# CONDOMINIUM OFFERING PLAN

For

# BOWERY 263 CONDOMINIUM

## 263 BOWERY
## NEW YORK, NEW YORK 10002

| | | |
|---|---|---|
| Four (4) Residential Units | | $9,350,000 |
| One (1) Commercial Unit | (Not Offered) | $ -0- |
| Total Amount of Offering: | | $9,350,000 |

*SPONSOR:*

**D.N.P. 336 CONVENT AVENUE LLC**
**451 BROOME STREET, SUITE 5E**
**NEW YORK, NEW YORK 10013**

Date of first offering under this Plan is September 24, 2010.

This Plan may not be used after September 23, 2011 unless extended by an amendment hereto.

**THIS PLAN CONTAINS SPECIAL RISKS TO PURCHASERS. SEE PAGE 1.**

**THIS OFFERING PLAN IS SPONSOR'S ENTIRE OFFER TO SELL THESE CONDOMINIUM UNITS. NEW YORK LAW REQUIRES SPONSOR TO DISCLOSE ALL MATERIAL INFORMATION CONCERNING THE CONDOMINIUM UNITS IN THIS PLAN AND TO FILE THIS PLAN WITH THE DEPARTMENT OF LAW OF STATE OF NEW YORK 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.**

**PURCHASERS FOR THEIR OWN OCCUPANCY MAY NEVER GAIN CONTROL OF THE BOARD OF MANAGERS UNDER THE TERMS OF THIS PLAN. SPONSOR IS RETAINING THE UNCONDITIONAL RIGHT TO RENT RATHER THAN SELL UNITS. ACCORDINGLY, 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. (SEE SPECIAL RISKS SECTION OF THE PLAN).**

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## SPECIAL RISKS

1. Time is of the Essence. At the time a Purchase Agreement is executed, a Purchaser is required to make a Contract Deposit in an amount equal to ten (10%) percent of the purchase price (the "Contract Deposit").

The form of Purchase Agreement requires Purchasers to close on thirty days prior written notice given by Sponsor. In the event that a Purchaser defaults under his or her Purchase Agreement by failing to close as stated in Sponsor's notice, Sponsor may send Purchaser a written notice requiring a Purchaser to cure such Purchaser's default by requiring Purchaser to close no less than 30 days following the date such notice is deemed received under the terms of the Purchase Agreement declaring "time of the essence" with regard to the obligations of the Purchaser to close. "Time of the Essence" means that Purchaser shall be required to perform its obligations under the Purchase Agreement on or before the date set forth in Sponsor's default notice setting the Closing. If Purchaser does not close on or before the date set forth in Sponsor's "time of the essence" notice, Sponsor may, at its option, either (i) cancel such Purchase Agreement and retain, as liquidated damages, the Contract Deposit made by the Purchaser, 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 form of Purchase Agreement in Part II hereof and the Section entitled "Procedure to Purchase" for further discussion.

Additionally, if a Purchaser fails for any reason to close title to his Unit on the originally scheduled Closing Date and Sponsor elects not to cancel the Purchaser's Purchase Agreement as a result of the same, (a) the apportionments to be made at the Closing will be made as of midnight of the day preceding the originally scheduled Closing Date, and (b) Purchaser will be required to pay to Sponsor an amount equal to 0.03 percent of the entire purchase price of his Unit for each day that the Closing is adjourned. (See the Section entitled "Procedure to Purchase" for further discussion.)

2. No Financing Contingency. The Purchase Agreement in the form set forth as Exhibit A in Part II of the Plan is not contingent upon Purchaser obtaining financing nor does this Plan contain any provision requiring Sponsor to provide or aid Purchaser in obtaining financing for the purchase of a Unit. Accordingly, a Purchaser who is unable to tender the balance due at Closing will be in default of his Purchase Agreement entitling Sponsor to retain such Purchaser's down payment and all accrued interest thereon. Sponsor does not make any representation as to the terms or availability of mortgage financing. See the Section entitled "Procedure to Purchase" and the Purchase Agreement set forth in Part II of the Plan for further information.

3. No Rescission/Liquidated Damages. The Purchase Agreement between Sponsor and a Purchaser, the form of which is set forth as Exhibit A in Part II of the Plan, in respect of the purchase of a Unit requires the making of a Contract Deposit (referred to herein as the "Contract Deposit"). The Contract Deposit, and all other amounts paid by Purchaser to Sponsor pursuant to the Purchase 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 defaults in such Purchaser's obligations under the Purchase Agreement to purchase (by closing title in accordance with the terms of the Plan and the Purchase Agreement) after payment of the Contract Deposit, the Contract Deposit paid (together with any interest thereon) may 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 Contract Deposit (including interest accrued thereon) 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, attorney's 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 Purchase 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 Contract Deposit (or any interest thereon). The payment of the Contract 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 Contract Deposit except as expressly set forth in the Plan. Notwithstanding anything to the contrary herein contained, in the event that Purchasers are granted a right to rescind their Purchase Agreements pursuant to applicable law and regulations, Purchasers shall, in such instance, be entitled to the return of their Contract Deposit. In the event that Escrow Agent does not return a Purchaser's Contract Deposit, Purchaser may make application to the Attorney General or may commence an action in a court of competent jurisdiction to obtain a determination in a dispute regarding a Contract Deposit. (See Sections entitled "Procedure to Purchase", "Terms of Sale", "Escrow Trust Fund Requirements" in Part I of the Plan for further discussion and the "Application to the Attorney General for a Determination of the Disposition of Downpayments" set forth in Part II of the Plan as Exhibit F.)

4. Minimum Sales Required. Pursuant to existing law and regulation, Sponsor may declare the Plan effective by selling a minimum of fifteen (15%) percent of the Residential Units offered herein. Even if the Plan is declared effective based upon the sale of fifteen (15%) percent of the Units, it is still possible that it will be permissible for Sponsor to convert the Building with fewer than the minimum number of Units if Purchasers counted toward effectiveness do not ultimately purchase their Unit. Purchasers should note that banks and other lenders are imposing various restrictions in connection with loans secured by condominium and cooperative apartments. Such restrictions include requiring that a certain percentage of the apartments in a building be sold before the lender will consider making a loan. The minimum number of sold Units may be greater than fifteen (15%) percent for purposes of obtaining a loan. Accordingly, if the Plan is declared effective based upon the sale of fifteen (15%) percent of the Units, certain lenders may decline to make mortgage loans until additional Units are sold in which case, a Purchaser may have difficulty obtaining a mortgage loan. Purchasers should also note that lenders may still impose minimum sales requirements before granting a loan well after the First

Unit Closing. It may be difficult for a Purchaser to resell a Unit if prospective buyers are unable to obtain a loan due to such minimum sales requirements. (See Section entitled "Effective Date" for further details.) Purchasers should be aware that even if a loan commitment is obtained, its term may be fixed and it could expire before the closing date without the payment by Purchaser of additional fees. In the event that a Purchase Agreement is contingent on financing and Purchaser's mortgage commitment lapses or expires prior to the closing and Purchaser has made a good faith effort to extend the commitment, Sponsor must grant Purchaser a right of rescission and a reasonable period of time to exercise such right.

5. No Assurance of Performance of Sponsor Obligations. The assets and borrowing capacity of Sponsor are sufficient to meet the obligations of Sponsor hereunder. Such obligations include the costs of construction, payment of Common Charges, and real estate taxes on account of the Unsold Units, as well as the costs of obtaining a permanent certificate of occupancy. No bond or other form of security has been posted by Sponsor to guarantee its performance of its obligations hereunder, and therefore, there is no assurance of Sponsor's obligations hereunder. (See the Section entitled "Rights and Obligations of Sponsor" for further details.)

6. Control of Condominium Board. Sponsor will control the Condominium Board until the earlier of: (i) the Closing of title with purchasers under the Plan to Units having more than 75 percent of the aggregate Common Interests appertaining to all Units, or (ii) five (5) years after the First Closing (the "Initial Control Period").

During the period that Sponsor controls the Condominium Board, Sponsor will have control of maintenance and services to be provided to Unit Owners and will determine the Common Charges to be paid by all Unit Owners. Sponsor may exercise veto power over expenses for a period ending not more than five (5) years after the first Closing or whenever the unsold units constitute less than 25 percent of the common interest. See the Section entitled "Control by Sponsor" for further details. After the Initial Control Period, Sponsor, as owner of Unsold Units, shall have the right to designate one member of the Condominium Board for so long as Sponsor owns at least one Unsold Residential Unit.

Sponsor will continue to have a voice in governance due to its right to designate a specified minority of the Board Members for so long as Sponsor owns one or more Unsold Units. Moreover, Sponsor and any other non-resident Unit Owners will at all times have the same rights as resident Unit Owners to vote on issues that require the approval or consent of Unit Owners (such as the exercise of the Condominium Board's Right of First Refusal to purchase or lease a Unit or to borrow money in excess of $100,000 in any Budget Year). (See the Sections entitled "Rights and Obligations of Sponsor" and "Rights and Obligations of the Condominium/Summary of the By-laws.")

7. Sponsor's Veto Powers. Sponsor may exercise veto power over some actions of the Condominium Board until such time when Sponsor owns Units with an aggregate Common Interest in the Common Elements constituting less than 25 percent of the Common Elements of the Condominium, but in no event later than five (5) years after the First Closing. The Condominium Board may not take any of the following actions without Sponsor's prior written consent: (a) make any addition, alteration or improvement to the Common Elements or to any

Unit, unless the same are required to comply with applicable laws or regulations, or (b) assess any Common Charges or Special Assessments for the creation of, addition to, or replacement of, all or part of a working capital, reserve, contingency or surplus fund, or (c) increase or decrease the number, or change the kind of, employees initially employed for the Condominium, or (d) enter into any service or maintenance contract for work or otherwise provide services in excess of those initially contracted for the Condominium, except required to reflect normal annual increases in operating services, or (e) borrow money on behalf of the Condominium, or (f) exercise a right of first refusal to lease or purchase a Unit; provided, however, that Sponsor's written consent is not necessary to perform any function or take any action described in clauses (a) through (f) above, if, and only if, the performance of such function or the carrying out of such an action is necessary (and no other alternative is available) to enable the Condominium Board to comply with applicable laws or regulations, remedy any notice of violation or remedy any work order of the Condominium's insurer. (See Section entitled "Control by Sponsor" for further details.)

8. Transfer Taxes. Purchasers shall be obligated to pay 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. The New York City Real Property Transfer Tax (the "City Transfer Tax") is payable at the rate of 1.0 percent for Units where the purchase price is less than $500,000.00 and 1.425 percent of the purchase price in instances where the purchase price is greater than $500,000.00. The New York State Real Estate Transfer Tax (the "State Transfer Tax") is payable at the rate of 0.4 percent regardless of the amount of the purchase price. However, in instances where the transfer taxes which are statutory liability of a seller are paid by a purchaser, the City and State add the amount of such taxes to the purchase price for purposes of determining the taxes payable. Accordingly, in instances where the purchase price is less than $500,000.00, the effective rate of the City Transfer Tax is 1.014 percent, where the purchase price is greater than $500,000.00, the effective rate of the City Transfer Tax is 1.451 percent. As of the date hereof, the effective rate of the State Transfer Tax will be 0.406 percent for all transactions contemplated herein. (See the Section entitled "Unit Closing Costs and Adjustments" for additional information).

9. Sponsor's Obligation to Sell Units. Sponsor shall not be required to offer all Units for sale at all times and, subject to the provisions hereof, may withhold all or certain Units from the market as and when Sponsor may elect. In the event that Sponsor elects to withhold certain Units from sale, Sponsor shall amend the Plan to disclose the same. In connection therewith, Sponsor may place one or more signs or other promotional materials on the exterior walls of the Building or in front of the Building or elsewhere on the Common Elements of such size, nature and content as Sponsor shall determine for the purpose of advertising or displaying the availability of any Unsold Unit for sale or lease, without restriction and without being subject to any charge or fee thereof. (See Sections entitled "Terms of Sale" and "Rights and Obligations of Sponsor" for further details.)

Sponsor will endeavor in good faith to sell, but nevertheless reserves the unconditional right to rent or lease, rather than sell, the Residential Units offered hereunder. As a result, Purchaser may be acquiring a Residential Unit that has been previously occupied, but unless otherwise specifically agreed to in writing by Sponsor and such Purchaser, such Residential Unit will be delivered at closing free and clear of all leases and tenancies. In addition,

there is no commitment to sell more than the fifteen (15%) percent of the Residential Units necessary to declare the Plan effective. Accordingly, owner-occupants may never gain effective control and management of the Condominium.

Prospective Purchasers should also be aware that they potentially may be living with transient tenants in the Residential Units for an indefinite period. Transient tenants will receive the same Building services and use of the Building's facilities as owner occupants. However, they have no investment in their Units and, therefore, do not share the same economic interests as resident Unit Owners in the maintenance and care of the Building's facilities and amenities. Prospective purchasers should also be aware that Sponsor and any other non-resident Unit Owners may be at odds with resident Unit Owners on expenditures for items like lobby and hallway decorations and capital improvements. (See Sections entitled "Introduction" and "Rights and Obligations of Sponsor" in Part I of the Plan for further discussion.)

10. Contract Deposit Held in Escrow. All Contract Deposits will be held in escrow by Sponsor's counsel, Rosenberg & Estis, P.C., having an office at 733 Third Avenue, New York, N.Y. pursuant to the Escrow Agreement in the form contained as Exhibit G in Part II of this Plan. Such Contract Deposits shall be maintained in a separate interest-bearing account at Valley National Bank, 275 Madison Avenue, New York, New York, in Account No. [redacted] Contract Deposits in excess of $250,000 are not insured by the Federal Deposit Insurance Corporation ("FDIC"). Contract Deposits will not earn interest when they are in the non-interest money IOLA account prior to being moved to an individual subaccount. As of the date of this offering, there is no limit on the FDIC insurance for IOLA accounts. Neither Sponsor nor the Escrow Agent shall be liable for the loss of the Contract Deposit if Valley National Bank shall become insolvent. Although Sponsor does not intend to undertake performing custom work or so-called "extras", in the event that Sponsor shall agree to perform any extras, Sponsor may require the additional cost therefor to be paid in advance which payment shall initially be deposited in the Escrow Account. Such payment or contract deposit for extras may be disbursed to Sponsor upon Sponsor's written request provided that Sponsor certifies in such written request that it will use the funds so disbursed to perform the extras. A Purchaser who is entitled to rescission will not be entitled to the refund of any portion of the monies advanced to Sponsor for extras. After January 1, 2014, it is possible that Contract Deposits will not be insured for the period when such monies are deposited in the IOLA account. (See Section entitled "Escrow and Trust Fund Requirements" for further details.)

