall have a lien on each Unit, on behalf of all Residential Unit Owners, for unpaid Common Charges and Special Assessments assessed against such Unit. Such lien, however, shall be subordinate, to the extent required by Law, to any liens for real estate taxes assessed against such Unit and any sums unpaid on a Permitted Mortgage recorded against the Unit.

(B) Notwithstanding anything to the contrary contained in subparagraph (A) above, during the Initial Control Period, the Condominium Board, in its sole discretion, shall have the right to waive Residential Unit Owner's obligations to pay Common Charges from and after the First Closing for a period to be determined by the Condominium Board, provided during such period, the basic operating costs of the Condominium (exclusive of reserves) are paid from the Working Capital Fund and any balance by Sponsor.

(C) No Residential Unit Owner shall be liable for the payment of any part of the Common Charges and any Special Assessments assessed against the Unit subsequent to a sale, transfer, or other conveyance by Residential Unit Owner of such Unit, together with its Appurtenant Interests, made in compliance with the terms of Article 7 hereof. A purchaser or other successor-in-title to the owner of a Unit shall be liable for the payment of all Common Charges and any Special Assessments accrued and unpaid against such Unit prior to such purchaser's acquisition thereof, except that, to the extent permitted by Law, a Permitted Mortgagee acquiring title to a mortgaged Unit or a purchaser at a mortgage foreclosure sale held with respect to a Permitted Mortgage shall not be liable, and such mortgaged Unit shall not be subject to a lien, for the payment of any Common Charges and Special Assessments assessed subsequent to the recording of such Permitted Mortgage and prior to the acquisition of title to such Unit by the Permitted Mortgagee or by such purchaser. However, in the event of a foreclosure of a Permitted Mortgage (whether by sale, deed in lieu of foreclosure, or otherwise), the defaulting Residential Unit Owner shall remain fully liable for the payment of all unpaid Common Charges and Special Assessments that accrued prior to such foreclosure or sale. Any excess proceeds from such foreclosure or sale shall be paid directly to the Condominium Board in payment of all unpaid Common Charges and Special Assessments. Any remaining unpaid Common Charges and Special Assessments that are not collected from such foreclosure sale or from the defaulting Residential Unit Owner shall be deemed a Common Expense, collectible from all those who are Residential Unit Owners at the time the same is levied.

(D) Subject to the terms and conditions contained in these By-Laws, any Residential Unit Owner may convey the Unit, together with its Appurtenant Interests, to the Condominium

Board or to its designee, corporate or otherwise, on behalf of all Residential Unit Owners, without being compensated therefor, and, in such event, be exempt from the payment of Common Charges and Special Assessments thereafter accruing, provided, however, that: (i) all Common Charges and any Special Assessments then due and payable with respect to such Unit have been paid; (ii) such Unit is free and clear of all liens and encumbrances other than a Permitted Mortgage and the statutory lien for unpaid Common Charges and Special Assessments; and (iii) no violation of any provision of the Condominium Documents then exists with respect to such Unit. However, in no event shall Sponsor be permitted to convey any Unsold Unit to the Condominium Board and thereby exempt itself from Common Charges and any Special Assessments attributable to such Unit thereafter accruing unless the aggregate Common Interests then appertaining to the Unsold Units constitute 15% or less of the total Common Interests then appertaining to all Units, at least five years shall have elapsed from the date of the First Closing and, at the time of conveyance, Sponsor shall pay to the Condominium Board an amount equal to the product of the then current monthly Common Charges for the Unsold Unit(s) being conveyed multiplied by 24.

(E) No Residential Unit Owner shall be exempted from liability for the payment of Common Charges or Special Assessments by waiving the use or enjoyment of any or all of the Common Elements or by abandoning the Unit (except with respect to a conveyance of the same to the Condominium Board, without compensation, pursuant to the terms of paragraph (C) hereof). Except as expressly provided to the contrary in paragraph (E) of Section 5.5 hereof, no Residential Unit Owner shall be entitled to a diminution or abatement in the Common Charges or Special Assessments payable thereby for any inconvenience or discomfort arising from: (i) the failure or interruption of any utility or other services; (ii) the making of repairs or improvements to the Common Elements or any Unit (including, without limitation, such Unit) pursuant to the terms of Section 5.1, 5.2, or 5.3 hereof or (iii) any action taken by the Condominium Board or the officers of the Condominium to comply with Law.

Section 6.3. Statement of Common Charges. The Condominium Board shall promptly provide a written statement of unpaid Common Charges due from any Residential Unit Owner upon its receipt of a written request therefor from such Residential Unit Owner. In addition, each Residential Unit Owner shall be permitted to examine the books of account of the Condominium at reasonable times on business days, but not more frequently than once a month.

Section 6.4. Common Charge Deposit for Foreign Owners. Any Residential Unit Owner that is a foreign government, a resident representative of a foreign government or such other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity) shall deposit with the Condominium Board an amount equal to two (2) times the then current annual Common Charges for such Unit, subject to increase from time to time as such Common Charges increase, together with the full amount of any special assessment levied against, or allocable to, such Unit, as security for the faithful observance by such Residential Unit Owner of the terms, provisions and conditions of these By-Laws. In the event that such Residential Unit Owner defaults in respect of the terms, provisions and conditions of these By-Laws, the Condominium Board may use, apply or retain the whole or any part of the security so deposited, to the extent required for the payment of any Common Charges or any other sum to which such Residential Unit Owner is in default. If the Condominium Board applies or retains any part of said security, the Residential Unit Owner in

question, within ten (10) days after notice from the Condominium Board, shall deposit with the Condominium Board the amount so applied or retained so that such Condominium Board has the full amount of said security on hand at all times.

Section 6.5. Default in Payment of Common Charges.

(A) The Condominium Board shall take prompt action to collect any Common Charges due to the Condominium Board that remain unpaid for more than 15 days after the due date for the payment thereof, including, but not limited to the imposition of late charges, notice fees and the institution of such actions for the recovery of interest and expenses as provided in this Article 6. All costs and expenses incurred by the Condominium Board (including reasonable attorney's fees) as a result of its attempt to collect unpaid Common Charges and/or Special Assessments shall be borne by the Residential Unit Owner and shall constitute Common Charges payable by such Residential Unit Owner. In connection therewith, the Condominium Board shall have the right and obligation to cause liens for all sums due and owing to the Condominium Board to be filed in the Register's Office pursuant to the terms of Section 339-z of the Condominium Act, to cause such liens to be foreclosed in the manner provided in Section 339-aa of the Condominium Act and/or to institute all other proceedings deemed necessary or desirable by the Condominium Board to recover all such unpaid Common Charges, together with all additional sums of money collectible by the Condominium Board by reason of such nonpayment pursuant to the terms of paragraph (B) hereof. A suit to recover a money judgment for unpaid Common Charges, however, shall be maintainable without foreclosing or waiving the lien securing such charges.

(B) In the event that any Residential Unit Owner shall fail to make prompt payment of Common Charges, such Residential Unit Owner shall be obligated to pay: (i) interest thereon at the rate of 1.5% per month of such unpaid amounts (less any late "charges" theretofore collected), to be computed from the due date thereof until paid in full, together with all costs and expenses paid or incurred by the Condominium Board, the Managing Agent, or the manager (if any) in connection with collecting such unpaid Common Charges with interest as aforesaid and/or in foreclosing the aforementioned lien, including, without limitation, reasonable attorneys' fees and disbursements and court costs; (ii) a late charge of $150 per month for Common Charges which remain unpaid for more than 10 days after the date when due, plus all expenses of collection including but not limited to reasonable attorney's fees, in such amount as may be determined by the Condominium Board from time to time, to be computed from the due date thereof until paid in full. In addition, if the Condominium Board shall bring an action to foreclose the aforementioned lien, the defaulting Residential Unit Owner will be required to pay a reasonable rental for the use of the Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. All such late charges, interest, costs and expenses and rentals shall be added to and shall constitute Common Charges payable by such Residential Unit Owner.

(C) In any action brought by the Condominium Board to foreclose a lien on a Unit because of unpaid Common Charges, the Condominium Board shall have, on behalf of all Residential Unit Owners, the power to purchase such Unit at the foreclosure sale thereof and to acquire, hold, lease, mortgage, convey, or otherwise deal with such Unit (but not to vote the votes appurtenant to the same). In the event that the net proceeds received on such foreclosure

(after deduction of all legal fees and disbursements, advertising costs, brokerage commissions, court costs and other costs and expenses paid or incurred in connection therewith) shall be insufficient to satisfy the defaulting Residential Unit Owner's obligations to the Condominium, such Residential Unit Owner shall remain liable for the deficit. Any surplus on such foreclosure shall be paid to the defaulting Residential Unit Owner after first paying all liens on such Residential Unit Owner's Unit in the order of priority of such liens.

(D) If the Residential Unit Owner shall at any time lease the Unit and shall default in the payment of any Common Charges or additional Common Charges, the Condominium Board may, at its option, so long as such default shall continue, demand and receive from the tenant the rent due or becoming due from such tenant to the Residential Unit Owner, and apply the amount to pay sums due and to become due from the Residential Unit Owner to the Condominium. Any payment by a tenant to the Condominium shall constitute a discharge of the obligation of such tenant to the Residential Unit Owner, to the extent of the amount so paid. The acceptance of rent from any tenant shall not be deemed a consent to or approval of any leasing by the Residential Unit Owner, or a release or discharge of any of the obligations of the Residential Unit Owner hereunder. In the event the tenant fails to pay the rent to the Condominium after demand by the Condominium Board, the Condominium Board shall have the right to commence summary eviction proceedings in the name of or on behalf of the Residential Unit Owner, against the tenant. All costs and expenses incurred by the Condominium Board (including reasonable attorney's fees) in connection therewith, shall be borne by the Residential Unit Owner and shall constitute Common Charges payable by such Residential Unit Owner.