11. No Reserve Fund. The Building will be newly constructed. Accordingly, no reserve for repairs has been established by Sponsor. The budget for the first year of operation includes a contingency reserve of $5,000. Subject to the rights of Sponsor as provided herein, the Board of Managers may in the future elect to create a reserve fund through an increase in Common Charges or a special assessment. At the initial closing of each Unit, the Purchaser will be required to pay a one-time payment to the Condominium in an amount equal to two (2) months' Common Charges as a contribution to the Condominium's Working Capital Fund. (See Section entitled "Unit Closing Costs and Adjustments" and "Working Capital and Reserve Fund" for further details).

12. Adjustments At Closing. Customary adjustments will be made between Sponsor and the Board of Managers as of the date of the First Unit Closing. Customary adjustments shall include prepaid insurance premiums and service contracts, water and sewer charges and payroll expenses. To the extent that such adjustments result in a net credit in favor of Sponsor, such credit shall be paid to Sponsor in twelve (12) consecutive monthly payments with interest at the rate of ten (10%) percent per annum or, at the option of Sponsor, Sponsor shall be entitled to a credit against the Common Charges due from Sponsor on account of the Unsold Units. It is impossible to determine the amount of any net adjustment in favor of Sponsor. Accordingly, no provision for this has been made in the budget set forth in Schedule B for any such payment to Sponsor or credit in favor of Sponsor. If the net adjustment at closing is in favor of Sponsor, it may be necessary to increase the initial Common Charges payable by the Unit Owners for a limited period of time in order to reimburse Sponsor for any such prepaid adjustable items. (Please refer to the Section entitled "Working Capital Fund" for further details.)

13. Initial Real Estate Tax Assessment. Sponsor has been advised by its tax counsel that the current practice of the New York City Real Property Assessment Bureau is to allocate the aggregate tax assessment for the entire Property existing as of the date of the recording of the Declaration among all Units in the relative proportion that the Purchase Price of each Unit bears to the Purchase Price of all Units and not in the proportion that the Common Interest that each Unit bears to the aggregate Common Interest which is the method to be used by the Board of Managers to determine the escrow amount to be paid by a Unit Owner prior to the time that the Units are separately assessed for real estate tax purposes. (See Notes 5 and 6 to Schedule A entitled "Notes to Schedule A" and the Section entitled "Real Estate Taxes".)

14. Real Estate Taxes And Tax Exemption Benefits. Each Unit will be taxed as a separate tax lot for real estate tax purposes, and no Unit Owner will be responsible for payment of, nor will the Unit be subject to, any lien arising from the non-payment of real estate taxes on other Units. Generally, Units may not be separately assessed until the tax year following the tax year in which the Declaration of Condominium is recorded. Until the Units are separately assessed and billed, each Unit Owner shall pay such Unit Owner's *pro rata* share (in the proportion that such Unit Owner's Unit's Common Interest bears to the aggregate Common Interest of all Units) of all real estate taxes with respect to the Property to the Condominium Board as Common Charges.

Sponsor has applied to obtain an exemption from real estate taxes with respect to the Building pursuant to Section 421-a of the New York State Real Property Tax Law. Under the Section 421-a program, the real estate tax estimate for the projected first year of Condominium operation is based upon the assessed valuation of the property, subject to the exemption benefit which will be effective during such projected first year of Condominium operation. (See the opinions of Sponsor's Real Estate Tax Counsel dated August 2, 2010 set forth in Part I of the Plan for further discussion regarding real estate taxes for the Residential Section of the Property and the Section 421-a Benefits granted.

The real estate tax estimates for each Residential Unit were calculated on the assumption that the real estate taxes for each Unit for the first year of Condominium operation will be allocated in proportion to each Unit's percentage interest in the Common Elements. Upon

determination of individual tax lots and individual Residential Unit assessments, the New York City tax authorities may allocate assessed valuation between the Residential Units in proportion to each Residential Unit's purchase price rather than its percentage interest in the Common Elements, and, if so, Residential Units having the same percentage interest may pay different real estate taxes. Sponsor has been advised that as of the date hereof, the New York City Department of Finance has been allocating real estate taxes in condominiums on the basis of the allocation of the common elements. Sponsor anticipates, based upon the advice of its Real Estate Tax Counsel, that in arriving at the assessed valuation for each Residential Unit, the Residential Section will first be assessed as an entirety. This overall assessment will then be apportioned among the Residential Units. SPONSOR MAKES NO REPRESENTATION THAT THE ASSESSED VALUE OF THE PROPERTY, THE METHOD OF ALLOCATION, THE ESTIMATED ALLOCATIONS OR THE TAX RATE WILL BE AS SET FORTH ABOVE. Purchasers should note that disclosure of the real estate taxes operation without 421-a benefits is included to provide prospective purchasers with information as to the projected amount of the Real Estate taxes if Section 421-a benefits were not in effect.

Prospective purchasers should note that 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 tax fiscal years in annual increments of twenty (20%) 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.

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 amount of assessed valuation (transitional and actual) for each Unit and the real estate tax rate. In this regard, prospective purchasers should note that, assuming the partial 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 ten years of condominium ownership as an integral part of the Section 421-a program. The ten-year exemption from taxation consists of two years of full exemption, followed by two years of exemption from 80 percent of such taxation, two years of exemption from 60 percent of such taxation, two years of exemption from twenty percent of such taxation. In addition, the 421-a exemption covers up to three construction years. Thereafter, under the Section 421-a program there will be no further real estate tax exemptions. The exemption is based on the increase in the assessed value above the assessed value in the year prior to the commencement of construction of the new building. The 421-a exemption does not eliminate all real estate taxes.

| Benefit Years | % of Exemption |
|---|---|
| 1 | 100% |
| 2 | 100% |
| 3 | 80% |
| 4 | 80% |
| 5 | 60% |
| 6 | 60% |
| 7 | 40% |
| 8 | 40% |
| 9 | 20% |
| 10 | 20% |
| 11 | 0% |

It is projected that the first year of the Section 421-a real estate tax benefits will be the 2010-2011 fiscal year. The benefits will be granted retroactively by the New York City Department of Finance after HPD issues the preliminary 421-a certificate of eligibility. Accordingly, the anticipated First Year of Condominium Operation, November 1, 2010-October 31, 2011 will occur during the construction year and the first year of the Section 421-a real estate tax benefits. The Section 421-a Exemption benefit will expire in its entirety as of June 30, 2021.

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 Board of Managers for inspection and copying for the life of the benefits and Sponsor will file all applications and timely comply with all procedures required to maintain the tax benefits. Please refer to the opinion of Tuchman, Korngold, Weiss, Lippman and Gelles, LLP, Sponsor's Real Estate Tax Counsel, dated August 2, 2010 set forth herein for further details regarding the real estate tax assessment for the Property and the availability of Section 421-a benefits are granted and the section of the Plan entitled "Real Estate Taxes and Section 421-a Benefits".

15. Limited Warranty. The Housing Merchant Implied Warranty set forth in Section 777 of the New York General Business Law does not apply to this offering. The Building is being constructed by Nexus Building Development Corp. (the "Contractor"). Sponsor's contract with the Contractor provides that Contractor warrants against all construction defects for a period of one (1) year following the issuance of a temporary certificate of occupancy. In addition, Sponsor is purchasing a manufacturer's warranty for the roof materials which provide that such materials are guaranteed to be free of defects for twenty (20) years. In addition, certain Building equipment will be subject to manufacturer's warranties. At Closing, Sponsor shall assign the aforementioned warranties to the Board of Managers. Each Purchaser will receive, at Closing, the manufacturer's warranties for the appliances located in their Units. (See Section entitled "Rights and Obligations of Sponsor" for further information.)

16. Interim Service Period. Prospective Purchasers are advised that until the later of: (i) twelve (12) months after the First Unit Closing; or (ii) the closing of title to and occupancy of at least 50 percent of the Residential Units, some of the services and facilities described in the Plan may not be available including, but not limited to, access to the roof deck amenity and the Storage Units located in the cellar of the Building. During such interim service period when full services and/or facilities are not available, the Common Charges payable by the Unit Owners may be reduced accordingly to reflect the corresponding diminished expenses of the Condominium. (See "Description of Property and Improvements" in Part I of the Plan for further discussion.)

17. Additional Building Work. Renovation and construction of a building is a complex 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, construction dust, debris and inconvenience. Thus, for a period of time following the First Unit 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; and (ii) individual Residential Unit Owners within their Residential Units (to perform custom renovations, etc.), and the Commercial Unit within the Commercial Unit. 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 work, making adjustments and performing various other tasks related to the completion of construction, fitting out of, and moving into, the Residential Units, the Commercial Unit and other portions of the Building which may compromise the security of the Building from time to time. Various systems, including but not limited to, water supply, air-conditioning, heating, cooling, ventilating and elevator, may require more than a year after any particular Unit closing to complete and may be disrupted temporarily from time to time. The elevator may be taken out of service and diverted to facilitate renovation for at least a year following the First Unit Closing, and from time to time thereafter, as needed, in connection with renovation being performed in Residential Units by the Unit Owners thereof. Various other adjustments, to windows and elevators and other systems, may require twelve (12) months or more after the First Unit 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, or painting, until that particular floor is fully occupied by a Unit Owner or, if additional renovation within a Unit is anticipated, for some period thereafter. All of the foregoing work and conditions will create noisy and otherwise disruptive conditions 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 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 Condominium 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 of Managers and/or Sponsor may impose conditions and deadlines upon the planning, performing

and completion of such work. No assurance may 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. In the event that the First Unit Closing is delayed twelve (12) months or more, Purchasers will receive a right of rescission and a reasonable period to exercise such right which period shall be no less than fifteen (15) days.

Based upon the current 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 closing of title to the Residential Units to begin on or about November 1, 2010. Prospective Purchasers should note, however, that the 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 Unit or otherwise be relieved from any obligations under the Agreement, in the event that the First Unit Closing occurs earlier or later than the targeted date or the time to complete or to close title to such Purchaser's 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 (6) months or more, Sponsor will amend the Plan to include a revised budget with current projections and if: (i) such amended budget exceeds the projected budget set forth herein by 25 percent or more; or (ii) the First Unit Closing does not occur within twelve (12) months after November 1, 2010, the date set forth in Schedule B as the commencement date for the projected First Year of 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 Purchase Agreements, if the Plan has been declared effective) the right to rescind their Purchase Agreements within not less than fifteen (15) days after the presentation date of the amendment containing such revised budget or after such twelve (12) month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Contract Deposit and any interest accrued thereon returned. Purchaser's 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 Residential Unit will take place prior to the Plan being declared effective. (See the Section entitled "Description of Property and Improvements" for further discussion.)

18. 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. (See the Section entitled "Terms of Sale" for further discussion and the Purchase Agreement in Part II of the Plan for further information.)

19. 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 "Rights and Obligations of Sponsor in Part I of the Plan for further discussion.)

20. 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 entitled "Procedure to Purchase" for further discussion).

21. Commercial Unit. The Commercial Unit will include space located on the first and second floors and in the basement. Subject to the limitations described in the paragraph below, the Commercial Unit may be used by the Commercial Unit Owner for any lawful purpose. The Commercial Unit will continue to be owned by Sponsor and is not currently being offered for sale under this Plan. In the event Sponsor elects to offer the Commercial Unit for sale, the Plan will be amended accordingly. As of the date hereof, Sponsor has not yet entered into a lease agreement for the Commercial Unit. At such time when Sponsor enters into a lease agreement for the Commercial Unit, the Plan will be amended accordingly. Purchasers are advised that the fire egress from the Commercial Unit is through the stairwell used by the Residential Unit Owners.

The Declaration prohibits certain commercial uses including, but not limited to, a funeral parlor, an establishment for the servicing of motor vehicles, machinery or equipment, a drug or alcohol treatment center, a shelter for homeless persons, an AIDS treatment center, a facility housing or treating criminal or mentally disturbed persons, a massage parlor or sex club, or for the sale or display of pornographic material or a cabaret or night club provided, however, such restriction shall not prohibit a restaurant from having live entertainment. The use of the Commercial Unit may generate noise or other disturbances over which the Residential Unit Owners will have no control. The Commercial Unit may operate 24 hours per day, 365 days per year. The Commercial Unit Owner shall have the right to subdivide and combine portions of the Commercial Unit (if the same was previously divided), subject to the provisions of the Declaration and By-laws.

The Commercial Unit Owner may subdivide the Commercial Unit and make alterations to the Commercial Unit without the consent of the Condominium Board or other Unit Owners.

Schedule B and the Declaration provide that certain expenses are not allocated between the Commercial Unit and the Residential Units, in the aggregate, in accordance with the respective interest in the Common Elements of the Commercial Units and the Residential Units. The allocation has been made based upon the anticipated and projected use of certain services or supplies. *e.g.*, the Declaration does not require the Condominium to supply cooking gas to the Commercial Unit, so no portion of the cost therefor has been allocated to the Commercial Unit. In the event that the Commercial Unit is to be occupied by a tenant or owner that will require the use of cooking gas *(i.e.* an establishment for the preparation of food), it will be the responsibility

of the Commercial Unit Owner, or its tenant to contract with the public utility to obtain cooking gas for the Commercial Unit. See Schedule B Footnotes for additional information.

The Condominium Board, at the request of Sponsor or the Commercial Unit Owner, will enter into a recognition and non-disturbance agreement with any tenant with whom Sponsor or a Commercial Unit Owner has entered into a lease for the Commercial Unit or any portion thereof. Under the terms of the recognition agreement, the tenant will acknowledge that its lease is subject and subordinate to the Declaration and By-laws. Such agreement will further provide that while the Condominium Board can foreclose its lien in the event of a default by the Commercial Unit Owner, if the tenant(s) pay, on a continuing basis, rent due under its lease to the Condominium Board, the Condominium Board will agree that the rights of the tenants under the lease(s) will not be disturbed in the event of a default by the Commercial Unit Owner. Please refer to the Section of the Plan entitled "Commercial Unit", Article 7 of the Declaration and Article 9 of the By-laws of the Condominium contained in Part II of the Plan.

22. No Limit on Number of Purchasers who Purchase for Investment Rather than Occupancy. There is no limit on the number of Unit Owners who may purchase for investment rather than personal occupancy. Consequently, there always may be a substantial percentage of Unit Owners who are non-residents.

23. Allocation of Common Charges. The budget for the Condominium provides that the Commercial Unit Owner will not be liable for its' *pro rata* portion of certain expenses of the Condominium. The allocation of the cost of services is predicated upon the non-use or disproportionately lower usage of such services by the owner of the Commercial Unit. The Commercial Unit Owner will have a will not receive cooking gas and will have limited use of certain common areas of the Building. The Commercial Unit Owner is also responsible for the removal of all refuse generated by the occupant of the Commercial Unit. Accordingly, the Commercial Unit Owner will not pay any portion of the cost of cooking gas and will not pay its proportionate share of the wages of the building porter. The lavatory facilities located in the Commercial Unit are supplied by the same water line that supplies the Residential Units and the Commercial Unit Owner has been allocated a portion of the water and sewer charges and hot water costs in accordance with its interest in the Common Elements. In the event that the Commercial Unit is used as a restaurant, medical office or other use which creates a demand for additional water, the Declaration requires the Commercial Unit Owner to install a water heater and to obtain a separate water meter and pay for the cost of such additional water usage. The Declaration gives the Board of Managers certain rights to conduct an audit regarding the usage of water in the Commercial Space and the power to reallocate the portion of water charges allocated to the Commercial Unit Owner. (See Schedule B and the accompanying footnotes for further information.)

24. Square Footage Exceeds Usable Area. Each Unit consists of the area measured horizontally from the exterior faces of exterior walls and from the center lines of walls separating one unit from another unit or Common Elements as indicated in the Condominium plans and from lot line at party walls separating one building from another and measured vertically from the top of the sub-floor to the underside of the floor construction above except that a Residential Unit shall not include the Common Elements contained therein. THIS MEANS THAT THE LISTED

AREAS ARE LARGER THAN THE ACTUAL FLOOR AREA OF THE UNITS. The variations reflect the correction of errors in certain computations performed in connection with the preparation of the information to be included in the Plan. Sponsor has not done any work to modify the configuration of the Units which would affect the square footage thereof subsequent to the date of the Plan. In any case, the Units are sold in the "AS IS" condition as of the date of the Plan subject only to performance of work agreed to in writing upon the execution of a Purchase Agreement or as otherwise specifically disclosed in the Plan. Prior to submitting the Declaration of Condominium to the City Surveyor's office for recording, Sponsor will revise the square footage of the Units so that the same conform to the square footage noted on the revised Schedule A.

25. Self-Management. The budget for the First Year of Condominium Operation contemplates that during the first year of condominium operation the Condominium will be self-managed. Accordingly, no management fee has been budgeted. The budget, however, includes an allowance of $800 for out-of-pocket expenses and fees associated with self-management which would include the cost of bookkeeping, handling of receivables and payables, postage and other miscellaneous administrative expenses. If Sponsor elects to retain a managing agent at the time of the First Unit Closing, this Plan will be amended to disclose the terms of such management agreement. In the event the Board of Managers subsequently elects to retain a third party managing agent, it estimated the cost of management services will be no less than $6,000 per annum. Please see the Footnotes to Schedule B and Section of the Plan entitled "Management Agreement".

26. Lot Line Windows. All of the Residential Units have windows located on a lot line along the northern and southerly Building facades. The Units contain other windows which satisfy the light and air requirements under the Building Code for the City of New York. In the event that buildings are constructed on either of the adjacent parcels, the Board of Managers of the Condominium will be responsible to seal the openings in the facade with construction in compliance with the Building Code and all other applicable laws, ordinances, codes, rules and regulations of governmental or other authorities having jurisdiction. The Condominium shall also insulate and seal the openings inside any affected Units. It will be the responsibility of any affected Unit Owners to refinish the interiors of their Unit.

27. Window Guard Requirements. It is the responsibility of each Residential Unit Owner to notify the Board of Managers in writing when a child or children under the age of eleven (11) years lives or resides (even temporarily) in the Residential Unit. It is the responsibility of each Residential Unit Owner to ensure that all operable windows opening into the Residential Unit comply with all applicable laws relating to window guards and, if necessary, install, operate and maintain, at the Residential Unit Owner's expense, any additional equipment required by applicable law in effect from time to time. Sponsor makes no representation, warranty or assurance whether Residential Unit Owners will comply with the foregoing obligations. Please refer to Section of the Plan entitled "Rights and Obligations of Unit Owners and the Board of Managers" in Part I of the Plan for further details.

28. Income Taxes Payable by the Condominium. Sponsor anticipates that the Condominium will not qualify as a homeowners association under Section 528 of the Internal

Revenue Code. Assuming the Condominium does not qualify as a homeowners association, or if it does but chooses not to make the election to be a homeowners association, the present state of the law is uncertain as to the tax treatment of any income of the Condominium in excess of appropriate deductions and credits. As discussed in the Attorney's Income Tax Opinion prepared by Sponsor's counsel and set forth in Part I of the Plan, the tax authorities may take the position that the Condominium is a separate taxable entity and that some or all of such income (including the non-membership, and possibly membership, income, less expenses related to such income) is subject to Federal corporate income tax, New York State Corporation Franchise Tax and New York City Corporate Franchise and/or Unincorporated Business Tax. Schedule B, Budget for the First Year of Condominium Operation, does not contemplate any substantial income which might be taxable and accordingly does not specifically budget any amounts for taxes for non-membership or membership income. Alternatively, it is possible that some or all of such income might be reportable directly by the Unit Owners or otherwise treated. The tax treatment of the Condominium may be affected by certain United States Treasury Department regulations relating to entity classification. Please refer to the Attorney's Income Tax Opinion and the Section entitled "Income Tax - Deductions to Residential Owners and Tax Status of Condominium" in Part I of the Plan for further discussion.

# INTRODUCTION

## Nature of the Transaction

D.N.P. 336 Convent Avenue LLC (the "Sponsor"), hereby presents this offering plan (the "Plan") for the establishment of condominium ownership of the land (the "Land") together with the building being erected thereon known as and having a street address of 263 Bowery, New York, New York (the "Building", the "Land", the "Building", and the appurtenances thereto are being referred to herein collectively as the "Property") pursuant to the terms of Article 9-B of the Real Property Law of the State of New York (the "Condominium Act"). The Property will be submitted to the provisions of the Condominium Act by recording of the Declaration by Sponsor in the City Register's Office. From and after the date of recording the Declaration, Sponsor will be the owner of the Units until each is sold or conveyed. The Condominium will comply with all statutes and regulations applicable to condominiums in the State of New York.

The property is designated as Block 0427, Lot 10, on the Tax Map of the City of New York. Sponsor acquired title to the Property in January, 2008.

The Condominium will be known as the "Bowery 263 Condominium" and is being referred to herein as the "Condominium." The Building is being constructed as an "alteration" and will contain elements of the original building formerly located on the Land so that the Building will be seven (7) stories above ground. The Condominium will contain four (4) residential units (the "Residential Units"), four (4) storage units (the "Storage Units") which will each be assigned to one of the Residential Units as a Limited Common Element (as such term is defined in the Declaration) appurtenant to each of the Residential Units, and one (1) commercial unit (the "Commercial Unit"). Sponsor is offering the Residential Units for sale herein. All of the Residential Units are presently vacant and it is Sponsor's intention to offer the same for sale vacant and not subject to any leases, tenancies or rights of occupancy. Prior to the acceptance date of the Plan, Sponsor has not entered into Purchase Agreements or accepted any deposits or advances of funds.

The acquisition of the site and the construction of the Building has been financed by acquisition, building and construction loans made by Bank HaPoalim B.M., having an address at 1177 Avenue of the Americas, New York, New York 10036 (the "Lender") which financing is in place having been most recently modified in March, 2010. The loan documents do not impose any specific obligations on Sponsor with respect to the sale of a minimum number of Units as a condition precedent to the conveyance of the Units, except as required by applicable law and regulation.

## The Condominium Offering Plan

The purpose of the Plan is to set forth in detail all material facts relating to the offering by Sponsor of the Units in the Condominium. The Plan contains all of the detailed terms of the transaction. Sponsor may from time to time amend the Plan by filing an amendment with the

New York State Department of Law (the "Department of Law") and serving such amendment on Purchasers and Unit Owners.

The Plan is presented in two (2) parts (contained in one volume), which together constitute the entire Plan. Part I sets forth a general description of the Plan and 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 description of the Property, discussed in the Plan, certifications of Sponsor and certain experts. Copies of the Plan, including all documents referred to herein and all Exhibits submitted to the Department of Law in connection with the filing of the Plan will be available for inspection by prospective purchasers and their attorneys without charge and for copying at a reasonable charge at the office of Sponsor. All of these documents are important and should be carefully read by prospective purchasers. Prospective purchasers are also advised to consult with their own attorneys or other advisers before agreeing to purchase a Unit. The Plan may be borrowed upon payment of a $300.00 dollar deposit, which amount will be fully refunded upon either (i) the prompt return of the Plan in good condition, ordinary wear and tear excepted, or (ii) the execution by the prospective purchaser of a Purchase Agreement subsequently accepted by Sponsor.

All capitalized terms used in the Plan shall have the meanings ascribed thereto in the Section entitled "Definitions," unless otherwise indicated.

Offering of Units for Sale

Sponsor hereby offers four (4) Residential Units for sale under the Plan. Sponsor is also offering four (4) Storage Units to purchasers of Residential Units. The prices for each of the Units offered under the Plan are listed in the Section entitled Schedule A - Offering Prices and Related Information (Schedule A). THESE PRICES HAVE BEEN SET BY SPONSOR AND ARE NOT SUBJECT TO APPROVAL BY THE DEPARTMENT OF LAW OR ANY OTHER GOVERNMENTAL AGENCY.

Sponsor reserves the right to offer the Units in such order of priority as it may determine, and to withhold one or more Units at Sponsor's sole discretion. In addition, Sponsor has the right to limit the number of Units sold to any Purchaser and to make bulk sales of Units.

Features of Condominium Ownership

The ownership of a Unit is similar in many respects to the ownership of a private home. Each Unit Owner owns fee title to his Unit and is entitled to the exclusive possession thereof. He also owns, in common with the owners of all other Units, an undivided interest in (and right to use) the Common Elements.

Primary responsibility for operating the Condominium rests with the Board of Managers which is elected by the Unit Owners. See the Section entitled, "Rights and Obligations of Condominium Board." Each Unit Owner, however, will be solely responsible for the cost of maintenance and interior repairs of his Unit, and for maintaining casualty insurance with respect to the personal property within his Unit and liability insurance with respect to occurrences in or

about his Unit. A Unit Owner is required to pay monthly Common Charges, in accordance with Sections 339(i) and (m) of the Condominium Act, which Common Charges are assessed by the Board of Managers for the operation and maintenance of the Condominium.

Fire and liability insurance covering the Common Elements is included with other items as part of the Common Charges (see "Schedule B - Projected Budget for First Year of Condominium Operation" for more details). After the closing of title to a Unit, a Unit Owner will be solely responsible for maintaining casualty insurance with respect to the fixtures, equipment and personal property situated within his Unit, as well as liability insurance with respect to occurrences in or about the Unit. A summary of the By-laws which shall govern the operation of the Condominium will be found in the section entitled "Rights and Obligations of Board of Managers; Summary of By-laws." A complete set of the By-laws are in Part II of this Plan.

Subject to certain conditions contained in the By-laws, each Unit Owner may mortgage his Unit with such lender and in such amount as he chooses. However, Sponsor makes no representations about the availability of mortgage financing for any Unit. There are no limitations or restrictions upon the rights of Sponsor to mortgage Unsold Units. Each Unit is separate and is not subject to the lien of any mortgage placed by other Unit Owners on their respective Units.

A Unit Owner may decorate the interior of his Unit in any way he desires, subject to compliance with the By-laws, the Rules and Regulations and applicable law, and will be solely responsible for the cost of maintenance and interior repairs to his Unit after Closing.

Each Unit will be taxed as a separate tax lot for real estate tax purposes, and a Unit Owner will not be responsible for the payment of, nor will his Unit be subjected to any lien arising from the non-payment of real estate taxes assessed against other Units. In the opinion of counsel to Sponsor, which opinion is set forth in full in Part II of the Plan, a Unit Owner who itemizes deductions may be eligible, under present law, to deduct from his income for income tax purposes, his real estate taxes and the interest paid on his mortgage, subject to certain exceptions and limitations discussed in the "Attorney's Income Tax Opinion" set forth in the Section entitled, "Opinion of Counsel regarding Deductibility of Taxes". (See also the Section entitled "Income Tax Deductions to Unit Owners and Tax Status of the Condominium.") Also, each Unit Owner will pay for all electricity which he or she utilizes within his or her own Unit for lighting, heating, hot water, air-conditioning and appliances, the charges for which will be billed directly to the Unit Owner by Con Edison.

With certain exceptions, any sale or lease of a Unit, will be subject to a right by the Condominium Board to acquire or lease such Unit or to produce a third party to acquire or lease such Unit on the same terms as were offered to the owner of such Unit. Sponsor and its successors may sell or lease any Unsold Unit, without any restriction or limitation. For a more complete discussion of the foregoing, see the Section entitled "Rights and Obligations of Unit Owners - Sales and Leases of Units."

Generally, the cost of operating the Building will be borne entirely by the Unit Owners in proportion to their respective Common Interests. As more particularly set forth in the By-laws, the Condominium Board will determine the amount of Common Expenses. On a monthly basis

or at such other times as the Condominium Board determines, the Condominium Board will assess Unit Owners for Common Charges to meet Common Expenses. Typically, Common Charges will increase as cash requirements rise due to inflation and other factors. Such charges will be assessed against Unit Owners in proportion to their respective Common Interests in accordance with Sections 339-I and 339-m of the Condominium Act. The estimated Common Charges for each Unit offered hereunder for the first year of condominium operation are set forth in Schedule A.