ARTICLE 7

SELLING AND LEASING OF UNITS

Section 7.1. General. Subject to the terms of Section 7.5 hereof, each Residential Unit Owner may (i) sell the Unit and (ii) lease the Unit for periods of not less nor more than 1 year, provided however, no Residential Unit Owner may sell or lease the Unit except in compliance with the applicable provisions of this Article 7. Any purported sale or lease consummated in default in the applicable terms hereof shall be voidable at the sole election of the Condominium Board, and, if the Condominium Board shall so elect, the selling or leasing Residential Unit Owner shall be deemed to have authorized and empowered the Condominium Board to institute legal proceedings to eject the purported purchaser (in the event of an unauthorized sale) or to evict the purported tenant (in the event of an unauthorized lease) in the name of such Residential Unit Owner. Such Residential Unit Owner shall reimburse the Condominium Board for all costs and expenses paid or incurred in connection with such proceedings, including, without limitation, reasonable attorneys' fees and disbursements and court costs.

Section 7.2. Right of First Refusal.

(A) Subject to the terms of Sections 7.5 and 7.9 hereof, any contract to sell a Unit together with its Appurtenant Interests and any lease of a Unit ("Sale Agreement" or "Lease Agreement") shall contain the following language: "THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER ARE HEREBY MADE EXPRESSLY SUBJECT TO THE RIGHTS IF ANY, OF THE CONDOMINIUM BOARD OF THE CONDOMINIUM WITH RESPECT TO THE TRANSACTION EMBODIED HEREIN PURSUANT TO THE TERMS OF SECTIONS 7.2 AND 7.3 OF THE BY-LAWS OF THE CONDOMINIUM, AS THE SAME MAY HAVE BEEN AMENDED". Promptly after any such bona fide Sale Agreement or Lease Agreement shall be fully executed, the Residential Unit Owner executing the same ("Offeree Residential Unit Owner") shall send written notice thereof to the Condominium Board by certified or registered mail, return receipt requested, which notice shall be accompanied by a fully executed, original counterpart of the Sale Agreement or Lease Agreement, as the case may be, containing all of the terms offered in good faith by the prospective purchaser or tenant ("Outside Offeror").

(B) The sending of the notice referred to in paragraph (A) of this Section 7.2 shall constitute an offer by the Offeree Residential Unit Owner to sell the Unit, together with its Appurtenant Interests, or to lease the Unit, as the case may be, to the Condominium Board or to its designee, corporate or otherwise, on behalf of all Residential Unit Owners, subject, however, to any variance therefrom provided in Section 7.3 hereof. The giving of such notice shall further constitute a representation and warranty by the Offeree Residential Unit Owner to the Condominium Board, on behalf of all Residential Unit Owners, that such Offeree Residential Unit Owner believes the Sale Agreement or Lease Agreement to be bona fide in all respects. Thereafter, upon the written demand of the Condominium Board, the Offeree Residential Unit Owner shall submit to the Condominium Board, in writing, such further information with respect to the Outside Offeror and the Sale Agreement or Lease Agreement as the Condominium Board may reasonably request.

(C) The Condominium Board may elect, by sending written notice thereof to the Offeree Residential Unit Owner by certified or registered mail not later than 30 days (in the event of a proposed sale) and 30 days (in the event of a proposed lease) after receipt of the notice referred to in paragraph (A) hereof together with such further information as may have been requested pursuant to the terms of paragraph (B) hereof, to purchase such Unit together with its Appurtenant Interests or to lease such Unit, as the case may be (or to cause the same to be purchased or leased by its designee, corporate or otherwise) on behalf of all Residential Unit Owners upon the same terms and conditions as were contained in the Sale Agreement or Lease Agreement and stated in the response(s) by the Offeree Residential Unit Owner to any requests for additional information pursuant to the terms of paragraph (B) hereof. Notwithstanding anything to the contrary contained herein, however, the Condominium Board shall not exercise any option set forth in this Section 7.2 to purchase or lease any Unit without the prior approval of a Majority of all Residential Unit Owners.

(D) 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 grounds prohibited by Law in connection with its exercise of its right of first refusal with respect to the sale or lease of a Unit.

Section 7.3. Acceptance of Offer

(A) In the event that the Condominium Board shall elect, within the time and in the manner provided in Section 7.2 hereof, to purchase a Unit together with its Appurtenant Interests, to lease such Unit, or to cause the same to be purchased or leased by its designee, title shall close or a lease shall be executed, in either event in accordance with the terms of the Sale Agreement or Lease Agreement, at the office of the attorneys for the Condominium Board within 45 days after the day upon which the Condominium Board shall give notice of its election to accept such offer.

(B) If such Unit and its Appurtenant Interests are to be purchased by the Condominium Board or its designee on behalf of all Residential Unit Owners, such purchase may be made from the funds deposited in the capital and/or expense accounts of the Condominium. If the funds in such accounts are insufficient to effectuate such purchase, the Condominium Board may levy a Special Assessment against each Residential Unit Owner (other than the Offeree Residential Unit Owner) in accordance with the terms of paragraph (C) of Section 6.1 hereof and/or the Condominium Board may, in its discretion, finance the acquisition of such Unit; provided, however, that no such financing may be secured by an encumbrance on or a hypothecation of any portion of the Property other than the Unit to be purchased together with its Appurtenant Interests. In addition, if the Outside Offeror was to assume or to take title to the Unit subject to the Offeree Residential Unit Owner's existing mortgage or mortgages pursuant to the Sale Agreement, the Condominium Board may purchase the Unit and assume or take title thereto subject to such mortgage or mortgages as the case may be. At the closing of title, the Offeree Residential Unit Owner shall convey the Unit, together with its Appurtenant Interests, to the Condominium Board or to its designee, on behalf of all Residential Unit Owners, by deed in the form required by Section 399-o of the Condominium Act with all tax and/or documentary stamps affixed at the expense of the Offeree Residential Unit Owner, who shall also pay all other transfer taxes arising out of such sale (including, if applicable, the New York State Documentary Stamp Tax and the New York City Real Property Transfer Tax) notwithstanding any terms of the Sale Agreement to the contrary. Real estate taxes, mortgage interest (if applicable) and Common Charges shall be apportioned between the Offeree Residential Unit Owner and the Condominium Board or its designee as of the closing date, notwithstanding any terms of the Sale Agreement to the contrary. Thereafter, such Unit shall be held, so long as the same is owned by the Condominium Board or its designee, on behalf of all Residential Unit Owners, as tenants-in-common, and all such Residential Unit Owners shall be deemed to have waived all rights of partition with respect to such Unit and the entire Property, as herein provided.

(C) In the event that such Unit is to be leased by the Condominium Board or its designee on behalf of all Residential Unit Owners, the Offeree Residential Unit Owner shall execute and deliver to the Condominium Board or such designee a lease covering such Unit by and between the Offeree Residential Unit Owner, as landlord, and the Condominium Board or such designee, as tenant. Such lease shall be in the then current form of apartment lease recommended by the Real Estate Board of New York, Inc., and shall contain all of the terms and conditions of the Lease Agreement not in conflict with such form of lease, including, without limitation, the rental and term provided for therein. Notwithstanding anything to the contrary set forth hereinabove or in the Lease Agreement, however, such lease shall expressly provide that

the Condominium Board or such designee may enter into a sublease of the premises demised thereunder without consent of the landlord.

Section 7.4. Failure to Accept Offer.

(A) In the event that the Condominium Board shall fail to accept an offer made pursuant to the terms of Section 7.2 hereof within the respective times set forth in paragraph (C) thereof, the Offeree Residential Unit Owner shall be free to consummate the transaction embodied in the Sale Agreement or Lease Agreement within 60 days after (i) notice of refusal is sent to the Offeree Residential Unit Owner by the Condominium Board or (ii) the expiration of the period within which the Condominium Board or its designee might have accepted such offer, as the case may be. If the Offeree Residential Unit Owner shall fail to consummate the transaction embodied in the Sale Agreement or Lease Agreement within such 60 day period, then, should the Offeree Residential Unit Owner thereafter elect to sell such Unit together with its Appurtenant Interests or to lease such Unit, the Offeree Residential Unit Owner shall be required again to comply with all of the terms and provisions of Section 7.2, 7.3 and 7.4 hereof, but not more often than once in any 12 month period, except the Condominium Board shall have the right to waive this for good cause shown, in its sole discretion.

(B) Any deed of a Unit and its Appurtenant Interests to an Outside Offeror shall expressly provide that the acceptance thereof by the grantee shall constitute an assumption of all of the terms of the Condominium Documents, and, in the absence of such express language, the same shall be conclusively deemed to have been included herein.

(C) Each lease of a Unit to an Outside Offeror shall be in the then current form of apartment lease recommended by the Real Estate Board of New York, Inc., subject to such modifications as may be approved in writing by the Condominium Board or such other form approved in writing by the Condominium Board. Notwithstanding the foregoing, however, each such lease shall be consistent with the Condominium Documents and shall expressly provide that:

(i) such lease may not be amended, modified, or extended without the prior written consent of the Condominium Board in each instance;

(ii) the tenant thereunder shall not assign the tenant's interest in such lease or sublet the premises demised thereunder or any part thereof without the prior written consent of the Condominium Board in each instance; and

(iii) the Condominium Board shall have the power to terminate such lease and/or to bring summary proceedings to evict the tenant in the name of the landlord thereunder in the event of (a) a default by the tenant in the performance of its obligations under such lease or (b) a foreclosure of the lien granted by Section 339-z of the Condominium Act.

Section 7.5. Termination of and Exceptions to, the Right of First Refusal.

(A) A certificate executed and acknowledged by the Secretary of the Condominium or the Managing Agent, stating that the provisions of Section 7.2 hereof have been met by a Residential Unit Owner or that the right of first refusal provided for therein has been duly released or waived by the Condominium Board and that, as a result thereof, the rights of the Condominium Board thereunder have terminated, shall be conclusive upon the Condominium Board and all Residential Unit Owners in favor of all persons who rely upon such certificate in good faith. After the due issuance of such a certificate, the Unit to which the same shall relate, together with its Appurtenant Interests, may be sold, conveyed, or leased free and clear of the terms and conditions contained in Section 7.2 hereof. The Condominium Board shall furnish or cause the Managing Agent to furnish without charge, such certificate upon written request to any Residential Unit Owner in respect to whom the provisions of Sections 7.2 hereof have, in fact, been terminated. In no event, however, shall the right of first refusal described in Section 7.2 hereof be deemed released or waived by the Condominium Board (as opposed to satisfied pursuant to the express terms of Sections 7.2, 7.3 and 7.4 hereof) in the absence of the certificate that has been duly executed, acknowledged and issued by the Secretary of the Condominium or the Managing Agent as aforesaid.

(B) The terms and conditions contained in Section 7.2, 7.3 and 7.4 hereof shall not apply with respect to any sale, lease or conveyance of a Unit, together with its Appurtenant Interests, by:

(i) the Residential Unit Owner thereof to any adult Family Members, to any combination of the same, or to a trust for the benefit of any of them (in which case the Condominium Board shall have the right to review the trust documents and provide for such terms and restrictions on such transfer as the Condominium Board deems advisable), provided, however, that if the succeeding Residential Unit Owner is an infant or a person judicially declared incompetent of managing his/her affairs, then such Unit shall be held by the personal representative of such infant or incompetent, or in the case of a Residential Unit Owner that is not an individual, to any entity or individual that owns more than 50% of the legal and beneficial interests of such Residential Unit Owner or to any entity with respect to which such Residential Unit Owner (individual or otherwise) owns more than 50% of the legal and beneficial interest thereof;

(ii) Sponsor;

(iii) the Condominium Board;

(iv) any proper officer conducting the sale of a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of such foreclosure; or

(v) any Permitted Mortgagee or its nominee, who has acquired title to any Unit at any foreclosure sale of its Permitted Mortgage or by deed in lieu thereof delivered in a bona fide transaction

(C) Anything herein to the contrary notwithstanding the Sponsor shall have the right, without the payment of any fees or charges to the Board, to sell, mortgage or lease a Unit, or any portion thereof without the Condominium Board having any right of first refusal to sell or lease, or to procure a third party to sell or lease, the same, and all sales and/or rental proceeds shall belong solely to the Owner of said Unit.

However, each succeeding Residential Unit Owner shall be bound by, and the Unit shall be subject to, all of the terms and conditions of this Article 7.

Section 7.6. No Severance of Ownership. No Residential Unit Owner shall execute any deed or other instrument conveying title to the Unit without including therein its Appurtenant Interests, it being the intention to prevent any severance of such combined ownership. Any deed or other instrument purporting to affect one or more such interests shall be taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any Unit may be sold, conveyed, or otherwise disposed of, except as part of a sale, conveyance, or other disposition of the Unit to which such interests are appurtenant or as part of a sale, conveyance, or other disposition of such part of the Appurtenant Interests of all Units. Nothing contained in this Section 7.6, however, shall prohibit the lease of any Unit without the simultaneous lease of its Appurtenant Interests.

Section 7.7. Payment of Common Charges. No Unit Owner shall be permitted to convey or lease the Unit unless the Residential Unit Owner shall have paid in full to the Condominium Board all unpaid Common Charges and Special Assessments theretofore assessed against such Unit and shall have satisfied all unpaid liens, other than that of Permitted Mortgages, levied against such Unit. However, where the payment of such unpaid Common Charges and/or Special Assessments is made by the grantee or provided for out of the proceeds of the sale, a sale may take place notwithstanding the foregoing.

Section 7.8. Power of Attorney. At the time of acquiring title to a Unit and as a condition thereof, the new Unit Owner shall duly execute, acknowledge and deliver to the representative of the title insurance company (or, if no such representative is present, to the Condominium Board) for recording in the Register's Office (at such Unit Owner's sole cost and expense), the Unit Owner's Power of Attorney required in Article 14 of the Declaration, in the form set forth as Exhibit E to the Declaration.

Section 7.9. Gifts and Devises, Etc. Any Residential Unit Owner shall be free to convey or transfer the Unit, together with its Appurtenant Interests, by gift, or to devise the same by will or to have the same pass by intestacy, without restriction, provided, however, that each succeeding Residential Unit Owner shall be bound by, and the Unit shall be subject to, the provisions of this Article 7.

Section 7.10. Commencement of Time. The period of time set forth in Section 7.2 for which the Condominium Board has to waive its right of first refusal shall not commence until such time as the Condominium Board or its managing agent has received a completed sales or lease package, including all fees set forth therein, as the case may be, from a Residential Unit Owner. If the information provided by the Residential Unit Owner or prospective purchaser or tenant, as the case may be, is incomplete, the Condominium Board shall have the right to request

additional information and the 30 day period will commence on receipt by the Condominium Board of the additional information.

Section 7.11. Costs and Expenses. All costs and expenses incurred by the Condominium Board, including, without limitation, attorneys' fees and disbursements paid or incurred by the Condominium Board or by its Managing Agent in connection with any action taken by the Condominium Board with regard a violation of this Article 7, shall be borne by the Residential Unit Owner as an Additional Common Charge.

Section 7.12. Assignment of Licenses. No Residential Unit Owner shall be permitted to assign, convey or lease a Storage Area of Roof Cabana, or a License to anyone other than a Residential unit Owner. Such Licenses may be assigned by a Residential Unit Owner at any time (and not subject to any right of first refusal by the Condominium Board) provided (i) the assignee is a Residential Unit Owner at the Condominium; (ii) the assignee assumes the obligations under the License Agreement; (iii) notification of the assignment is promptly delivered to the Condominium Board in compliance with its requirements; and (iv) all Special Assessments and other obligations due to the Condominium have been paid in full.

ARTICLE 8

MORTGAGING OF UNITS

Section 8.1. General. Each Residential Unit Owner shall have the right to mortgage the Unit, subject only to the terms and conditions contained in Section 8.2 hereof. Any Residential Unit Owner who mortgages the Unit, or the holder of such mortgage, shall supply the Condominium Board with the name and address of the mortgagee and shall file a conformed copy of the note and mortgage with the Condominium Board. Any Residential Unit Owner who satisfies a mortgage covering the Unit shall so notify the Condominium Board and shall file a conformed copy of the satisfaction of mortgage with the Condominium Board. The Secretary of the Condominium shall maintain such information in a book entitled "Mortgages of Units". The terms and conditions contained in this Section 8.1, however, shall not apply to Sponsor.

Section 8.2. Restrictions on Mortgaging

(A) No Residential Unit Owner shall be permitted to mortgage, pledge, or hypothecate the Unit unless and until the Residential Unit Owner shall have paid in full to the Condominium Board all unpaid Common Charges and Special Assessments theretofore assessed against such Unit and shall have satisfied all unpaid liens, except the liens of Permitted Mortgages levied against such Unit.

(B) No Residential Unit Owner shall execute any mortgage or other document mortgaging, pledging, or hypothecating title to the Unit without including therein its Appurtenant Interests, it being the intention to prevent any severance of such combined ownership. Any mortgage or other instrument purporting to affect one or more of such interests without including all such interests shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein.

(C) Any mortgage covering a Unit shall be substantially in the form used by any Institutional Lender.

(D) Any mortgage covering a Unit shall be made by an Institutional Lender, Sponsor, or by a Residential Unit Owner providing purchase money financing in connection with the sale of the Unit.

Section 8.3. Notice of Unpaid Common Charges and Default. Whenever requested in writing by a Permitted Mortgagee, the Condominium Board shall promptly report to such Permitted Mortgagee any default by the Permitted Mortgagee's mortgagor in the payment of Common Charges or Special Assessments or in the observance or performance of any of the provisions of the Condominium Documents as to which the Condominium Board has knowledge then exists. The Condominium Board shall, when giving notice to a Residential Unit Owner of any such default, also send a copy of such notice to the Permitted Mortgagee. However, the Condominium Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Mortgagee of any default by the mortgagor under the Condominium Documents, provided that (i) the Condominium Board shall advise such Permitted Mortgagee of the default promptly after discovering such failure and (ii) if the Condominium Board shall foreclose a lien on such mortgagor's Unit Pursuant to the terms of Section 6.4 hereof by reason of such default, the Condominium Board shall pay to such Permitted Mortgagee any net proceeds of any foreclosure sale of such Unit (after retaining all sums due and owing to the Condominium Board pursuant to the Condominium Documents) or such lesser sum as shall be due and owing to such Permitted Mortgagee.

Section 8.4. Performance by Permitted Mortgagees. Any sum of money to be paid or any act to be performed by a Residential Unit Owner pursuant to the terms of the Condominium Documents may be paid or performed by the Permitted Mortgagee, and the Condominium Board shall accept such Permitted Mortgagee's payment or performance with the same force and effect as if the same were paid or performed by such Residential Unit Owner.

Section 8.5. Examination of Books. Each Permitted Mortgagee shall be permitted to examine the books of account of the Condominium at reasonable times on business days, but not more frequently than once a month.

Section 8.6. Consent of Mortgagees; Designation of Mortgage Representatives.

(A) Except as otherwise expressly provided for herein or in the Declaration, no consent or approval by any mortgagee shall be required with respect to any determination or act of the Condominium Board or any Residential Unit Owner, provided, however, that nothing contained herein shall be deemed to limit or affect the rights of any mortgagee against A Residential Unit Owner. In the event that any such consent or approval shall be expressly required pursuant to the terms of the Declaration or these By-Laws, the decision of a majority of the Mortgage Representatives, if any are designated pursuant to the terms of paragraph (B) of this Section 8.6, shall be deemed binding upon the holders of all mortgages encumbering Units.

(B) The holders of Institutional Mortgages constituting a majority in principal amount of all Institutional Mortgages may, if they so elect, designate not more than 2 Mortgage

Representatives by giving written notice thereof to the Condominium Board, which Mortgage Representatives shall thereby be empowered to act as the representatives of the holders of all mortgages encumbering Units with respect to any matter requiring the consent or approval of mortgagees under the Declaration or these By-Laws. Any designation of a Mortgage Representative pursuant to the terms of this paragraph (B) shall be effective until any successor Mortgage Representative is designated pursuant to the terms hereof and written notice thereof is given to the Condominium Board. Unless otherwise required by Law, no holders of mortgages (which are not Institutional Mortgages) shall be entitled to participate in the designation of Mortgage Representatives, but all holders of mortgages encumbering Units shall be subject to all determinations made by the Mortgage Representatives pursuant to the terms of the Declaration or these By-Laws.