Additionally, each Purchaser of a Unit will be required to make a contribution to the Working Capital Fund of the Condominium. Such contribution, to be made at the time of Closing of the Unit, shall be in an amount equal to two (2) months' Common Charges in effect at the time of closing for each Unit purchased. (See the Section entitled "Working Capital Fund and Apportionments.")

There are no limitations on who may purchase Units. 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 New York law.

In the event that Sponsor elects to withhold certain Units from sale, Sponsor will amend the Offering Plan to disclose the same. 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 Unit Owner or mortgagee, to refuse to approve and execute (a) a Purchase Agreement for any Unit, and (b) a Purchase Agreement or Purchase Agreements, as the case may be, for more than one Unit to any one person or entity; provided, however, that, in either event, Sponsor shall not discriminate against any person because of his race, creed, color, sex, sexual orientation, disability, marital status, age, ancestry, national origin or other ground proscribed by law. 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 contract deposit thereunder (see the Section entitled "Procedure to Purchase" for more details). Sponsor will not accept an offer of purchase from an individual younger than eighteen (18) years of age or who is incompetent under law.

**THE PURCHASE OF A CONDOMINIUM UNIT HAS MANY SIGNIFICANT LEGAL AND FINANCIAL CONSEQUENCES AND MAY BE ONE OF THE MOST IMPORTANT FINANCIAL TRANSACTIONS OF YOUR LIFE. 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 EXECUTING A PURCHASE AGREEMENT TO PURCHASE A CONDOMINIUM UNIT.**

## 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 Effects", or "Adverse effects", as used in the Condominium Documents, shall mean, with respect to any action or proposed change and with respect to any Unit owner or Unit Owners, that such action or change could, if realized, (i) increase the Common Charges payable by such Unit Owner or Unit Owners, (ii) materially interfere with such Unit Owner's access to his Unit, (iii) obstruct or degrade the view from the windows of such Unit Owner's Unit, or (iv) otherwise materially diminish such Unit Owner's use and enjoyment of his Unit.

"Balcony" shall mean an individual balcony adjacent to Units 3, 4 and 5 for the use of such Unit Owners and designated as a Limited Common Element (hereinafter defined) of such Units and the same are collectively referred to herein as the "Balconies".

"Building" shall mean the building and improvements including above and below grade segments, and situated on the Land.

"Building 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 operation of the Condominium, which are set forth as Exhibit D to the Declaration, as the same may be amended from time to time pursuant to the terms thereof.

"Register's Offices" shall mean the New York County Office of the Register of The City of New York.

"Closing of Title" or "Closing" shall mean the date upon which, among other things, a Unit and its appurtenant Common Interest is conveyed to a Purchaser by the delivery by Sponsor to a Purchaser of a deed upon payment by a Purchaser to Sponsor of the balance of the purchase price for the Unit.

"Commercial Unit" shall mean the Unit designated in the Declaration as the Commercial Unit, as the same may be divided or combined in accordance with the Declaration and By-laws.

"Commercial Unit Owner" shall mean an owner of the Commercial Unit.

"Common Charges" shall mean the charges allocated and assessed by the Condominium Board to the Unit Owners, *pro rata,* in accordance with their respective Common Interests (except as otherwise provided in the Declaration or in the By-laws or in the First Year's Budget) to meet the Common Expenses.

"Common Elements" shall mean the Property, other than the Units themselves, being comprised of the General Common Elements and the Limited Common Elements.

"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 Interest" shall mean the proportionate undivided interest, expressed as a numerical percentage, in the Common Elements appurtenant to each Unit, as determined in accordance with the Declaration. The total of the Common Interest percentages appurtenant to all Units equals 100 percent. The Common Interest attributable to each Unit is set forth on Exhibit B annexed to the Declaration.

"Condominium" shall mean the "Bowery 263 Condominium" which will be established pursuant to the terms of the Declaration and which will be governed pursuant to the terms of the By-laws.

"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" or "Board" shall mean the board of managers of the Condominium who will manage the affairs of the Condominium.

"Contract Deposit" shall mean all deposits, down-payments, advances or payments made by Purchasers prior to the closing of each individual transaction.

"Declaration" shall mean the instrument creating the Condominium, as the same may be amended from time to time, the form of which is set forth in Part II of the Plan.

"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 Unit Owners or necessary or convenient for the existence, maintenance, or safety or 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" or "First Unit Closing" shall mean the Closing of Title with respect to the first 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 - Budget for First Year of Condominium Operation." 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.

"General Common Elements" shall mean those certain portions of the Property (other than the Units), as well as those Facilities therein, either existing for the common use of the Units or the Unit Owners or necessary for, or convenient to, the existence, maintenance, or safety of the Property, as more particularly described in the Declaration.

"Initial Control Period" shall mean the period ending on the earlier of: (i) the closing of title with purchasers under the Plan to Units having at least 75 percent of the aggregate Common Interest appertaining to all Units, or (ii) five (5) years after the First Closing.

"Land" shall mean the land located in the Borough of Manhattan on the Tax Map of The City of New York as Block 0427, Lot 10, and more particularly described on Exhibit A to the Declaration.

"Limited Common Elements" shall mean those portions of the Property (other than the Units) existing for the use and enjoyment of Unit Owners of one or more specified Units to the exclusion of all other Unit Owners, as more particularly described in the Declaration.

"Managing Agent" shall mean the managing agent or manager of the Building at the time in question.

"Permitted Mortgage" shall mean a first mortgage permitted to be placed upon a Unit pursuant to the provisions of the By-laws.

"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 Unit Owners following acceptance of the Plan or an amendment thereto for filing the Department of Law.

"Property" shall mean the Land, the Building (and any structures attached thereto), 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 pursuant to the Plan.

"Purchaser" shall mean a purchaser of a Unit under a Purchase Agreement.

"Residential Unit" shall mean any Unit designated as a Residential Unit in the Declaration, and all such Residential Units are, collectively, referred to as the "Residential Units" and intended to be used as residences.

"Residential Unit Owner" shall mean any owner of a Residential Unit, and all such owners are, collectively, referred to as "Residential Unit Owners".

"Rules and Regulations" shall mean the rules and regulations made in accordance with the By-laws.

"Schedule A" shall mean the section of the Plan entitled Schedule A - Offering Prices and Related Information."

"Schedule B" shall mean the section of the Plan entitled "Schedule B - Budget for First Year of Condominium Operation." Schedule B is sometimes referred to herein as the "First Year's Budget."

"Schedule B-1" shall mean the section of the Plan entitled "Schedule B-1 - Estimated Cost of Unit Operation for the First Year of Condominium Operation".

"Selling Agent" shall mean a real estate broker licensed in the State of New York, retained by Sponsor to procure sales of the Residential Units.

"Sponsor" shall mean D.N.P. 336 Convent Avenue LLC.

"Storage Units" shall mean the storage units each of which will be a limited common element assigned to each of the Residential Units Owners.

"Terrace" shall mean either the terrace adjacent to the Commercial Unit or the Penthouse Unit which will be designated in the Declaration as a Limited Common Element appurtenant to each of such respective Units, and shall be collectively referred to herein as "Terraces".

"Unit" shall mean any space designated as a Unit in the Declaration together with its Common Interest. All such Units are collectively referred to as the "Units."

"Unit Owner" shall mean any owner of a Unit. All such owners of Units are, collectively, referred to as "Unit Owners."

"Unsold Unit" shall mean those Units not sold to a Purchaser under this Plan, including 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 its designee at the time in question, or a Unit that is acquired, individually or collectively, by a principal of Sponsor or a group of which Sponsor or one or more principals of Sponsor is a member.

## DESCRIPTION OF PROPERTY AND IMPROVEMENTS

### Location

The Condominium is located at 263 Bowery, on the north side of the street, situated between Delancey and East Houston Streets in the Borough of Manhattan, City of New York. The Building has approximately 75 feet of frontage on the north side of Bowery located on the tax lot presently known as Block 0427, Lot 10.

Property and Improvements - General Description

The Condominium will be housed in a building constructed on the Land pursuant to an alteration permit which will contain elements of the building which previously occupied the Land. It will be comprised of seven (7) stories above ground, a cellar, a basement and amenities located on the roofs. The Building will contain four (4) Residential Units, four (4) Storage Units each assigned to a Residential Unit as a Limited Common Element (as such term is defined in the Declaration) appurtenant to such Unit and one (1) Commercial Unit.

The Unit Owners who own the Commercial Unit and Unit PH will have exclusive use of the Terraces adjacent to and appurtenant to such Units, and the Unit Owners who own Units 3, 4 and 5 will each have exclusive use of the Balconies adjacent and appurtenant to such Units, as shown on the Floor Plans included in Part II of the Plan, and such Unit Owners are responsible for all normal maintenance, repairs and replacements thereto. The Terrace appurtenant to the Commercial Unit may be used for any purpose permitted under applicable law and regulations. However, the costs and expenses of any structural or extraordinary repairs or replacements to the Terraces or the Balconies not caused by the negligence of the Unit Owner having access to such Terrace or Balcony, as applicable, shall be charged to all Unit Owners as a Common Expense.

There will be no modifications or extras for any Residential Unit unless set forth in the Purchase Agreement for such Residential Unit.

Detailed descriptions of the Residential Units are set forth in the Declaration and in the Description of Property contained in Part II of the Plan. The Building will be renovated in accordance with plans and specifications drawn by Karl Fischer Architect. In addition, Opie Athwal and Associates, Inc., consulting engineer, has been retained as the mechanical engineer to prepare the estimates contained in Schedules B and B-1 herein below.

Except as otherwise provided herein, each Unit offered for sale by Sponsor is completely equipped and contains all major fixtures and appliances normally associated with a residential condominium unit. Each Unit will contain a refrigerator-freezer, range, microwave oven, dishwasher, and a clothes washer and dryer. Each Residential Unit will contain a HVAC Unit which uses natural gas will provide radiant heat to such Residential Unit. The HVAC Unit will be controlled by the Residential Unit Owner. The natural gas supplied to the Residential Unit will be individually metered and the cost therefor will be billed by the public utility directly to each Unit Owner. Part II of this Plan contains a detailed, comprehensive description of the Property and outlines specifications more fully and specifically defining the Building, its construction, facilities and amenities. Purchasers are strongly advised to read the report in Part II of the Plan. Please refer to the Section entitled "Description of Property and Building Condition."

There will also be one (1) Commercial Unit located on the first floor, second floor and the basement floors. The Commercial Unit is not offered for sale herein.

The construction of the Building, including the Residential Units and the Commercial Unit, 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 in the Description of Property in Part II of the Plan, items of substantially equal or better quality. 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 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 or specifications for such Residential Unit as set forth in Part II of the Plan. Notwithstanding the foregoing, any material change shall be set forth in an amendment to the Plan, and no such amendments, modifications or substitutions may be made if the same would materially adversely affect any Purchaser who has delivered a Purchase 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 fifteen (15) days, to rescind their Purchase Agreements and receive a refund of their Contract 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 duplicated in Part II of the Plan. Such floor plans are subject to the rights of Sponsor or its successor-in-interest to combine two (2) or more Unsold Units, to add additional Units by subdividing Unsold Units or to change the number of rooms in, as well as the size, layout and square foot area of, any Unsold Units, as further described in Part I, in the Section entitled Procedure to Purchase, provided, however, that any material change shall be set forth in an amendment to the Plan, that no material adverse change will be made in the size (*i.e.*, 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 fifteen (15) days, to rescind their Purchase Agreements and receive a refund of their Contract 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 Purchase Agreement, by virtue of a minor inaccuracy or error in the floor plans.

The Building incorporates 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 luxury 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 on or about November 1, 2010. Prospective Purchasers should note, however, that the Residential Units will be completed at different 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 (6) 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 percent or more; or (ii) the First Closing does not occur within twelve (12) months after November 1, 2010, 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 fifteen (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 Contract 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.

a Common Expense (unless caused by or attributable to the Unit Owner to whose Unit the Terrace is appurtenant).

The Condominium Board shall have the right to require a Residential Unit Owner or the Commercial Unit Owner to remove plantings, roof surfaces and other installations which have been placed on the Terraces if the Condominium 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 Condominium 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 Unit Owner of a Residential Unit having a Terrace or Balcony be permitted to enclose or erect any structure on such Terrace or Balcony. The Condominium 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 of the occupants.

No construction of any kind may be undertaken or performed on a Terrace or Balcony without the prior consent of the Condominium Board, which consent may be granted or withheld in the absolute discretion of such Condominium Board, provided, however, the Commercial Unit Owner shall not be required to detain such construction. Any such construction as may be approved by the Board shall be subject to compliance by the Unit Owner undertaking the same with all Legal Requirements, including, but not limited to, required permits from the New York City Department of Buildings and the obtaining variances, if any, that may be required in order for such construction to be performed. Purchasers of Residential Units with Terraces or Balconies are advised that if the Board should oppose an application for a variance, then such application may be denied. If a Unit Owner is allowed by the Board to perform any type of construction on a Terrace or a Balcony appurtenant to that Unit Owner's Unit, then the authorizing Board(s) shall have the authority to regulate or impose conditions with regard to any one or more of the following aspects of such approved construction: (a) time periods during which construction work may occur; (b) the manner in which construction debris shall be handled and removed from the Terrace or the Balcony where construction is occurring; (c) measures which must be taken to prevent any compromising of the security of the Units and the Building during construction; (d) measures which must be taken to prevent or minimize any interruption of Building services and/or amenities during construction; and (e) liability and other insurance that will be required of the Unit Owner and each of such Unit Owner's contractors in connection with any approved construction in, on or affecting a Terrace or a Balcony.

The Board, and its employees and agents, shall have an easement and unlimited access to the Terraces for the purpose of making inspections and repairs, though such inspections and repairs shall be scheduled at reasonable times and upon reasonable notice, unless the inspection or repair is required due to an emergency.

The Terrace appurtenant to the Commercial Unit may be used for any purpose permitted under applicable law and regulations. The Terraces and Balconies appurtenant to the Residential Units may be used for recreational purposes. Applicable law and regulations prohibit barbecuing on the Terraces and Balconies.

In addition, each of the Residential Units will have a Storage Unit located in the cellar of the Building which is a Limited Common Element appurtenant to such Residential Unit. The Storage Units may be used only for storage purposes, in compliance with all applicable laws and without causing the dissemination of noxious odors, dirt or other sanitary problems. No materials which pose a health or safety threat or which create a nuisance may be stored in a Storage Unit.

Services and Facilities

Generally, all services normally associated with the operation and maintenance of a luxury residential condominium will be provided to Residential Unit Owners at no additional cost other than Common Charges; these are described below in the Section entitled "Building Standard Services and Facilities." Notwithstanding the foregoing, however, the Board shall at all times maintain, operate and staff the Building in compliance with, and subject to, all applicable Legal Requirements.

Standard Facilities

Building Standard Services and Facilities (provided to all Residential Unit Owners at no additional cost other than the Common Charges payable by Residential Unit Owners):

(i) Elevator Service. The elevator will be automatically operated and will be in service, 24 hours per day, seven (7) days per week.

(ii) Communications Facilities and Intercom Service. Each Residential Unit will be equipped with an internal telephone system. This system will enable the occupants of each Residential Unit to communicate directly with entry vestibule on the ground floor of the Building lobby. In addition, each Residential Unit will contain a connection to a central intercom system through the internet. Each telephone within the Unit may be used for connection to the intercom system.

(iii) Mail. All incoming mail will be delivered by the United States Postal Service to locked mail boxes.

(iv) Maintenance Personnel. There will be one part-time maintenance worker who will be responsible to clean the common areas of the Building and to remove the garbage and materials to be recycled.

(v) Refuse Disposal. There will be recycling bins and a refuse chute located on each residential floor. Each chute will lead directly to an automatic compacting facility in the cellar of the Building where refuse will be automatically compressed. Building staff will transfer the compressed refuse to the sidewalk as needed pending collection by the City of New York Department of Sanitation. Recycling bins on each residential floor will be emptied as necessary by Building staff.

(vi) Security Procedures. All entrances to the Building will be monitored by a camera and/or electronic alarm systems. No representation or warranty is made and no

assurance is given that the security systems and procedures of the Building will prevent personal injury or damage to or loss of personal property.

(vii) Cable Television Service. A cable television system is available for the use of the Unit Owners. Each Residential Unit will have cable connection in the living room and in each bedroom. The charges for primary connections and subsequently monthly fees related to the service will be determined by, and payable directly to, Time Warner Cable of New York by the Unit Owner. Additional cable service (*e.g.*, Home Box Office or Showtime) will also be available from Time Warner Cable of New York for an additional charge on the same basis.

(viii) Internet Service. Each Residential Unit will contain a high speed internet connection.

In all likelihood, the nature of the services listed above, the hours during which they are provided and the rates charged for same will change from time to time, in the discretion of the Condominium Board, the Managing Agent or other party providing the service. However, all services required by law will be provided at all times. Neither Sponsor, the Managing Agent, the Selling Agent, nor the Condominium Board will in any event be liable for the availability, interruption, discontinuance or quality of any of such services, including, but not limited to, any services provided by any outside company or person, other than Building personnel, or for any injury to person or damage to property resulting from any act or omission of such company or persons or their employees or agents, except to the extent that any such injury or damage occurs as a result of the gross negligence or willful misconduct of Sponsor, the Managing Agent, the Selling Agent, or the Board, as the case may be.

The Condominium Board has complete discretion in determining how these facilities will be operated, maintained or modified, whether facilities should be added or discontinued, and the rates to be charged for their use. No representation or warranty is made as to the continued operation or existence of any of the foregoing facilities, or the amount of the fees charged therefor.

**No representation or warranty is made as to the continued operation or existence of any of the foregoing services or facilities and neither Sponsor nor the Condominium Board shall have any liability with respect to or arising from any Unit Owner's, tenant's or occupant's use of any of the foregoing or the amount of the fees charged therefor.**

Purchasers are advised that during the first six (6) months following the first unit closing and beyond, various systems including, but not limited to, water supply, air conditioning, heating, cooling, ventilating and elevators, 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.

Sponsor and its successors-in-interest 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 Units) or otherwise.

## LOCATION AND AREA INFORMATION

Location

The Property is situated at 263 Bowery, in the Borough of Manhattan, City of New York which is located on the east side of Bowery between Delancey and Houston Streets. The Property is zoned C6-1G. The zoning resolution of the City of New York permits a wide variety of uses in zone C6-1G, including residential occupancy, hotels primarily for transient occupancy, together with a wide range of retail, office, amusement, service, custom manufacturing, and related uses normally found in a central business district or regional commercial centers, but excludes non-retail uses which generate a large volume of trucking.

Surrounding Area

The Condominium is located in NoLIta which is an acronym for "North of Little Italy" and is surrounded by some of Manhattan's most distinctive and lively neighborhoods. To the west are Greenwich Village and SoHo, two internationally acclaimed districts, celebrated for their extensive boutique shopping, eclectic restaurants, and neighborhood services. To the north are NoHo and Greenwich Village, home to New York University, and some of New York's most desirable residential enclaves and several parks. To the east is the Lower East Side, a historic, fabled neighborhood comprised mainly of walk-up apartment houses from the 19th century.

Shopping, Commercial and Recreational Facilities

There is a wide variety of commercial establishments located near the premises including pharmacies, groceries, banks, restaurants and other stores. SoHo, with its wide variety of boutiques and specialty stores, is also located nearby.

The Angelika Film Center which screens independent films is located at 18 West Houston Street. The Screening Room is located at 54 Varick Street and The Film Forum is located at 209 West Houston Street. Sunshine Landmark Cinema is located at East Houston and Eldridge Streets. Various off-Broadway theaters and cinemas are also common in the neighborhood. Cultural amenities abound throughout the vicinity of the Building. The Storefront for Art and Architecture, the Lower East Side Tenement Museum, the Anthology Film Archives and the Children's Museum of Arts are all within walking distance of the Condominium. The new Museum of Contemporary Art is being built a few feet to the north of the Condominium.

There are a wide variety of parks and recreational facilities in the vicinity. The DeSalvio Playground is located at the corner of Mulberry and Spring Streets. The Sarah D. Roosevelt Park and Hester Street Playground are across from the Grand Street subway station at the intersection of Hester and Chrystie Streets and the Columbus Park and Playground is located at Mulberry and Bayard Streets. Seward Park is located at the corner of Canal and Essex Streets.

Schools

Numerous private schools, public schools and parochial schools are easily accessible from the Premises. The public schools in the area include P.S. 130 (Hester and Baxter Streets), The DeSoto School at 143 Baxter Street, P.S. 124, Yong Wing School at 40 Division Street, I.S. 131 (Hester and Forsythe Streets), Dr. Sun Yet Sen Intermediate School at 100 Hester Street, Lower East Side I.S. and Seward Park High School at 350 Grand Street, New York, NY. Certain public school programs require that parents apply for admission for their children. Sponsor makes no representation as to which public school the children who live in the Building will attend. The private schools in the area include St. Patrick School at 233 Mott Street and Transfiguration School at 29 Mott Street.

Transportation

New York City is served by three major airports – LaGuardia Airport, Kennedy International Airport and Newark International Airport. Passenger railroad service is provided from Pennsylvania Station, located at Seventh Avenue and West 33rd Street and Grand Central Station, located at Lexington Avenue and 42nd Street. Transportation to and from the Building, and throughout New York City is available by taxi, limousine, and private automobile. Public transportation via subways and buses is also readily available. The Building is within walking distance of the Spring Street Station, between Lafayette and Mulberry Streets, on the "6" train, the Prince Street station, between Broadway and Crosby Streets, on the "N" and "R" trains, the Second Avenue Station on the "F" train located at East Broadway and Canal Streets, the Bowery Station on the "F", "J", "M" and "Z" trains, located at Bowery and Delancey Streets, and the Grand Street Station on the "V" train located at the intersection of Grand and Allen Streets. Bus service is also convenient to the Building. The M103, M21, M15, M9 and M1 bus lines all pass within several blocks of the Building.

Police, Fire, Water, Sanitation, Snow Removal and Road Maintenance

These services are provided by The City of New York and all charges (except water) are financed through real estate taxes paid by Unit Owners to The City of New York. The Premises are located in the Fifth Police Precinct with the station located at 19 Elizabeth Street. Fire protection is provided from Fire Station No. 20 is located at 253 Lafayette Street, approximately 0.3 miles from the Building. Water is provided by the City of New York and charges for the Units will be metered and paid by Unit Owners as a Common Expense of the Condominium.

Medical and Religious Facilities

The area is served by numerous hospitals and medical facilities located proximate to Premises, including New York Downtown Hospital at 100 William Street, New York Eye and Ear Infirmary, 310 East 14th Street, Hospital for Joint Diseases, 301 East 17th Street; Beth Israel Hospital, First Avenue at 16th Street and Bellevue Hospital at 462 First Avenue. There are houses of worship of most major denominations in the vicinity of the Building.

**SPONSOR MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE CONTINUED EXISTENCE OR LOCATION OF ANY NEIGHBORHOOD SERVICES OR AMENITIES.**

**SCHEDULE A**
**BOWERY 263 CONDOMINIUM**
**263 Bowery, New York, New York**

**FIRST YEAR OF OPERATION NOVEMBER 1, 2010 through October 31, 2011**

| Unit designation | Number of bedrooms and baths (Note 1) | Approx Unit area sq ft (Note 2) | Outdoor Areas Gross Sq. Ft. | Offering price (Note 3) | Common Element Percentage (Note 4) | Projected monthly common charges (Note 5) | Annual Real estate taxes with 421a benefits (Note 6) | Annual Real estate taxes without 421a benefits (Note 6) | Total Monthly Carrying Cost Common Charges and Taxes with 421a benefits (Note 6) | Monthly carry without 421a benefits (Note 6) |
|---|---|---|---|---|---|---|---|---|---|---|
| Commercial | N/A | 6,195 | 354 | Not offered | 35.0% | 2,073.17 | Not Applicable | Not Applicable | Not Applicable | Not Applicable |
| | | | | | | | | | | |
| | | | | | | | | | | |
| 3rd (1) | 2/2 | 1,337 | 310.00 | $ 1,875,000.00 | 15.0% | $ 888.50 | $ 5,390.77 | $ 16,297.38 | $ 1,337.73 | $ 2,246.62 |
| 4th (2) | 2/2 | 1,344 | 68 | $ 1,750,000.00 | 13.0% | $ 770.03 | $ 4,672.00 | $ 14,124.40 | $ 1,159.37 | $ 1,947.07 |
| 5th (3) | 2/2 | 1,344 | 50 | $ 1,775,000.00 | 13.0% | $ 770.03 | $ 4,672.00 | $ 14,124.40 | $ 1,159.37 | $ 1,947.07 |
| Penthouse (PH) | 3/2 | 2,177 | 340 | $ 3,950,000.00 | 24.0% | $ 1,421.60 | $ 8,625.23 | $ 26,075.82 | $ 2,140.37 | $ 3,594.58 |
| | | | | | | | | | | |
| Total | 9/8 | 12,397 | 1,122 | $ 9,350,000.00 | 100% | $ 5,923.33 | $ 23,360.00 | $ 70,622.00 | $ 5,796.83 | $ 9,735.33 |

## Notes to Schedule A

1. Prospective Purchasers should refer to the Floor Plans included in Part II of the Plan for the dimensions and layouts of Units.

2. Each Unit and the outdoor space adjacent thereto should be inspected to determine its actual dimensions, layout as a physical condition prior to executing a Purchase Agreement. The square foot area and dimensions of the Units listed in Schedule A or on the Floor Plans or in the Declaration may vary within reasonable tolerances. The method of calculating the square footage of the units does not accurately represent the interior space in the Unit and may exaggerate the square footage of the Units. No such variation will affect a Purchaser's obligations under the Purchase Agreement or the Plan unless the net square foot area of the Unit is materially diminished (excluding interior partitions). Sponsor's sole obligation if the net square foot area of the Unit is diminished materially shall be to refund to Purchaser the Contract Deposit made under the Purchase Agreement.

3. The purchase prices and other terms of sale of Units may be negotiated by Sponsor and therefore may be changed. Accordingly, Purchasers may pay different purchase prices for similar Units. The effect of this, as well as the right of Sponsor to change purchase prices, is more particularly discussed in the Section entitled "Changes in Prices and Units." In addition to the payment of the purchase price, each Purchaser will be responsible for the payment of certain closing costs and expenses at the time of Closing, as explained in the Section entitled "Unit Closing Costs and Adjustments." If Purchaser obtains a mortgage loan, Purchaser will be responsible for the payment of additional closing costs and expenses relating to such loan. There will be an apportionment of certain charges relating to the Unit at the time of the Closing of title. THESE PRICES HAVE BEEN SET BY SPONSOR AND ARE NOT SUBJECT TO REVIEW OR APPROVAL BY THE DEPARTMENT OF LAW OR ANY OTHER GOVERNMENT AGENCY.

4. The percentage interest of each Unit in the Common Elements, in accordance with the provisions of Section 339-i(1)(iv) of the Condominium Act, is based upon the approximate proportion that the floor area of the Unit at the date of the Declaration bears to the then aggregate floor area of all the Units, but such proportion reflects the substantially exclusive advantages enjoyed by one or more but not all Units in a part or parts of the Common Elements.

5. The estimates contained in this Schedule A were computed by Sponsor's Condominium Budget Expert on the assumption that the first year of Condominium operation will be the year from November 1, 2010 through October 31, 2011, and are based on such Condominium Budget Experts estimate of the receipts and expenses of the Building for the projected year. The actual first year of Condominium operation may commence before or after November 1, 2010.

The estimated monthly Common Charges for each Unit are based on the Schedule B - First Year's Budget prepared by Sponsor's Condominium Budget Expert. In addition to these estimated payments, each Unit Owner will be responsible for real estate taxes on his Unit, mortgage payments under a loan or loans, if any, obtained to finance the purchase of his Unit, the

cost of electricity and natural gas supplied to his Unit, the cost of any insurance which he may wish to obtain for his Unit (and which Sponsor strongly urges each Unit Owner to obtain) and the cost of interior repairs and decorations to his Unit.