ARTICLE 9

CERTAIN REMEDIES

Section 9.1. Self Help. If any Residential Unit Owner shall violate or breach any of the provisions of the Condominium Documents on Residential Unit Owner's part to be observed or performed, including, without limitation, any breach of Residential Unit Owner's obligation to paint, decorate, maintain, repair, or replace the Unit or its appurtenant Limited Common Elements, if any, pursuant to the terms of Article 5 hereof, and shall fail to cure such violation or breach within 5 days after receipt of written notice of the same from the Condominium Board, the Managing Agent, or any manager (or, with respect to any violation or breach of the same not reasonably susceptible to cure within such period, to commence such cure within such 5 day period and, thereafter, to prosecute such cure with due diligence to completion), the Condominium Board shall have the right to enter such Residential Unit Owner's Unit and/or its appurtenant Limited Common Elements, if any, and summarily to abate, remove, or cure such violation or breach without thereby being deemed guilty or liable in any manner of trespass. In addition, in the event that the Condominium Board shall determine that the abatement, removal, or cure of any such violation or breach is immediately necessary for the preservation or safety of the Building or for the safety of the occupants of the Building or other individuals or is required to avoid the suspension of any necessary service in the Building, the Condominium Board may take such action immediately, without prior notice and without allowing the said Residential Unit Owner any period of time within which to cure or to commence to cure such violation or breach.

Section 9.2. Abatement and Enjoinment.

(A) In the event that any Residential Unit Owner shall violate or breach any of the provisions of the Condominium Documents on Residential Unit Owner's part to be observed or performed, the Condominium Board shall have the right (i) to enter any Unit or Common Elements in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Residential Unit Owner, any structure, thing or condition resulting in such violation or breach and the Condominium Board shall not thereby be deemed guilty or liable in any matter of trespass, and/or (ii) to enjoin, abate, or remedy the continuance or repetition of any such violation or breach by appropriate proceedings brought either at law or in equity, provided that the Condominium Board gives the Residential Unit

Owner notice (which may be by telephone or in writing) that such violation exists, that repairs or replacements are necessary and that the Condominium Board will complete such repairs or replacements in the event the Residential Unit Owner does not promptly act or complete the repairs or replacements, and/or (iii) to levy such fines and penalties as the Condominium Board may deem appropriate, and the Condominium Board shall have the same remedies for non-payment of such fines and penalties as for non-payment of Common Charges.

(B) The violation or breach of any of the terms of the Condominium Documents with respect to any rights, easements, privileges, or licenses granted to Sponsor shall give to Sponsor the right to enjoin, abate, or remedy the continuation or repetition of any such violation or breach by appropriate proceedings brought either at law or in equity.

Section 9.3. Remedies Cumulative. The remedies specifically granted to the Condominium Board or to Sponsor in this Article 9 or elsewhere in the Condominium Documents shall be cumulative, shall be in addition to all other remedies obtainable at law or in equity and may be exercised at one time or at different times, concurrently or in any order, in the sole discretion of the Condominium Board or Sponsor. Further, the exercise of any remedy shall not operate as a waiver, or preclude the exercise, of any other remedy.

Section 9.4. Costs and Expenses. All sums of money expended, and all costs and expenses incurred, by (i) the Condominium Board in connection with the abatement, enjoinment, removal, or cure of any violation, breach, or default committed by a Residential Unit Owner pursuant to the terms of Section 9.1 or paragraph (A) of Section 9.2 hereof or (ii) Sponsor in connection with any abatement, enjoinment, or remedy of any violation or breach of the Condominium Documents pursuant to the terms of paragraph (B) of Section 9.2 hereof, shall be immediately payable by (a) in the event set forth in subparagraph (i) hereof, such Residential Unit Owner to the Condominium Board or (b) in the event set forth in subparagraph (ii) hereof, the offending party (i.e., the Condominium Board or the Residential Unit Owner) to Sponsor which amount shall, in either event, bear interest (to be computed from the date expended) at the rate of up to 2% per month (but in no event in excess of the maximum rate chargeable to such Residential Unit Owner pursuant to Law). All sums payable by a Residential Unit Owner to the Condominium Board pursuant to the terms of this Section 9.3 shall, for all purposes hereunder, constitute Common Charges payable by such Residential Unit Owner.

ARTICLE 10

ARBITRATION

Section 10.1. Section 10.1 Procedure. Any matter required or permitted to be determined by arbitration pursuant to the terms of the Condominium Documents shall be submitted for resolution by a single arbitrator in a proceeding held in the City of New York in accordance with the then existing rules of the American Arbitration Association or any successor organization thereto. In the event that the American Arbitration Association shall not then be in existence and has no successor organization, any such arbitration shall be held in the City of New York before 1 arbitrator appointed, upon the application of any party, by any Justice of the highest court of appellate jurisdiction then located in the City of New York. The decision of the

arbitrator so chosen shall be given within 10 days after selection or appointment. Any arbitrator appointed or selected in connection with any arbitration to be conducted hereunder shall be a member of a law firm having at least 5 members whose principal office is located in the City of New York.

Section 10.2. Variation by Agreement. The parties to any dispute required or permitted to be resolved by arbitration pursuant to the terms of the Condominium Documents may, by written agreement, vary any of the terms of Section 10.1 hereof with respect to the arbitration of such dispute or may agree to resolve their dispute in any manner, including, without limitation, 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".

Section 10.3. Binding Effect. The decision in any arbitration conducted pursuant to the terms of Section 10.1 and 10.2 hereof shall be binding upon all of the parties thereto and may be entered in any court of appropriate jurisdiction.

Section 10.4. Costs and Expenses.

(A) The fees, costs and expenses of the arbitrator shall be borne by the losing party in the arbitration or, if the position of neither party to the dispute shall be substantially upheld by the arbitrator, such fees, costs and expenses shall be borne equally by the disputants. Each disputant shall also bear the fees and expenses of disputant's counsel and expert witnesses.

(B) All costs and expenses paid or incurred by the Condominium Board in connection with any arbitration held hereunder, including, without limitation, the fees and expenses of counsel and expert witnesses, shall constitute Common Expenses, to be borne by all Residential Unit Owners, if such arbitration relates to the Units, generally, or to the General Common Elements or the Limited Common Elements.

ARTICLE 11

NOTICES

Section 11.1. General. All notices required or desired to be given hereunder (except for notices of regular annual or special meetings of the Residential Unit Owners and except all meetings of the Condominium Board) shall be sent by registered or certified mail, return receipt requested, postage prepaid addressed:

(i) if to the Condominium Board, to the Condominium Board at its principal office as set forth in Section 1.5 hereof, with a copy sent by regular first class mail to the Managing Agent (if any) at its principal office address as aforesaid;

(ii) if to a Unit Owner other than Sponsor, to such Unit Owner at Unit Owner's address at the Property;

(iii) if to Sponsor, to Sponsor at its principal office as set forth in the Plan;

(iv) if to a Permitted Mortgagee, to such Permitted Mortgagee at its latest address designated in writing to the Condominium Board.

Any of the foregoing parties may change the address to which notices are to be sent, or may designate additional addresses for the giving of notice, by sending written notice to the other parties as aforesaid. All notices sent pursuant to the terms of this Section 11.1 shall be deemed given when mailed in the State of New York, provided, however, that notices of change of address, notices designating additional addresses and notices deposited in a United States Postal Service depository located outside of the State of New York shall be deemed to have been given when received.

Section 11.2. Waiver of Service of Notice. Whenever any notice is required to be given by Law or pursuant to the terms of the Condominium Documents, a waiver thereof in writing, signed by the Persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE 12

AMENDMENTS TO BY-LAWS

Section 12.1. General.

(A) Subject to the terms of paragraph (B) hereof and subject, further, to any provisions contained in the Declaration or these By-Laws with respect to any amendments ("Special Amendments") affecting or in favor of Sponsor and/or any Permitted Mortgagee, any provision of these By-Laws may be amended, modified, added to, or deleted by the affirmative vote of not less than 66 2/3% in number and aggregate Common Interest of all Unit Owners either taken at a duly constituted meeting thereof or given in writing without a meeting as provided in Section 4.10 hereof. Each duly adopted amendment, modification, addition, or deletion hereof or hereto shall be effectuated in an instrument executed and recorded in the Register's Office by or on behalf of the Condominium Board as attorney-in-fact of all Unit Owners, which power-of-attorney shall be deemed irrevocable and coupled with an interest. Attached to each such instrument shall be an original, executed Secretary's Certification, certifying that the requisite number and percentage (where applicable) of Unit Owners approved the amendment, modification, addition, or deletion set forth therein either at a duly constituted meeting of Unit Owners or in writing without a meeting pursuant to the terms of Section 4.10 hereof, in which Secretary's Certification there shall be described the number and percentage (where applicable) of Unit Owners approving the same and, if voted at a meeting, the date, time and place of such meeting. No such amendment, modification, addition, or deletion shall be effective unless and until such an instrument shall be duly recorded in the Register's Office.

(B) Notwithstanding anything to the contrary contained in paragraph (A) hereof, but still subject to any provision contained in the Declaration or these By-Laws with respect to Special Amendments:

(i) the Common Interest, if any, appurtenant to any Unit, as set forth in the Declaration, shall not be altered without the consent of the Unit Owner thereof, except as otherwise provided in paragraph (E) of Section 5.5 hereof; and

(ii) the terms of Section 5.7 hereof may not be amended, modified, added to, or deleted unless not less than 80% in number and in aggregate Common Interests of all Unit Owners affected thereby shall approve such amendment, modification, addition or deletion in writing.

Section 12.2. Special Amendments.

(A) Any amendment, modification, addition, or deletion of or to any of the provisions of these By-Laws that, pursuant to the terms of the Declaration or these By-Laws, may be effected by Sponsor, its designee, or the Residential Unit Owner(s) without the consent of the Condominium Board or the Residential Unit Owners, shall be embodied in an instrument executed and recorded in the Register's Office by Sponsor, its designee, or the Unsold Residential Unit Owners(s) as attorney-in-fact of both the Condominium Board and all Residential Unit Owners, which power-of-attorney shall be deemed to be irrevocable and coupled with an interest. Attached to each such instrument shall be an original, executed Certification by Sponsor, its designee, or the Unsold Residential Unit Owners(s) certifying that the amendment, modification, addition, or deletion set forth therein was effectuated by Sponsor pursuant to the terms of the Declaration and/or these By-Laws, in which Certification there shall be set forth the Article and/or Section of the Declaration or these By-Laws pursuant to which the same was effectuated. No such amendment, modification, addition, or deletion shall be effective unless and until such an instrument shall be duly recorded in the Register's Office.

(B) Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition, or deletion of or to these By-Laws including the Rules and Regulations shall be effective in any respect against Sponsor, its designee, or the Unsold Residential Unit Owners(s) unless and until Sponsor, its designee, or the Unsold Residential Unit Owners(s) shall consent to the same in writing.

(C) Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition, or deletion of or to Section 5.4 or 5.5, paragraph (B) of Section 6.2, subparagraph (iv) or (v) of paragraph (B) of Section 7.5 or Article 8 hereof shall be effective with respect to the holder of any Permitted Mortgage theretofore made unless and until such Permitted Mortgagee shall have given its written consent thereto.

ARTICLE 13

FURTHER ASSURANCES

Section 13.1. General. Any Person that is subject to the terms of these By-Laws, whether such Person is a Residential Unit Owner, a lessee or sublessee of a Residential Unit Owner, an occupant of a Unit, a member of the Condominium Board, an officer of the Condominium, or otherwise, shall, at the expense of any other Person requesting the same,

execute, acknowledge and deliver to such other Person such instruments, in addition to those specifically provided for herein, and take such other action as such other Person may reasonably request in order either to effectuate the provisions of these By-Laws or any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

Section 13.2. Failure to Deliver or Act.

(A) If any Residential Unit Owner or other Person that is subject to the terms of these By-Laws fails to execute, acknowledge, or deliver any instrument, or fails or refuses, within 10 days after request therefor, to take any action that such Residential Unit Owner or Person is required to execute except for the Sponsor or the Unsold Residential Unit Owners(s), acknowledge and deliver or to take pursuant to these By-Laws, then the Condominium Board is hereby authorized, as attorney-in-fact for such Residential Unit Owner or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Residential Unit Owner or other Person, and such document or action shall be binding on such Residential Unit Owner or other Person.

(B) If the Condominium Board, any Residential Unit Owner, or other Person that is subject to the terms of these By-Laws fails to execute, acknowledge, or deliver any instrument, or fails or refuses, within 10 days after request therefor, to take any action that the Condominium Board, such Residential Unit Owner, or Person is required to execute, acknowledge and deliver or to take pursuant to these By-Laws at the request of Sponsor, then Sponsor is hereby authorized, as attorney-in-fact for the Condominium Board, such Residential Unit Owner, or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of the Condominium Board, such Residential Unit Owner or other Person, and such document or action shall be binding on the Condominium Board, such Residential Unit Owner, or other Person. The Condominium Board shall not unreasonably withhold or delay its consent or approval with respect to any matter contained in these By-Laws which requires the consent or approval of the Condominium Board.

ARTICLE 14

MISCELLANEOUS

Section 14.1. Inspection of Documents. Copies of the Declaration, these By-Laws, the Rules and Regulations and the Floor Plans, as the same may be amended from time to time, shall be maintained at the office of the Condominium Board and shall be available for inspection by Residential Unit Owners and their authorized agents during reasonable business hours.

Section 14.2. Waiver. No provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches that may occur.

Section 14.3. Conflict. In the event that any provision of these By-Laws or of the Rules and Regulations shall be construed to be inconsistent with any provision of the Declaration or of

the Condominium Act, the provision contained in the Declaration or in the Condominium Act shall control.

Section 14.4. Severability. If any provision of these By-Laws is invalid or unenforceable as against any Person or under certain circumstances, the remainder of these By-Laws and the applicability of such provision to other Persons or circumstances shall not be affected thereby. Each provision of these By-Laws shall, except as otherwise provided herein, be valid and enforced to the fullest extent provided by Law.

Section 14.5. Successors and Assigns. The rights and/or obligations of Sponsor as set forth herein shall inure to the benefit of, and shall be binding upon, any successor or assignee of Sponsor or, with the consent of Sponsor, any transferee of all of the then Unsold Units.

Section 14.6. Gender. A reference in these By-Laws to any one gender, masculine or feminine, includes the other one, and the singular includes the plural, and vice-versa, unless the context otherwise requires.

Section 14.7. Captions. The index hereof and the captions herein inserted are included only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision hereof.

ARTICLE 15

TAX STATUS AS A HOMEOWNERS ASSOCIATION

Section 15.1. General. The Condominium Board intends to act in a manner consistent with enabling the Condominium to be eligible to elect to be treated as a "homeowners association" under Section 528 of the Internal Revenue Code of 1986, as amended.

Section 15.2. Organization. The Condominium is and will be organized and operated to provide for the acquisition, construction, management, maintenance and care of the Property.

Section 15.3. Inurement. No part of the Condominium's net earnings shall inure, and the Condominium Board will act in a manner such that no part of such earnings will inure to the benefit of any private shareholder or individual (other than by acquiring, constructing, or providing management, maintenance, and care of the Property, and other than by rebate of excess membership dues, fees, or assessments).

Section 15.4. Residential Use. Substantially all of the Residential Units are and will be used by individuals for residences.

SCHEDULE A
RULES AND REGULATIONS

1. The sidewalks, entrance passages, public halls, elevators, vestibules, corridors and stairways of or appurtenant to the Building shall not be obstructed or used for any purpose other than ingress to and egress from the Units.

2. No bicycles, rollerblades, scooters, skateboards or similar vehicle shall be taken into or from the Building through the main entrance or shall be allowed in any of the elevators of the Building other than the elevator designated by the Condominium Board or the Managing Agent for such purpose or ridden in the Building or the courtyard. No baby carriages or any of the above-mentioned vehicles shall be allowed to stand in the public halls, passageways, or other public areas of the Building.

3. All service and delivery persons will be required to use the service entrances or such other entrances of the Building designated by the Condominium Board or the Managing Agent. In addition, all servants, messengers and tradespeople visiting the Building shall use the elevator designated, if any by the Condominium Board or the Managing Agent for the purposes of ingress and egress, and shall not use any of the other elevators for any purpose, provided, however, that nurses in the employ of Residential Unit Owners or their Family Members, guests, tenants, subtenants, licensees, or invitees may use any of the other elevators when accompanying said Residential Unit Owners, Family Members, guests, subtenants, licensees, or invitees.

4. Trunks and heavy baggage shall be taken in or out of the Building only by the elevator, if any designated by the Condominium Board or the Managing Agent for the purpose and only through the service entrances.

5. No article (including, but not limited to, garbage cans, bottles or mats) shall be placed or stored in any of the halls or on any of the staircases or fire tower landings of the Building, nor shall any fire exit thereof be obstructed in any manner.

6. No area shall be used for the storage of any flammable materials or any other materials the storage of which may constitute a Building code violation or which will increase the insurance requirements for the Building.

7. No refuse from the Units shall be sent to the service area of the Building, except at such times and in such manner as the Condominium Board or the Managing Agent may direct. Nothing shall be hung or shaken from any doors, windows, or placed upon the window sills, of the Building, and no Residential Unit Owner shall sweep or throw, or permit to be swept or thrown, any dirt, debris or other substance therefrom.

8. There shall be no playing or lounging in the entrances, passages, public halls, elevators, vestibules, corridors, stairways, or fire towers of the Building.

9. The Condominium Board or the Managing Agent may, from time to time, curtail or relocate any portion of the Common Elements devoted to storage or service purposes in the Building.

10. Nothing shall be done or kept in any Unit or in the Common Elements that will increase the rate of insurance of the Building, or the contents thereof. No Residential Unit Owner shall permit anything to be done or kept in the Unit or in the Common Elements that will result in the cancellation of insurance on the Building, or the contents thereof, or that would be in violation of any Law. No Residential Unit Owner or any Family Members, agents, servants, employees, licensees, or visitors shall, at any time, bring into or keep in the Unit any inflammable, combustible, or explosive fluid, material, chemical, or substance, except as shall be necessary and appropriate for the permitted uses of the Unit.

11. There shall be no barbecuing in the Units, in their appurtenant Limited Common Elements, if any, or in the Common Elements.

12. With the exception of the Sponsor no Residential Unit Owner shall make, cause, or permit any unusual, disturbing, or objectionable noises or odors to be produced upon or to emanate from the Unit or its appurtenant Limited Common Elements, if any, or permit anything to be done therein that will interfere with the rights, comforts, or conveniences of the other Residential Unit Owners. No Residential Unit Owner shall play upon or suffer to be played upon any musical instrument, or shall operate or permit to be operated a phonograph, radio, television set, or other loudspeaker in such Residential Unit Owner's Unit or its appurtenant Limited Common Elements, if any, between 11:00 P.M. and the following 9:00 A.M., if the same shall disturb or annoy other occupants of the Building, and in no event shall any Residential Unit Owner practice of suffer to be practiced either vocal or instrumental music between the hours of 10:00 P.M. and the following 9:00 A.M.. No construction, repair work, or other installation involving noise shall be conducted in any Unit except on weekdays (not including legal holidays) and only between the hours of 9:00 A.M. and 5:00 P.M., unless such construction or repair work is necessitated by an emergency.

13. No bird, reptile, or animal shall be permitted, raised, bred, kept, or harbored in, on or about the Building 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 their sole discretion. In no event shall any bird, reptile, or animal be permitted in any public elevator of the Building, other than the elevator designated, if any by the Condominium Board or the Managing Agent for that purpose, or in any of the public portions of the Building, unless carried or on leash. No pigeons or other birds or animals shall be fed from the window sills, or other public portions of the Building, or on the sidewalk or street adjacent to the Building.

14. No group tour, open house or exhibition of any Unit or its contents shall be conducted, nor shall any auction sale be held in any Unit, without the consent of the Condominium Board or the Managing Agent in each instance. In the event that any Unit shall be used for home occupation purposes in conformance with the Declaration and the By-Laws, no patients, clients, or other invitees shall be permitted to wait in any lobby, public hallway, or vestibule.