6. The value of the Property for real estate tax purposes is determined annually by the Department of Finance of the City of New York. Under current New York State law, increases in a property's assessed valuation due to changes in its market value are to be phased in over five (5) years in equal annual increments of twenty (20%) percent increases in value that result from physical alterations and improvements rather than general market conditions, are not phased in. Any further increase in the assessed value during such five-year period resulting from a still higher market value is to be similarly phased in over an additional five-year period. The full increased assessed value targeted to be paid at the end of five (5) years is called the "actual assessed valuation." The "transitional assessed valuations" represents the aggregate of all increments being phased in for a given tax year, plus any "physical" increases. Real estate taxes for a given tax year are based upon the lower of either the actual or transitional assessed valuation. That lower figure is referred to as the "taxable assessed valuation."

Pursuant to the Real Property Tax Law Section 421-a, provisions of the New York City Administrative Code and the rules and regulations of the New York City Department of Housing Preservation and Development ("HPD") Sponsor has applied for a Certificate of Eligibility granting 421-a tax exemption benefits to the Property which is issued by HPD. Such benefits are projected to retroactively commence during the 2010-2011 fiscal year. Under the 421-a exemption program, increases in property assessed value for the land and the improvements including increases from the new construction will be exempt or partially exempt during the construction period and for a defined period thereafter. After completion of construction evidenced by the issuance of a temporary or permanent Certificate of Occupancy, an exemption commences for a period of ten (10) years. For 263 Bowery, it is anticipated that the 10-year tax exemption will commence retroactively with the 2010/2011 tax year. The 2010/2011 tax year commenced July 1, 2010 and shall end on June 30, 2011. Starting with the 2010/2011 tax year 100 percent of the increase in assessed value allocable to the Residential Units is exempt from taxation. The exemption will decline by 20 percent every two fiscal tax years starting with the 2013/2014 tax year. The exemption will end with the eleventh fiscal tax year following completion of construction. Throughout the construction period and the ten year exemption period the Property will be assessed (a) a so called "mini tax", (b) taxes on the non-exempt portion of increases in assessed values, and (c) assessments for local improvements. The "mini tax" is defined as the assessed value of the land and any improvements thereon for the fiscal tax year proceeding commencement of construction multiplied by the appropriate tax rate for each tax year receiving the benefit of the exemption.

No representation is made or warranty given as to whether or not there will be (i) a further increase in the assessed valuation of the Property during the five year phase-in period, (ii) an increase in the tax rate, or (iii) a change in the method of determining the assessed fiscal year (2010/2011) valuation. Based upon the opinion of Tuchman Korngold Weiss Lippman and Gelles, LLP, the actual assessed valuation for 2010/2011 for the entire property is $615,195 and the assessed valuation for 2011/2012 is projected to be $1,550,000. Accordingly, the aggregate real estate taxes for the Residential Units for the projected first year of condominium operation

are estimated to be approximately $23,360 with Section 421-a benefits. In the event there are no 421-a benefits the estimated taxes for the Residential Units for the initial budget year will be $64,441. There is no assurance that the New York City tax authorities will allocate taxes among the Units in proportion to their respective Common Interest. Upon determination of individual tax lots and individual Unit assessments, the New York City tax authorities may allocate taxes between the Units in proportion to each Unit's purchase price rather than its Common Interest, and, if so, Units having the same Common Interest may pay different real estate taxes. However, in the event that at time of closing the Units have not been separately assessed, the Condominium will be authorized to make payment of all real estate taxes on the Property and will assess and collect the amount thereof from all Unit Owners in proportion to each Unit's Common Interest.

There can be no assurance that the tax rate for the Residential Units will not exceed $13.75 per $100 of assessed value of the Property. Assessed valuations and property tax rates are subject to review and change by the taxing authorities.

Section 581 of the Real Property Tax Law provides that real property owned on a condominium basis shall be assessed for real estate tax purposes at a sum not exceeding the assessment which would be placed thereon if the property were not owned on a condominium basis. Section 339-y of the Condominium Act provides in part that each Unit and its Common Interest shall be separately assessed for tax purposes and that in no event shall the aggregate of the assessment of the Units plus their Common Interest exceed the total valuation of the Property were the property assessed as one parcel.

See the Section entitled "Income Tax Deductions to Unit Owners and Tax Status of the Condominium" in Part I and the "Attorney's Income Tax Opinion" in Part I for a discussion concerning the deductibility of real estate taxes paid with respect to a Unit. Inasmuch as the taxes for the Units will vary in future years, the amount of the tax deduction available to the Unit Owners on account of real estate taxes will likewise vary.

Once the Units are separately assessed by the New York City tax authorities, real estate taxes will be payable directly to the taxing authority on the following basis:

| | |
|---|---|
| Annual Assessment Due Dates ($40,000 or less quarterly) | July 1, October 1, January 1 and April 1 |
| More than $40,000 | Semi-annually (July 1 and January 1) |

These figures represent the aggregate estimated carrying charges which include estimated Common Charges and estimated real estate taxes. The total carrying costs do not include costs for individual Unit Owner expenses such as maintenance and repairs of the interior of the Unit, insurance, electricity, and debt service on any financing arranged to purchase the Unit.

**SCHEDULE B**
**BOWERY 263 CONDOMINIUM**
**BUDGET FOR THE FIRST YEAR OF CONDOMINIUM OPERATION**

**November 1, 2010 – October 31, 2011**

**INCOME:**

Common Charges ..... $71,080.

**Expenses:**

| | Residential | Commercial | Total |
|---|---|---|---|
| Labor (Note 1) | 7,800. | 1,000. | 8,800. |
| Hot Water (Note 2) | 434. | 234. | 668. |
| Electricity (Note 3) | 8,475. | 4,564. | 13,039. |
| Heating (Note 4) | 5,927. | 3,192. | 9,119. |
| Water and Sewer Charges (Note 5) | 1,061. | 572. | 1,633. |
| Cooking Gas (Note 6) | 909. | 0. | 909. |
| Repairs, Maintenance and Supplies (Note 7) | 11,466. | 6,174. | 17,640. |
| Elevator Maintenance | 2,925. | 1,575. | |
| Elevator Phone Line | 273. | 147. | |
| Sprinkler, Access Control, Intercom | 5,265. | 2,835. | |
| System Control Phone Line | 273. | 147. | |
| Extermination Services | 585. | 315. | |
| Boiler Maintenance | 1,170. | 630. | |
| Misc. Supplies | 975. | 525. | |
| Insurance (Note 8) | 4,388. | 2,363. | 6,750. |
| Management Licenses and Permits (Note 9) | 520. | 280. | 800. |
| Accounting and Legal (Note 10) | 4,290. | 2,310. | 6,600. |
| Contingencies (Note 11) | 3,250. | 1,750. | 5,121. |
| Total Expenses | | | $71,080. |

**Notes to Schedule B**
**Bowery 263 Condominium**
**263 Bowery, New York, New York**

Estimated Budget for the First Year of the Condominium projected to begin on or about November 1, 2010.

**Common Charges** **$71,080.00**

The owner of each Unit is responsible for their proportionate share of the net operating expenses of the condominium. The amount set forth above represents the total Common Charges to be levied against and collected from the owners of the Residential Units and the Storage Units during the first year of Condominium Operation. The Common Charges will be utilized by the Board of Managers to finance the operating expenses of the Condominium. The operation is based on the assumption that the first year of operation will be November 1, 2010 - October 31, 2011. The actual first year of operation may commence earlier or later than the date projected herein. The cost of certain expenses has been allocated between the Commercial Unit Owner and the Residential Units Owners, in the aggregate, based upon the projected use of such utilities, supplies, or services instead of upon the respective allocations of the Common Elements of such Units. Each line item of the budget sets forth the basis upon which the expense for such item has been allocated.

**Expenses**

1. Labor $8,800.00

Payroll: $7,800.00

The building will be staffed with one part-time porter who works as an independent contractor and is not a member of or affiliated with a union. The budget does not include any benefits as labor in employed as an independent contractor and filed under a 1099 form for taxes. The projected cost of labor conforms to applicable minimum wage laws. The budgeted amount does not include health insurance or other benefits. In addition, the Condominium will be responsible to pay for Worker's Compensation estimated to be $1,000.00 in the first year of Condominium Operation.

The duties of the porter will include the removal of rubbish and recyclables generated by the Residential Unit Owners, the cleaning and maintenance of the entry vestibule, common stairwell, elevator and common roof terrace. The Commercial Unit Owner will be responsible to contract for its own refuse removal and for the maintenance of the Terrace appurtenant to the Commercial Unit. Also, the Commercial Unit Owner will not have access to the common stairwell on a regular basis. Accordingly, approximately 88.6 percent of the cost of the porter's wages and associated costs of employment have been allocated to the Residential Unit Owners in the aggregate with approximately 11.4 percent of such costs being allocated to the Commercial Unit.

2. Hot Water $668.00

Hot water will be provided to the Residential Unit by a gas fired boiler and the cost therefor will be included in the common expenses of the Condominium. The projected cost of

providing hot water to all Residential Units is based on the projections provided in a report dated May 17, 2010 prepared by Athwal and Associates, Inc., Consulting Engineers, having an address at 171 Madison Avenue, Suite 308, New York, NY 10016. Such report projects that the provision of hot water to the Building will require 445 therms. The budget is estimated on an anticipated cost of $1.50 per therm. The above estimate does not include the cost of any other natural gas used to heat, provide cooking gas or to operate the dryers in the Residential Units. The Condominium will be responsible to supply hot water to the Commercial Unit solely for lavatory purposes. The cost of supplying hot water to the Units has been allocated in accordance with the allocations of Common Elements. In the event that the Commercial Unit is occupied by an owner or tenant, such as a restaurant, who requires the use of hot water for other purposes, it will be the responsibility of the Commercial Unit Owner or its tenant to install an additional boiler and related facilities to satisfy the Commercial Unit Owner's demand for additional hot water. The Declaration gives the Board of Managers certain rights to conduct an audit regarding the usage of hot water in the Commercial Space and the power to reallocate the portion of the cost for hot water allocated to the Commercial Unit Owner.

3. Electricity $13,039.00

The cost of providing electricity to provide lighting to the lobby, stairs and corridors, outdoor lighting, the circulation, water booster and circulating pumps, elevators, and roof fans will be a common expense and paid for by the Unit Owners as a portion of the Common Charges. The projected cost of providing electricity based on the estimates contained in a report dated May 17, 2010 prepared by Athwal and Associates, Inc., Consulting Engineers, having an address at 171 Madison Avenue, Suite 308, New York, NY 10016. Such report estimated a total usage load of 60,656 KW kilowatt hours per annum. The present cost per kilowatt hour is approximately $.115 for a total of $6,975.44, plus demand charges of $5,055.79, plus sales tax at 8.375 percent for a total of $13, 038.85. The cost of providing electricity to the individual Residential Units and to the Commercial Unit is not included in the above estimates. Included herein as Schedule B-1 is a schedule setting forth the projected usage and cost of electricity to provide lighting and air-conditioning to the individual Residential Units. The cost of supplying electricity to the Common Elements has been allocated to the Units in accordance with the respective allocations of Common Elements.

4. Heating for Common Areas $9,119.00

Heating will be provided to the common areas which include the entry vestibule, the elevator landings on each floor and the stairwells by a gas fired modular boilers and the cost therefor will be included in the common expenses of the Condominium. The projected cost of providing heat to the common areas is based on the projections provided in a report dated May 17, 2010 prepared by Athwal and Associates, Inc., Consulting Engineers, having an address at 171 Madison Avenue, Suite 308, New York, NY 10016. Such report projects that the provision of heat to such areas of the Building will require 6,079 therms. The budget is estimated on an anticipated cost of $1.50 per therm. The above estimate does not include the cost of any other natural gas used to provide hot water, cooking gas or to operate the clothes dryers in the Residential Units or the cost of providing heat to the Commercial Unit. The projected usage and cost of supplying natural gas to the Residential Units has been set forth in Schedule B-1 included herein. The cost of supplying heat to the Common Elements has been allocated to the Units in accordance with the respective allocations of Common Elements.

5. Water and Sewer Charges $1,633.00

Water and sewer charges are billed by the City of New York. Consumption of water is metered and measured by one hundred cubic feet (ccf). The anticipated cost of water for the first year of the Condominium is based upon the estimated usage as projected by Athwal and Associates, Inc., P.C., Consulting Engineers in their report dated May 17, 2010. Such report projects annual water consumption of 233,599 gallons. The budgeted amount is based upon the combined rate for water charges and sewer rents effective as of July 1, 2009 of $5.23 per one hundred cubic feet. The Declaration provides that the Condominium shall supply water to the Commercial Unit for lavatory use only. Accordingly, the budget has allocated the cost of supplying water to the Units based upon the respective allocations of Common Elements for the Units which was based upon the number of projected number of fixtures and projected usage in a so-called "dry space". In the event that the Commercial Unit is occupied by an owner or tenant that requires the use of water for other purposes, *e.g.* for food preparation or provision of medical services, it will be the responsibility of the Commercial Unit Owner or its tenants to have a separate meter installed and to pay for its water usage based upon its consumption as measured by such meter. The Declaration gives the Board of Managers certain rights to conduct an audit regarding the usage of water in the Commercial Space and the power to reallocate the portion of water charges allocated to the Commercial Unit Owner based upon actual usage or to require the Commercial Unit Owner to obtain a water meter and to be directly responsible for the payment for the water usage as shown on such meter.

6. Cooking Gas $909.00

In addition, the Common Charges include the cost of cooking gas supplied to individual Residential Units (but not to the Commercial Unit). The budget projection is based upon estimates provided by Athwal and Associates, Inc. in their letter dated May 17, 2010, which assumes that each Unit Owner will use the range for one hour per day, 365 days per year and that such usage will require approximately 606 therms per annum. The projected cost of cooking gas for the first year of Condominium Operation is $909 assuming an average cost per therm of $1.50 based upon Con Edison rate schedule presently in effect. Pursuant to the Condominium Declaration, the Condominium is not responsible to supply cooking gas to the Commercial Unit. Accordingly, the entire cost of supplying cooking gas has been allocated to the Residential Unit Owners in the aggregate. In the event that the Commercial Unit is occupied by an establishment that requires cooking gas, it will be the responsibility of the Commercial Unit Owner or its tenant to contract directly with the public utility to obtain cooking gas for the Commercial Unit.