15. Unless expressly authorized by the Condominium Board in each instance, not less than 80% of the total floor area of each room of each Residential Unit (excepting only kitchens, pantries, bathrooms, closets and foyers) must be covered with rugs, carpeting, or equally effective noise reducing material.

16. No window guards or other window decorations shall be used in or about any Unit, except such as shall have been approved in writing by the Condominium Board or the Managing Agent, which approval shall not be unreasonably withheld or delayed. In no event, however, shall any windows of any Unit be colored or painted.

17. No ventilator or air conditioning device shall be installed in any Residential Unit or its appurtenant Limited Common Elements, if any, without the prior written approval of the Condominium Board, which approval may be granted or refused in the sole discretion of the Condominium Board.

18. No radio or television aerial shall be attached to or hung from the exterior of the Building, and no sign, notice, advertisement, or illumination (including, without limitation, "For Sale", "For Lease", or "For Rent" signs) shall be inscribed or exposed on or at any window or other part of the Building, except such as are permitted pursuant to the terms of Declaration and/or the By-Laws or shall have been approved in writing by the Condominium Board or the Managing Agent. Nothing shall be projected from any window of a Unit without similar approval.

19. All radio, television, or other electrical equipment of any kind or nature installed or used in each Unit shall fully comply with all rules, regulations, requirements, or recommendations of the New York Board of Fire Underwriters and the public authorities having jurisdiction, and the Residential Unit Owner alone shall be liable for any damage or injury caused by any radio, television, or other electrical equipment.

20. Water-closets and other water apparatus in the Building shall not be used for any purpose other than those for which they were designed, and no sweepings, rubbish, rags or any other article shall be thrown into same. Any damage resulting from misuse of any water-closets or other apparatus in a Unit shall be repaired and paid for by the owner of the Unit.

21. Each Residential Unit Owner shall keep the Unit and its appurtenant Limited Common Elements, if any, in a good state of preservation, condition, repair and cleanliness in accordance with the terms of the By-Laws.

22. The agents of the Condominium Board or the Managing Agent, and any contractor or workperson authorized by the Condominium Board or the Managing Agent, may enter any room or Unit at any reasonable hour of the day, on at least one (1) day's prior notice to the Residential Unit Owner, for the purpose of inspecting such Unit for the presence of any vermin, insects, or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects, or other pests; however, such entry, inspection and extermination shall be done in a reasonable manner so as not to unreasonably interfere with the use of such Unit for its permitted purposes.

23. The Condominium Board or the Managing Agent may retain a pass-key to each Unit. If any lock is altered or a new lock is installed, the Condominium Board or the Managing Agent shall be provided with a key thereto immediately upon such alteration or installation. If the Residential Unit Owner is not personally present to open and permit an entry to the Unit at any time when an entry therein is necessary or permissible under these Rules and Regulations or

under the By-Laws, and has not furnished a key to the Condominium Board or the Managing Agent, then the Condominium Board or Managing Agent or their agents (but, except in an emergency, only when specifically authorized by an officer of the Condominium or an officer of the Managing Agent) may forcibly enter such Unit without liability for damages or trespass by reason thereof (if, during such entry, reasonable care is given to such Residential Unit Owner's property).

24. If any key or keys are entrusted by a Residential Unit Owner, by any Family Member thereof, or by an agent, servant, employee, licensee, or visitor to an employee of the Condominium or of the Managing Agent, whether for the Unit or an automobile, trunk, or other item of personal property, the acceptance of the key shall be at the sole risk of such Residential Unit Owner, and neither the Condominium Board nor the Managing Agent shall (except as provided in Rule 22 above) be liable for injury, loss, or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

25. Residential Unit Owners and their respective Family Members, guests, servants, employees, agents, visitors, or licensees shall not at any time or for any reason whatsoever, enter upon, or attempt to enter upon, the roof of the Building unless such roof is part of a lawful terrace.

26. No occupant of the Building shall send any employee of the Condominium or of the Managing Agent out of the Building on any private business.

27. Any consent or approval given under these Rules and Regulations may be amended, modified, added to, or repealed at any time by resolution of the Condominium Board. Further, any such consent or approval may, in the discretion of the Condominium Board or the Managing Agent, be conditional in nature.

28. Complaints regarding the service of the Condominium shall be made in writing to the Condominium Board and the Managing Agent.

EXHIBIT 8

ESCROW AGREEMENT WITH RESPECT TO DOWNPAYMENTS

ESCROW AGREEMENT

AGREEMENT made as of this ___th day of _____, 200_, between Essex Berry Street LLC ("SPONSOR"), as sponsor, and Eiseman Levine Lehrhaupt & Kakoyiannis, P.C., ("ESCROW AGENT"), as escrow agent.

WHEREAS, SPONSOR is the sponsor under an offering plan (the "Offering Plan") for 70 Berry Street Condominium, located at 70 Berry Street, Brooklyn, New York 11211; and

WHEREAS, Eiseman Levine Lehrhaupt & Kakoyiannis, P.C., is authorized to act as an escrow agent hereunder in accordance with General Business Law ("GBL") Section 352-e(2-b) and the Attorney General's regulations promulgated thereunder (the "Regulations"); and

WHEREAS, SPONSOR desires that ESCROW AGENT act as escrow agent for deposits and payments by purchasers of units from SPONSOR 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.

(i) SPONSOR and ESCROW AGENT hereby establish an escrow account with ESCROW AGENT for the purpose of holding deposits or payments made by purchasers from and after the date hereof. The escrow account has been opened with Citibank, 800 Third Avenue, New York, New York 10022. The account number is to be provided by Escrow Agent to Sponsor upon receipt.

(ii) The name of the account is "70 Berry Street Condominium Escrow Account".

(iii) The following partners in ESCROW AGENT are the sole signatories on the account: Peter Kakoyiannis, Wayne Lehrhaupt, Eric Levine, Jonathan Eiseman and Stephen Weinstein.

(iv) The escrow account shall be an interest-bearing account as disclosed in the Offering Plan.

(v) The escrow account is not an IOLA established pursuant to Judiciary Law Section 497.

2. DEPOSITS INTO THE ESCROW ACCOUNT.

(i) All funds hereafter received from prospective purchasers prior to closing, whether in the form of checks, drafts, money orders, wire transfers, or other instruments which identify the payor, shall be deposited into the escrow account. All instruments to be deposited into the escrow account shall be made payable to, or endorsed by the purchaser to the order of

"Eiseman Levine Lehrhaupt & Kakoyiannis, P.C., as escrow agent" for the Offering Plan for 70 Berry Street Condominium. 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 (5) business days following receipt of such instrument by ESCROW AGENT. In the event of such return of funds, the instrument shall be deemed not to have been delivered to ESCROW AGENT pursuant to the terms of this Agreement.

(ii) Within ten (10) business days after tender of the deposit submitted with the subscription or purchase agreement, ESCROW AGENT shall notify the purchaser of the deposit of such funds in the bank indicated in the Offering Plan, provide the account number, and disclose the initial interest rate. If the purchaser does not receive notification of such deposit within fifteen (15) business days after tender of the deposit, the purchaser may cancel the purchase and rescind within ninety (90) days after tender of the deposit, or may apply to the Attorney General for relief. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited in accordance with these regulations and requisite notice was timely mailed to the purchaser.

3. RELEASE OF FUNDS.

(i) 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.

(ii) ESCROW AGENT shall continue to hold the funds in escrow until otherwise directed in (a) a writing signed by both SPONSOR and the purchaser or (b) a determination of the Attorney General or (c) a judgment or order of a court of competent jurisdiction or until released pursuant to the regulations of the Attorney General pertaining to release of escrowed funds.

(iii) SPONSOR shall not object to the release of the escrowed funds to (a) a purchaser who timely rescinds in accordance with an offer of rescission contained in the Offering Plan or an amendment to the Offering Plan or (b) all purchasers after an amendment abandoning the Offering Plan is accepted for filing by the Department of Law.

(iv) If there is no written agreement between the parties to release the escrowed funds, ESCROW AGENT shall not pay the funds to SPONSOR until ESCROW AGENT has given the purchaser written notice of not fewer than ten (10) business days. Thereafter, the funds may be paid to SPONSOR unless the purchaser has made application to the Department of Law pursuant to the dispute resolution provisions contained in the Attorney General's regulations and has so notified ESCROW AGENT in accordance with such provisions.

4. RECORDKEEPING.

(i) ESCROW AGENT shall maintain all records concerning the escrow account for seven years after release of the funds.

(ii) Upon the dissolution of 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.

(iii) 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.

(i) ESCROW AGENT shall maintain the accounts called for in this Agreement under the direct supervision and control of ESCROW AGENT.

(ii) A fiduciary relationship shall exist between ESCROW AGENT and purchasers, and ESCROW AGENT acknowledges its fiduciary obligations.

6. RESPONSIBILITIES OF SPONSOR.

(i) SPONSOR agrees that SPONSOR and its agents, including any selling agents, shall immediately deliver all deposits and payments received by them prior to closing of an individual transaction to ESCROW AGENT.

(ii) 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.

(i) 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 its desire to so resign, which resignation shall take effect only upon the filing of an amendment with the Department of Law providing for a successor ESCROW AGENT; or

(c) All unsold units offered by SPONSOR pursuant to the Offering Plan have been sold and all sales transactions have been consummated.

(ii) Upon termination of the duties of ESCROW AGENT as described in paragraph 7.1 (a) or (b) above, ESCROW AGENT shall deliver any and all funds held by it in escrow and any and all contracts or documents maintained by ESCROW AGENT to the new escrow agent.

8. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon SPONSOR and ESCROW AGENT and their successors and assigns.

9. GOVERNING LAW. This Agreement shall be construed in accordance with and governed by the laws of the State of New York.

10. ESCROW AGENT'S COMPENSATION. SPONSOR agrees that ESCROW AGENT's compensation shall not be paid from escrowed principal nor from any interest accruing thereon and that compensation to ESCROW AGENT, if any, shall not be deducted from escrowed funds by any financial institution under any circumstance.