7. Repairs, Maintenance and Supplies $17,640.00

The budgeted amount is based upon normal maintenance of, and repairs to the Building plus various cleaning supplies and material, lubricants, bulbs, public fixtures, general and hardware supplies, and painting of common areas. The budget does not include provisions for capital repairs, replacements and improvements. Each Unit Owner is responsible for repairs to, maintenance of and supplies to his/her/their Unit and those Common Elements irrevocably restricted to his/her/their use. The estimate includes maintenance of and repairs to all Common Elements of the Property, except those portions of the Common Elements which are for the irrevocably restricted use of certain Unit Owners. The Condominium is new construction and no expenses are anticipated for roofing, exterior repairs, plumbing and electrical. The amount

budgeted for Repairs, Maintenance and Supplies includes the cost of the following maintenance agreements:

Elevator Maintenance $4,500.00

The Condominium will enter into an elevator service contract with Elevator Services LLC, 96 Linwood Plaza, No. 430, Ft. Lee, NJ 08872, as per their proposal dated of February 9, 2010. The contract is for two (2) years for maintenance services for the elevator. The contract includes scheduled examinations, call back service during regular business hours, repair service, safety test, and mandated inspections. The contract does not include car enclosures, cab lighting, wall panels, mirrors, handrails, flooring, hoistway, and car sills, hoistway and car doors, heat and smoke sensors, audio and video service of the equipment. The cost for services under the contract will be $4,500 plus tax per annum. The contract does not include the third party inspection fees and NYC Department of Building fees. The annual inspection fee is not included in the first year of operation.

Elevator Phone Line $420.00

As per NYC Guidelines, a telephone land line must be supplied in elevator for emergency calls. The estimated annual cost for the telephone line is $420.00.

Sprinkler Monitor System, Access
Control, and Intercom System $8,100.00

The Condominium will enter into a contract with DGA Security Systems, Inc. having an address at 429 West 53rd Street, New York, NY 10019 to provide for the testing and monitoring of the Central Station Sprinkler Alarm System, the Central Station Access Control System, Audio Visual Door Intercom System, and the Telephone Surveillance System for an annual fees of $8,100.00 including tax.

System Control Phone Line $420.00

The alarm system will require a telephone line which is estimated at $420.00.

Extermination Services $900.00

For pest extermination services, the Condominium will enter into an agreement with AAA Superior Pest Control, LLC having an address at; 109 Springbrook Ct, Shohola, PA 18458. Assuming twelve visits per year, the annual estimated cost is $900.00

Boiler Maintenance $1,800.00

To service the boiler, the Condominium will retain Arkas Contracting Corp., 2 Andrews Lane, Bethpage, NY 11714. For an annual cost of $1,800.00, the company will service the boiler each month between October and April.

Miscellaneous Supplies $1,500.

The estimated cost of $1,500 for miscellaneous supplies is to be used at the Building.

Neither Sponsor, nor its principals hold any interest in the service companies who submitted proposals to provide services to the Condominium during the First Year of Condominium Operation. Presently all service contracts are on a month-to-month basis and are included in the budgeted amounts for the first year of operation of the condominium.

The cost of the maintenance contracts described above has been allocated based upon the each respective Unit Owner's interest in the Common Elements.

8. Insurance $6,750.00

The following insurance is recommended for the building by T&H Brokers, 320 West 57th Street, New York, NY 10019 for the first year of condominium operation in their Schedule. Such letter also sets forth an estimate of the anticipated insurance premiums therefor. This coverage will be in place at the time of the First Unit Closing:

| Package Policy | Amount | Annual Premium |
|---|---|---|
| Property (incl. Boiler & Machinery & Maintenance): | $3,000,000 ($100k Maintenance) | $1,800. |
| Fidelity: | $50,000 | $ 500. |
| General Liability: | $1,000,000 per occurrence<br>$2,000.000 annual aggregate | $1,000. |
| Directors & Officers | $1,000,000 | $ 750. |
| Umbrella | $25,000,00 | $1,700. |
| Workers Comp & DBL | Statutory | $1,000. |
| **Premium:** | | **$6,750.** |

It is the opinion of the Insurance Broker that the fire insurance coverage budgeted in the offering plan, namely $3,000.000 is adequate to cover replacement cost with a special form including building ordinance coverage. The policy is written on an agreed basis which waives co-insurance. Insurance to cover loss of maintenance of $100,000 is also included. In addition, based on provisions contained in the offering plan, Sponsor may be required to obtain on behalf of the Condominium other types of insurance coverage, notably Fidelity (Crime) insurance and Directors & Officer's insurance which has been included. Should the Board hire any employees, coverage of Workers' Compensation and Employer's Liability as well NY Disability coverage will also be required, which is the anticipated premium above.

Each Unit Owner may be included under the Condominium's policy as a certificate holder. Notice of cancellation will be sent to the Board of Managers. A waiver of invalidity is included which provides that acts or omissions of any Unit Owner will not void the policy. In addition, the policy includes a waiver of subrogation. Each Unit Owner is an additional insured party. A Unit Owner may have other insurance in force covering the same property. The policy also includes a waiver of *pro rata* reduction for losses paid by such other policies. However, the Condominium policy is intended to be primary and will not contribute with such other insurance. The policies will all be issued by insurance carriers rated "A" by A.M. Best, Inc. The quotes are based upon current insurance market conditions and are subject to change at any time.

Unit Owners are strongly encouraged to obtain coverage, at their own cost, to cover such risks as fire and casualty losses to unit contents, replacements, addition, upgraded fixtures and improvements, and liability coverage for occurrences within their respective Unit. The cost of the insurance has been allocated based upon the each respective Unit Owner's interest in the Common Elements.

9. Management Fees $800.00

As of the date of the First Unit Closing, the Condominium will be self-managed by Sponsor. An allowance for management related expenses has been included to cover the cost of bookkeeping, billing, postage and other related administrative expenses. In the event that the Board of Managers elects to retain a third party managing agent, Sponsor anticipates that such services will not be less than $6,000.00 per annum based upon the current cost for similar services in New York City. For a full discussion of the terms and conditions of the Management Agreement, see the section of this Plan entitled "Management Agreement, Resident Manager's Lease and Other Contractual Arrangements.

Reference should be made to the "Management Agreement, Contracts, and Leases" section of the Plan for details of the Management Agreement. The cost of the management of the Condominium has been allocated based upon the each respective Unit Owner's interest in the Common Elements.

10. Accounting and Legal Fees $6,600.00

All Unit Owners are entitled to receive annually from the Condominium, at the Condominium's expense, an annual audited financial statement, prepared by an independent certified public accountant, within four months after the end of each calendar year. The budget figure is based upon a fee of $3,600 for audited financial statements quoted by Russell Blank, CPA, One Hollow Lane, Lake Success, New York 11042 in letter dated April 20, 2010. Miscellaneous ($3,000) legal fees are also included, but such allowance will not cover the cost of litigation or the cost of other significant work. The cost of professional services described in this item has been allocated based upon the each respective Unit Owner's interest in the Common Elements.

11. Contingency $5,121.00

This reserve may be used at the discretion of the Board of Managers toward unforeseen expenses, increase in expense in excess of the amounts projected above or other appropriate condominium expenses. The reserve for contingencies is separate and distinct from the Reserve Fund and the Working Capital Fund. The cost of maintaining a reserve for contingencies has been allocated based upon the each respective Unit Owner's interest in the Common Elements.

NOTE: While Sponsor has attempted to make accurate estimates, such realities as inflation, changes in the economy and unforeseen factors are likely to cause differences in actual expenditures from the projections set forth herein.

In the opinion of Camelot Realty Services LLC, 117 East 60th Street, New York, NY 10022, the projected income is adequate to meet the estimated expenses for the first year of Condominium operation, assuming the first year will commence on or about November 1, 2010.

The foregoing budget, however, is not intended, and should not be taken as a guarantee by anyone that the Annual Common Charges or Common Expenses for the first, or subsequent, year of operation of the Property by the Board.

It is possible that the actual Income and Expenses for the First Year of Condominium Operation will vary from the amounts shown in the budget. Sponsor reserves the right to enter into services, maintenance, employment, concessionaire and other agreements that will be binding

on the Board upon commencement of Condominium Operation. However, Sponsor may not enter into any binding service, maintenance, employment, concessionaire or other agreements that will materially increase the first year's projected Common Charges or that will be binding on the Board for a period of more than two (2) years from the commencement of Condominium Operation, unless disclosed in the Plan.

THE ALLOCATION OF EXPENSES BETWEEN THE COMMERCIAL UNIT OWNER AND THE RESIDENTIAL UNIT OWNERS, IN THE AGGREGATE, IS BASED UPON THE PROJECTED USE OF, OR BENEFIT TO BE RECEIVED FROM CERTAIN BUDGET ITEMS, BASED ON THE OPINION OF CAMELOT REALTY SERVICES. THE CERTIFICATION OF CAMELOT REALTY GROUP AS TO THE ADEQUACY OF COMMON CHARGES PAYABLE BY THE COMMERCIAL UNIT OWNER APPEARS IN PART II OF THE PLAN.

SPONSOR EXPECTS THE FIRST UNIT CLOSING TO OCCUR ON OR ABOUT NOVEMBER 1, 2010. IF THE COMMENCEMENT OF CONDOMINIUM OPERATION IS DELAYED SIX (6) MONTHS OR MORE FROM SUCH DATE, THE PLAN WILL BE AMENDED TO INCLUDE A REVISED BUDGET CONTAINING CURRENT PROJECTIONS. IF SUCH PROJECTIONS EXCEED THE ORIGINAL PROJECTIONS BY 25% OR MORE, PURCHASERS WILL BE OFFERED THE RIGHT OF RESCISSION, AND THE RIGHT TO EXERCISE THE SAME WITHIN FIFTEEN (15) DAYS OF THE PRESENTATION DATE OF SUCH AMENDMENT.

## SCHEDULE B-1

The following are estimated energy and public utilities consumption costs to be paid for directly by the Unit Owners. The estimates set forth below were based upon a report dated May 17, 2010 prepared by Athwal and Associates, Inc., Consulting Engineers, having an address at 171 Madison Avenue, Suite 308, New York, NY 10016.

### A. ESTIMATED COST OF HEAT FOR INDIVIDUAL UNITS

Each Residential Unit will contain an individual gas-fired boiler which will provide radiant heat. The heating units will be gas-fired and the natural gas used for the operation thereof will be billed directly to the Unit Owner by the public utility. The projected cost of heating each of the Residential Units is set forth below.

### B. ESTIMATED COST OF ELECTRICITY FOR INDIVIDUAL UNITS

Each Residential Unit will contain an air-cooled split heat pump system which will provide central air-conditioning system to cool the units. Set forth below is the projected cost to cool, provide lighting and operate appliances in each of the Residential Units.

The expenses projected above 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 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.

Set forth below is the projected monthly cost to heat, cool, provide lighting and operate appliances in each of the Residential Units:

**2-BR Units (1,591 SF)**

a. Lighting and Receptacles
(6 Hrs./day) (30 days) (4.77 KW) (0.25) = 214.7 KW HRS.

b. Appliances
(6 Hrs./day) (30 days) (3.0 KW) (0.8) = 432.0 KW HRS.

c. Washer/Electric Dryer
(8 Hrs./month) (5 KW) (0.7) = 28.0 KW HRS.

d. Incremental AC Units (Cooling)
(30 Days) (12 Hrs./day) (4 units) (1.6 KW) (0.30) = 691.20 KW HRS.

e. Heating
(4 units) (30 Days) (24 Hrs./day) (0.17 KW (0.55) = 269.28 KW HRS.

Total (For Summer Months) = 1,365.9 KW HRS.
Total (For Winter Months) = 943.98 KW HRS.

1,365.9 KW HRS. (For Summer Months) @ $0.22/KWH = $ 300.50
943.98 KW HRS. (For Winter Months) @ $0.22/KWH = $ 207.68

**2-BR Units (2,677 SF)**

a. Lighting and Receptacles
(6 Hrs./day) (30 days) (8.0 KW) (0.25) = 360.0 KW HRS.

b. Appliances
(6 Hrs./day) (30 days) (3.0 KW) (0.8) = 432.0 KW HRS.

c. Washer/Electric Dryer
(8 Hrs./month) (5 KW) (0.7) = 28.0 KW HRS.

d. Incremental AC Units (Cooling)
(30 Days) (12 Hrs./day) (6 units) (1.6 KW) (0.30) = 1,021.8 KW HRS.

e. Heating
(6 units) (30 Days) (24 Hrs./day) (0.17 KW (0.55) = 403.92 KW HRS.

Total (For Summer Months) = 1,841.8 KW HRS.
Total (For Winter Months) = 1,223.9 KW HRS.

1,841.8 KW HRS. (For Summer Months) @ $0.22/KWH = $ 405.20
1,223.9 KW HRS. (For Winter Months) @ $0.22/KWH = $ 269.26

**Summary**

- Total Common Charges = $ 25,367.28/Yr
- 2-BR Unit (1,591 SF) = $ 300.50 for Summer Months
- 2-BR Unit (1,591 SF) = $ 207.68 for Winter Months
- 2-BR Unit (2,677 SF) = $ 405.20 for Summer Months
- 2-BR Unit (2,677 SF) = $ 269.26 for Winter Months




Real Estate Management & Brokerage Services
Licensed Broker | ID # 10491200104

**David A. Goldoff** | President

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

Re: 263 Bowery
New York, New York

We have reviewed the allocation of Common Interest among the Condominium Units at the referenced property.

The allocation is based upon floor space, subject to the 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 dimension of the particular unit pursuant to Section 339-i(1)(iv) of the New York Real Property Law.

In our opinion, the allocation of Common Interest among the Condominium Units is fair and reasonable.

This undersigned principal of this firm is a licensed real estate broker in the State of New York. We have projected budgets for proposed and existing condominium and cooperative properties in New York City for 25 years. We have acted as consultant, selling agent and/or managing agent for more than 40 properties.

We have no financial interest in the Sponsor, the condominium or any other party interested in this transaction or in the land building covered by the Plan. You have advised us of your intent to reproduce this letter in the Plan and we hereby consent to such use.