11. ESCROW AGENT'S RIGHTS.

(i) ESCROW AGENT shall not be responsible to SPONSOR for any act or failure to act on its part except for its own willful default or gross negligence. ESCROW AGENT shall be automatically released by SPONSOR from all responsibility and liability under this Agreement upon ESCROW AGENT's distribution of deposits and payments in accordance with the provisions of this Agreement, GBL Section 352-e(2-b) and the Regulations.

(ii) SPONSOR hereby indemnifies and holds ESCROW AGENT harmless from any and all losses, damages, claims, liabilities, judgments and other costs and expenses of every kind and nature which may be claimed against or incurred by ESCROW AGENT by reason of its acceptance of, and/or its performance under, this Agreement (other than those ultimately determined to have arisen out of the willful misconduct or gross negligence of ESCROW AGENT), including, without limitation, attorneys' fees either paid to retained attorneys or amounts representing the fair value of legal services rendered to itself. The foregoing indemnification shall survive the termination of this Agreement.

(iii) As to SPONSOR, ESCROW AGENT shall be entitled to consult with and retain counsel selected by it (including any member of its firm) with respect to its duties as ESCROW AGENT and be reimbursed by SPONSOR for all reasonable fees and expenses of such consultation and retention. As to SPONSOR, ESCROW AGENT may act or refrain from acting in respect of any matter referred to herein by and with, and in full reliance upon, the advice of such counsel and, except in the case of its own willful default or gross negligence, ESCROW AGENT shall be fully protected in so acting or refraining from acting upon the advice of such counsel.

(iv) ESCROW AGENT or any member of its firm may act as counsel to SPONSOR in any dispute or question as to the disposition of the deposits or payments or in any dispute between SPONSOR or any purchaser with respect to any matter whatsoever, whether or not ESCROW AGENT is then holding any deposits or payments of such purchaser and is continuing to act as ESCROW AGENT hereunder.

12. SEVERABILITY. If any provision of this Agreement or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remaining provisions of this Agreement or the application of such provision to other persons or to other circumstances shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

13. ENTIRE AGREEMENT. This Agreement, read together with GBL Section 352-e(2-b) and the Attorney General's regulations, constitutes the entire agreement between the parties with respect to the subject matter hereof.

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

ESCROW AGENT:

Eiseman Levine Lehrhaupt & Kakoyiannis, P.C.

By_____, Partner

SPONSOR:

Essex Berry Street LLC
By; Mitchell B. Rutter, Managing Member

By:_____

EXHIBIT 9

APPLICATION TO ATTORNEY GENERAL FOR RESOLUTION OF DISPUTE CONCERNING DOWNPAYMENT

APPLICATION TO THE ATTORNEY GENERAL FOR A DETERMINATION ON THE DISPOSITION OF DOWN PAYMENTS

Re: 70 Berry Street Condominium
70 Berry Street, Brooklyn, New York 11211

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 down payment.
   forfeiture of down payment.

   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 time share.
   [ ]other:_____

7. Name and Address

of
Sponsor:_____

_____

___

8. Name and Address
of Escrow
Agent:_____

_____

___

9. If down payments 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 down payments 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 down payments 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) Down payments 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 Agreement was signed:_____

(c) Date(s) of down payment(s):_____

(d) Total amount of down payment(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: _____

_____

_____

EXHIBIT 10

CERTIFICATIONS

10A Sponsor and Principals
10B Sponsor's Architect
10C Sponsor's Expert Concerning Adequacy of Budget
10D Sponsor's Expert Concerning Adequacy of Projected Annual Electricity Costs

10 A

SPONSOR AND PRINCIPALS

EXHIBIT A-1

ESSEX BERRY STREET LLC
c/o Essex Capital Partners Ltd.
635 Madison Avenue, Suite 1300
New York, New York 10022

CERTIFICATION BY SPONSOR AND SPONSOR'S PRINCIPALS
PURSUANT TO SECTION 20.4(b) OF THE REGULATIONS ISSUED
PURSUANT TO GENERAL BUSINESS LAW, ARTICLE 23-A, AS AMENDED

October 8, 2008

New York State Department of Law
120 Broadway
New York, New York 10271
Att.: Investment Protection Bureau

Re: 70 Berry Street Condominium
70 Berry Street, Brooklyn, New York 11211

The undersigned certify as follows:

We are the sponsor and the principals of the sponsor of the condominium offering plan for the captioned property.

We understand that we have primary responsibility for complying 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:

1. set forth the detailed terms of the transaction and be complete, current and accurate;

2. afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;

3. not omit any material fact;

4. not contain any untrue statement of a material fact;

5. not contain any fraud, deception, concealment, suppression, false pretense or fictitious or pretended purchase or sale;

6. not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

7. not contain any representation or statement which is false, where we:

(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:

Sworn to before me this
8 day of October, 2008

Notary Public

STUART P. KEANE
Notary Public, State of New York
No. 01KE6169878
Qualified in Suffolk County
Term Expires July 2, 2011

Essex Berry Street LLC, a New York limited liability company

By: Essex Brooklyn LLC, a New York limited liability company, its Managing Member

By: _____
Name: Mitchell B. Rutter
Title: Managing Member

PRINCIPAL:

Sworn to before me this
8 day of October, 2008

Notary Public

STUART P. KEANE
Notary Public, State of New York
No. 01KE6169878
Qualified in Suffolk County
Term Expires July 2, 2011

_____
Mitchell B. Rutter

10 B

SPONSOR'S ARCHITECT

KSQ ARCHITECTS, PC
ARCHITECTURE.PLANNING.DESIGN
NEW YORK.OKLAHOMA.TEXAS

235 Main Street
SUITE 410
WHITE PLAINS NY 10601

t 914 682 3700
f 917 591 7013
www.ksqarchitects.com

CERTIFICATION OF SPONSOR'S ARCHITECT PURSUANT TO SECTION 20.4(c) OF THE REGULATIONS ISSUED PURSUANT TO GENERAL BUSINESS LAW, ARTICLE 23-A, AS AMENDED

April 16, 2009

New York State Department of Law
120 Broadway
New York, New York 10271
Att.: Investment Protection Bureau

Re: **70 BERRY STREET CONDOMINIUM**
70 Berry Street, Brooklyn, New York 11211

The undersigned, a licensed architect in the State of New York, hereby certifies as follows:

The sponsor of the condominium offering plan for the captioned property (the "Property") retained our firm to prepare a report describing the construction of the Property (the "Report"). We have examined the building plans and specifications, dated as of June 18, 2007, that were prepared by KSQ Architects that were submitted on May 31, 2006 to the Department of Buildings and prepared the Report, dated as of April 16, 2009, a copy of which is intended to be incorporated into the offering plan so that prospective Purchasers may rely on the Report.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 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 the construction, provided the 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 the construction, provided that the 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;

(vii) does not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by 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.S.Q. Architects, PC

By: _____
Name: Armand Quadrini
Title: Principal

Sworn to before me this
17th day of APRIL, 2009

Notary Public

CAROLYN JOHNSON
NOTARY PUBLIC, State of New York
No. 4519226
Qualified in Westchester County
Commission Expires April 30, 2010

10 C

SPONSOR'S EXPERT CONCERNING ADEQUACY OF BUDGET

EXHIBIT A-3

Phone: 718.388.0025

ABLE MANAGEMENT II

Fax: 718.388.0065

196 Bedford Ave.
Brooklyn, NY 11211
www.AbleManagement2.com

CERTIFICATION OF SPONSOR'S EXPERT ON ADEQUACY OF CONDOMINIUM BUDGET PURSUANT TO SECTION 20.4(d) OF THE REGULATIONS ISSUED PURSUANT TO GENERAL BUSINESS LAW, ARTICLE 23-A, AS AMENDED

February 24, 2009

New York State Department of Law
120 Broadway
New York, New York 10271
Att.: Investment Protection Bureau

Re: **70 Berry Street Condominium**
70 Berry Street, Brooklyn, New York 11211

The undersigned, Able Management II, Inc., is a licensed real estate brokerage firm in the State of New York. Able Management II, Inc. has been engaged in the management of over 80 condominium, cooperative and residential rental properties over the course of the past 25 years.

The sponsor of the condominium offering plan for the above captioned property retained us to review Schedule B (together with the notes thereto, the "Schedule") to the offering plan containing projections of income and expenses of the Condominium for the fiscal year [FIRST YEAR OF OPERATIONS], the projected first year of condominium operation.

Our relevant experience in the field includes: **Over twenty five years of Owning/operating residential and commercial rental units, cooperatives, and condominiums in all five boroughs. Tenants have access to a 24/7 emergency phone number in case they have a problem. In these cases, the call is never forwarded to an answering service; one of the property managers always takes the call directly. Our team consists of five people handling all facets of the business.**

We understand 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 Schedule B.

We have reviewed the Schedule and investigated the facts set forth in the Schedule 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 mixed use and residential buildings in Manhattan.

We certify that the projections in Schedule B appear reasonable and adequate under existing circumstances, and the projected income appears to be sufficient to meet the anticipated operating expenses of the Condominium for the projected first year of condominium operation.

We certify that the Schedule:

(i) sets forth in detail the projection of income and expenses for the projected first year of condominium operation;

(ii) affords potential investors, purchasers, and participants an adequate basis upon which to found their judgment concerning the projected first year of condominium operation;

(iii) does not omit any material fact;

(iv) does not contain any untrue statement of a material fact;

(v) does not contain any fraud, deception, concealment, or suppression;

(vi) does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(vii) does not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representation or statement made.

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 projected 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.

Able Management II, Inc.

By: _____
Name: Matthew W Gelfand
Title: Vice-President

Sworn to before me this
27 day of January 2009

_____
Notary Public

BOGUMILA T. ROSEBURG
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01RO5071459
QUALIFIED IN QUEENS COUNTY
COMMISSION EXPIRES JANUARY 13, 2011

10D

SPONSOR'S EXPERT CONCERNING ADEQUACY OF PROJECTED ANNUAL ELECTRICITY COSTS

TSF

TSF Engineering , PC
Mechanical–Electrical Consulting Engineers

70 Berry Street Condominium
Brooklyn, NY
Estimated Residential Unit Utility Costs
TSF No. 05433.00

February 26, 2009

A new residential apartment building is to be constructed at the above addresses. The building shall be six stories in height with an additional Penthouse Level and contain a total of thirty-eight (38) apartments as follows:

Studio (approx. 500sf)	1
1-Bedroom Units (approx. 700-800sf)	30
2-Bedroom Units (approx. 1,115-1440sf)	6
3-Bedroom Unit (approx. 1,770sf)	1

The building shall contain a central boiler plant to provide the means for heating and domestic hot water.

Each apartment unit shall contain Packaged-Through-the-wall, heating and Air-Conditioning Units (PTAC Units). Hot water coils within the PTAC units, utilizing the building's hot water, provide heating within the Apartments.

Each Apartment contains a clothes washer and electric dryer and an electric oven.

Calculations for the estimated utility usages are based on the following:

1. Double insulated glass, thermal barrier type windows.
2. R-30 insulation for roof.
3. R-19 insulation for walls.
4. Cost of Electricity: **$0.19** per KW-hr. ($0.18perKW, plus 4% tax and 3% inflation).
5. Cost of Gas: **$1.77** per Therm. ($1.65 per therm plus 4% tax and 3% inflation).
6. Cost of Water: **$1.76** per 100cu.ft. ($1.65 per 100 cu.ft., plus 4% tax and 3% inflation).
7. Cost of Sewer: **$2.82** per 100cu.ft. ($2.63 per 100 cu.ft., plus 4% tax and 3% inflation).
8. Heating based on 5026 degree days, maintaining 70F inside space temperature average with 0F outdoor temperatures and 15mph wind.
9. Cooling based on 400 load hours per air conditioning residential season, maintaining 72F space temperature with outdoor temperatures at 80F.
10. Studio Apartments assume occupancy of one person. One-Bedroom apartments assume occupancy of two persons. Two-Bedroom apartments assume occupancy of three persons. Three-Bedroom Units assume occupancy of four persons. Total number of occupants assumed for building = **83.**

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email:files@tsfengineers.com

11. Apartment cooking based on two meals a day.
12. Laundry performed 2 times per week.
13. Residential water usage is estimated at 80 gallons of water per day per person.

I. Studio Apartment Types "PH3": (approx. 500sf)

Electric Usage

Item	Usages		Yearly Cost
Lighting & General Appl.	2,275 kwhr. per year	432 x $.19 =	$ 432
Electric Cooking	1,026 kwhr. per year	1,026 x $.19 =	$ 195
Refrig.	525 kwhr. per year	525 x $.19 =	$ 100
Dishwasher	300 kwhr. per year	300 x $.19 =	$ 57
Electric Dryer	390 kwhr. per year	390 x $.19 =	$ 74
Clothes Washer	62 kwhr. per year	62 x $.19 =	$ 12

Air Conditioning 1,810watts @ 400hrs = 724 kwhr. per year x $.19 = $ 138

Monthly Electric Charges: $1,008 = $84 / month

II. One Bedroom Apartments Types "A1","A2","B","C","D": (approx. 725 -750sf)

Electric Usage

Item	Usages		Yearly Cost
Lighting & General Appl.	3,350 kwhr. per year	3,3350 x $.19 =	$ 637
Electric Cooking	1,368 kwhr. per year	1,368 x $.19 =	$ 260
Refrig.	525 kwhr. per year	525 x $.19 =	$ 100
Dishwasher	300 kwhr. per year	300 x $.19 =	$ 57
Electric Dryer	520 kwhr. per year	520 x $.19 =	$ 99
Clothes Washer	83 kwhr. per year	83 x $.19 =	$ 16

Air Conditioning 3,120watts @ 400hrs = 1,248 kwhr. per year x $.19 = $ 237

Monthly Electric Charges: $1,406 = $117 / month

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III. One Bedroom Apartments Type "F": (approx. 800 sf)

Electric Usage

Item	Usages		Yearly Cost
Lighting & General Appl.	3,725 kwhr. per year	3,725 x $.19 =	$ 708
Electric Cooking	1,368 kwhr. per year	1,368 x $.19 =	$ 260
Refrig.	525 kwhr. per year	525 x $.19 =	$ 100
Dishwasher	300 kwhr. per year	300 x $.19 =	$ 57
Electric Dryer	520 kwhr. per year	520 x $.19 =	$ 99
Clothes Washer	83 kwhr. per year	83 x $.19 =	$ 16

Air Conditioning 4,180watts @ 400hrs = 1,672 kwhr. per year x $.19 = $ 318

Monthly Electric Charges: $1,558 = $130 / month

IV. Two Bedroom Apartments Type "E": (approx. 1,115 sf)

Electric Usage

Item	Usages		Yearly Cost
Lighting & General Appl.	5,200 kwhr. per year	5,200 x $.19 =	$ 988
Electric Cooking	1,642 kwhr. per year	1,642 x $.19 =	$ 312
Refrig.	525 kwhr. per year	525 x $.19 =	$ 100
Dishwasher	300 kwhr. per year	300 x $.19 =	$ 57
Electric Dryer	624 kwhr. per year	624 x $.19 =	$ 120
Clothes Washer	100 kwhr. per year	100 x $.19 =	$ 19

Air Conditioning 5,740watts @ 400hrs = 2,296 kwhr. per year x $.19 = $ 436

Monthly Electric Charges: $2,042 = $170 / month

V. Two Bedroom Apartment Type "PH1": (approx. 1,440 sf)

Electric Usage

Item	Usages		Yearly Cost
Lighting & General Appl.	6,700 kwhr. per year	6,700 x $.19 =	$ 1273
Electric Cooking	1,642 kwhr. per year	1,642 x $.19 =	$ 312
Refrig.	525 kwhr. per year	525 x $.19 =	$ 100
Dishwasher	300 kwhr. per year	300 x $.19 =	$ 57
Electric Dryer	624 kwhr. per year	624 x $.19 =	$ 120
Clothes Washer	100 kwhr. per year	100 x $.19 =	$ 19

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Air Conditioning 6,490watts @ 400hrs = 2,596 kwhr. per year x $.19 = $ 493

Monthly Electric Charges: $2,374 = $198 / month

VI. Three Bedroom Apartments Type "PH2": (approx. 1,770 sf)

Electric Usage

Item	Usages		Yearly Cost
Lighting & General Appl.	7,150 kwhr. per year	7150 x $.19 =	$ 1,359
Electric Cooking	1,970 kwhr. per year	1,970 x $.19 =	$ 374
Refrig.	525 kwhr. per year	525 x $.19 =	$ 100
Dishwasher	300 kwhr. per year	300 x $.19 =	$ 57
Electric Dryer	748 kwhr. per year	748 x $.19 =	$ 142
Clothes Washer	120 kwhr. per year	120 x $.19 =	$ 23

Air Conditioning 8,540watts @ 400hrs = 3,416 kwhr. per year x $.19 = $ 649

Monthly Electric Charges: $2,704 = $225 / month

III. Common Core Charges

A. Estimated Electric Consumption/ Charges

Item	Usages		Yearly Cost
Lighting & Gen.	65,250 kwhr per year	65,250 x $.19 =	$ 12,400
Mech. (Fans/Pump/Heat)	25,760 kwhr per year	25,760 x $.19 =	$ 4,895
Air-Conditioning	13,740 watts @ 400hrs. per yr. = 5,496 kwhr.	x $.19 =	$ 1,044
Elevator*	28,345 kwhr per year	28,345 x $.19 =	$ 5,386

Monthly Electric Charges: $23,725 / 12 = $1,977/ month

* Note Elevator is based on 3 trips per day per occupant.

B. Estimated Residential Water Consumption / Charges (per building)

The annual water consumption is estimated to be 2,443,520 gallons of consumption (approximately 326,238 cubic feet).

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Water Costs ($1.76 per 100 cu. Ft.) = $ 5,742
Sewer Costs ($2.82 per 100 cu. Ft.) = $ 9,200

Monthly Water Costs: $ 14,942 = $ 1,245 month

C. Estimated Gas Consumption/ Charges

Heating Load calculated utilizing Elite Software Energy Analysis and Cost Comparison Software
Load = 16,215therms @ $1.77 = $ $28,701/yr.
Domestic Water: 35 therms per occupant/yr. = 2,905 therms x $ 1.65 = $5,142/yr.
Gas Cooking: 47 therms per occupant/yr. = 3,901 therms x $6,905/yr.

Monthly Gas Charges: $40,748 / 12 = $ 3,396/ month

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



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EXHIBIT 11

REAL PROPERTY LAW SECTION 339-KK

Real Property Law Section 339-kk

§339-kk. Rents.

(a) For the purposes of this section, "non-occupying owner" shall mean a unit owner in a condominium association who does not occupy the dwelling unit.

(b) If a non-occupying owner rents any dwelling unit to a rental tenant and then fails to make payments due for common charges, assessments or late fees for such unit within sixty days of the expiration of any grace period after they are due, upon notice in accordance with subdivision (c) of this section, all rental payments from the tenant shall be directly payable to the condominium association.

(c) If the common charges, assessments or late fees due for any unit have not been paid in full, within sixty days after the expiration of any grace period of the earliest due date, the board of managers shall provide written notice to the tenant and the non-occupying owner.

providing that, commencing immediately and until such time as all payments for common charges, assessments or late fees are made current, all rental payments due subsequent to the issuance of such notice are to be made payable to the condominium association at the address listed on the notice. Where a majority of the board of managers has been elected by and from among the unit owners who are in occupancy, the board may elect not to require that rental payments be made payable to the condominium association. At such time as payments for common charges, assessments and late fees from the non-occupying owner are once again current, notice of such fact shall be given within three business days to the rental tenant and non-occupying owner. Thereafter all rental payments shall be made payable to the non-occupying owner or a designated agent. A non-occupying owner who disputes the association's claim to rental payments pursuant to this section shall be entitled to present facts supporting such owner's position at the next scheduled meeting of the board of managers, which must be held within thirty days of the date that such board receives notice that such owner seeks to dispute such claim.

(d) Nothing in this section shall limit any rights of unit owners or of the board of managers existing under any other law or agreement.

(e) Payment by a rental tenant to the condominium association made in connection with this section shall relieve that rental tenant from the obligation to pay such rent to the non-occupying owner and shall be an absolute defense in any non-payment proceeding commenced by such non-occupying owner against such tenant for such rent.

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