Very truly yours,

By: David Goldoff 5-25-10

KEYSI A. REYNOSO
Notary Public, State of New York
Qualified in New York County
Reg. No. 01RE6177717
My Commission Expires Nov. 19, 2011

State of New York )
County of New York ) ss.:

117 East 60th Street || Att: Second Floor || New York, NY 10022
Tel: (212) 206-9939 or (212) 460-8000 x 125 || Fax: (212) 206-9949 || Efax: (866) 239-8063
www.camelotrealtygroup.biz || info@camelotrealtygroup.biz

ROSENBERG & ESTIS, P.C.
ATTORNEYS AT LAW

733 Third Avenue
New York, New York 10017
212.867.6000
Fax 212.551.8484
www.rosenbergestis.com

September 8, 2010

Board of Managers
Bowery 263 Condominium
263 Bowery
New York, New York

Re: Bowery 263 Condominium
263 Bowery
New York, New York

Ladies and Gentlemen:

We have acted as counsel for D.N.P. 336 Convent Avenue LLC, a New York limited liability company (the "Sponsor"), in connection with the preparation of the offering plan, declaration of condominium and the by-laws for the referenced condominium (the "Condominium"). We have been asked to write this opinion as to whether the allocation of the percentages of common interest allocated to the Units as set forth in Schedule A of the Offering Plan is in conformance with the provisions of the Section 339-i of the New York Real Property Law. In such capacity, we have reviewed the provisions of Section 339-i, specifically Section 339-i(1)(iv) and the opinion of Camelot Realty Group, licensed real estate broker ("Camelot").

The Sponsor has elected to allocate the common interests of the Units using the method set forth in Section 339-i(1)(iv). Such Section provides for the allocation of the common elements based upon "floor space, subject to the location of such space and additional factors of relative value to the 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."

Sponsor retained Camelot to prepare and determine such allocations. We have neither reviewed nor independently investigated Camelot's work and issue no opinion regarding the same. However, solely in reliance upon the opinion letter prepared by Camelot and assuming Camelot's allocations are correct, it is our opinion that the allocation of the common interest to each of the Units as set forth in Schedule A of the Plan is in compliance with the requirements of Section 339-i(l)(iv).

We assume no obligation to supplement this opinion if any applicable laws change after the date hereof or if we become aware of any facts that might change the opinions expressed herein subsequent to the date of this opinion. We do not express any opinion other than as expressly set forth herein. Terms not defined herein shall have the same meanings as set forth in the Plan. A copy of this letter may be included in the Plan.

Very truly yours,

ROSENBERG & ESTIS, P.C.

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## COMMERCIAL UNIT

Subject to certain restrictions set forth in the Declaration and By-laws, the Commercial Unit (not offered hereby) may be used for any lawful purpose, including, without limitation, for retail, restaurant, including an establishment for the sale of prepared food, a wine store, banking, commercial, office, municipal, school annex, and utility purposes. The Commercial Unit will continue to be owned by Sponsor and is not currently being offered for sale under this Plan. In the event Sponsor elects to offer the Commercial Unit for sale, the Plan will be amended accordingly. As of the date hereof, Sponsor has not yet entered into a lease agreement for the Commercial Unit. At such time when Sponsor enters into a lease agreement for the Commercial Unit, the Plan will be amended accordingly. Purchasers are advised that the fire egress from the Commercial Unit is through the stairwell used by the Residential Unit Owners.

It is currently anticipated that the Commercial Unit will initially be used for retail purposes including a restaurant or an establishment for the sale of prepared food (and ancillary uses), although no representation or warranty is made with respect to such initial or any subsequent uses of the Commercial Unit or with respect to who the owner or tenant(s) of the Commercial Unit may be at any time. Notwithstanding the foregoing, the Condominium Board will have no right to restrict or limit any of the uses of, or alterations in or to, the Commercial Unit (including the storefronts thereof) which are permitted by law and applicable zoning ordinances, except as otherwise set forth in the By-laws and Declaration. The Declaration prohibits certain commercial uses including a funeral parlor, an establishment for the servicing of motor vehicles, machinery or equipment, a drug or alcohol treatment center, a shelter for homeless persons, an AIDS treatment center, a facility housing or treating criminal or mentally disturbed persons, a massage parlor or sex club or for the sale or display of pornographic material or a cabaret or nightclub, provided however, such restriction shall not prohibit a restaurant from having live entertainment. No income derived from any use of the Commercial Unit will constitute income to the Condominium Board or the Residential Unit Owners.

No unlawful use may be made of the Property or any portion thereof and all valid Legal Requirements relating to any portion of the Property shall be complied with at the sole cost and expense of the Commercial Unit Owner or the Condominium Board, whichever party has the obligation to maintain or repair such part of the Property, as set forth in the Declaration or the By-laws.

The Commercial Unit Owner will be obligated to pay its share of the expenses that are incurred by the Condominium Board in furnishing services, and operating, maintaining and repairing Common Elements, only to the extent the same are utilized by or benefit the Commercial Unit Owner. Schedule B and the Declaration provide that certain expenses are not allocated between the Commercial Unit and the Residential Units, in the aggregate, in accordance with the respective interest in the Common Elements of the Commercial Units and the Residential Units. The allocation has been made based upon the anticipated and projected use of certain services or supplies. *e.g.*, the Declaration requires and the budget reflects that the porter employed by the Condominium will provide services primarily to the Residential Unit Owners. In addition, the Declaration of Condominium provides that the Condominium is to

supply water and hot water for lavatory purpose only and the Commercial Unit has been allocated a portion of the water and sewer charges in accordance with its interest in the Common Elements. In the event that the Commercial Unit is to be occupied by a tenant or owner that will require the use of water for other purposes *(i.e.* an establishment for the preparation of food, or a supplier of medical services, it will be the responsibility of the Commercial Unit Owner, or its tenant to cause a separate meter to be installed and to pay for the cost of such additional water usage. See Schedule B Footnotes for additional information.

It is the opinion of Camelot Realty Group LLC, as more fully set forth in its Certification contained in Part II, that the aforementioned Common Charges payable by the Commercial Unit Owner are sufficient to cover the expenses fairly attributable to the Commercial Unit. In the event that a dispute arises over the allocation of Common Charges between the Commercial Unit Owner and the Residential Unit Owners, the Declaration of Condominium will provide that any such disputes are to be resolved by arbitration.

After operation of the Condominium has commenced, it is anticipated that the Common Charges payable by the Commercial Unit Owner may be periodically adjusted, but not more frequently than once each year, to reflect the proportion properly attributable to the then amount of usage by the Commercial Unit Owner. If the Board and the Commercial Unit Owner cannot agree on such adjustment, the dispute will be submitted to arbitration to the American Arbitration Association in the City and State of New York in accordance with the prevailing rules of the American Arbitration Association (Real Estate Industry Division), to be heard and adjudicated by one arbitrator to be mutually selected by the Condominium Board and the Commercial Unit Owner. The parties shall share equally the costs of the arbitration and each party shall be responsible for its own attorneys' fees. Article 12 of the By-laws fully sets forth the terms of the arbitration provision.

To the extent permitted by law, and subject to certain restrictions set forth in the Declaration and By-laws, the Commercial Unit Owner will have the right with regard to its Unit, without the vote or consent of the Board, or any other party, to mortgage or otherwise hypothecate its Unit, to decorate or make alterations, additions or improvements to its Unit (except that alterations, additions or improvements which would either in the course of performance or upon completion have a material adverse effect on the structural, mechanical electrical or plumbing elements of the Building or would increase insurance premiums or maintenance costs for any other Unit or the Common Elements shall be subject to the approval, not to be unreasonably withheld, of the Board), to change the size of its Unit by subdividing it into any desired number of condominium units (or by combining any units resulting from such subdivision), and to reapportion among the newly created condominium units resulting from any subdivision (or combination) their appurtenant Common Interests, provided that any such changes are in compliance with Article 9-B, Section 339 of the New York Condominium Act. As more particularly provided in Article 9 of the Declaration, the Commercial Unit Owner will have the right with regard to its Unit to amend the Declaration in order to reflect such changes, or to cause the Board to do so. If the Commercial Unit is subdivided, the owner of each Unit resulting from a subdivision or combination will generally have all of the rights (without the consent of the Board or other Unit Owners), set forth above in this paragraph, described as pertaining to the Unit Owner of the original Unit or Units in question.

The Condominium Board, at the request of Sponsor or the Commercial Unit Owner, will enter into a recognition and non-disturbance agreement with any tenant with which Sponsor or Commercial Unit Owner has entered into a lease for all or any portion of the Commercial Unit or any portion thereof. Under the terms of the recognition agreement, the tenant will acknowledge that the lease is subject and subordinate to the Declaration. Such agreement shall further provide that although the Condominium Board can foreclose its lien in the event of a default by the Commercial Unit Owner, if the tenants pay, on a continuing basis, rent due under the lease to the Condominium Board, the Condominium Board will agree that the rights of the tenants under the lease(s) will not be disturbed in the event of a default by the Commercial Unit Owner.

## CHANGES IN PRICES AND UNITS

Purchase Prices for the Units offered hereby are negotiable and Sponsor reserves the right, at any time and from time to time before and after the recording of the Declaration, without giving prior notice (except as otherwise provided herein) and without the consent of the Condominium Board, any Unit Owner or mortgagee, to change the price, including, without limitation, the manner of payment thereof and other terms of sale of any Unit, except that no such change with respect to any Unit for which a Purchase Agreement is then in effect may be made without the written consent of the Purchaser. No such change will be made other than pursuant to a duly filed amendment to the Plan filed in advance of any such change, except that Sponsor reserves the right to decrease purchase prices or modify other terms of sale without filing an amendment to the Plan at any time during the offering period if such a decrease in the purchase price or modification of such other terms of sale does not constitute a general offering or an advertised price but is rather the result of an individually negotiated transaction. If any such change is made, a Purchaser of a Unit 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 Units which are not the subject of such change. No change will be made in the size or number of Units and/or the respective percentages of Common Interest allocated thereto, except pursuant to a duly filed amendment to the Plan. Unless all Purchasers consent, no material adverse change will be made in the area or the amenities to be designated as the Common Elements of the Condominium.

Sponsor reserves the right to negotiate with each Purchaser the following terms and conditions, among others, of the Purchase Agreement: purchase price; the amount of the Deposit; financing and other contingencies; the availability of financing; the payment of Purchasers financing fees and other closing costs; the availability of Common Charge rebates, purchase price rebates and subsidies payable as a credit against the purchase price or on a periodic basis; extensions of time periods within which to perform obligations under the Purchase Agreement; the availability of Use and Occupancy Agreements and the amount of interim rent thereunder; and the application of interim rent or a portion thereof towards the purchase price.

Sponsor reserves the right from time to time to add and/or delete negotiable terms from the list set forth above for all or some Purchasers. No Purchaser will benefit from any terms and conditions negotiated with any other Purchaser, and a Purchasers failure to so benefit will not give rise to any right of rescission under a Purchase Agreement.

In order to meet the possible varying demand for number and type of Units, or to meet particular requirements of prospective purchasers, or for any other reason, Sponsor reserves the right (except to the extent prohibited by law) at any time and from time to time, before and after the recording of the Declaration, without giving prior notice and without the consent of the Condominium Board, any Unit Owner or mortgagee, to (a) change the layout of, or number of rooms in, any Unsold Unit, (b) change the size and/or number of Unsold Units by dividing one or more such Units into two or more separate Unsold Units, combining separate Unsold Units (including those resulting from such subdivision or otherwise) into one or more Unsold Units, altering any boundary walls between one or more Unsold Units, or otherwise, including incorporating Common Elements (such as a portion of a hallway) which exclusively benefit an Unsold Unit into such Unsold Unit, and (c) if appropriate, reapportion among the Unsold Units affected by any such change, their aggregate Common Interests. In the event of any change pursuant to either (b) or (c) above, such change shall be disclosed in a duly filed amendment to the Plan. No such change, including any change in the Common Interest or in the amount or quality of Common Elements directly affecting or servicing a Unit, will be made with respect to any Unsold Unit for which a Purchase Agreement is then in effect and the Purchaser thereunder is not in default unless (i) the Purchaser consents to such change or (ii) such change is not a material change in the size, dimension, floor space or layout of such Unsold Unit.

Once the Declaration is recorded, no change may be made in the number of Units or number of rooms within a Unit, nor may the size of any Unit be changed by subdivision or combination or alteration of boundary walls as aforesaid or otherwise, nor may the Common Interest of any Unit be changed, unless, in each such event, the Declaration and Floor Plans and the Plan are amended with the reasonable consent of each Unit Owner whose Unit is directly affected by such change. Sponsor will have the right to amend or to cause the Condominium Board to amend the Declaration to reflect any such change and to file such amendment and any necessary plans and specifications in connection therewith.

It should be noted that as long as the layout and dimensions of a Unit conform substantially to the Floor Plans, a Purchaser will not be excused from purchasing his Unit and will not have any claim against Sponsor as a result of any insubstantial or immaterial change. No such variation will affect a Purchaser's obligations under the Purchase Agreement or the Plan unless the net square foot area of the Unit is diminished materially (excluding interior partitions). Sponsor's sole obligation if the net square foot area of the Unit is diminished materially shall be to refund to Purchaser the Contract Deposit made under the Purchase Agreement.

## PROCEDURE TO PURCHASE

A prospective Purchaser desiring to purchase a Unit will be required to execute a Purchase Agreement in quadruplicate (four (4) original counterparts), which will be in the form set forth in Part II of the Plan.

Prospective Purchasers shall be given not less than three (3) business days to review the Plan and all amendments thereto prior to executing a Purchase Agreement. If a Purchaser has not received and read the Plan at least three (3) full days prior to executing a Purchase Agreement, a

Purchaser shall have the right to rescind the Purchase Agreement within seven (7) days from the date of the Purchase Agreement. The Purchase Agreement sets forth in detail the terms of sale with respect to each Unit and should be read carefully by each prospective Purchaser. Prospective Purchasers should be aware that if any conflict exists between the Plan and the Purchase Agreement, the provisions of the Plan shall control. Although a Purchaser may obtain financing from a lending institution or any other source, Purchaser's obligation to purchase a Unit pursuant to the Purchase Agreement shall not be contingent on Purchaser obtaining financing for such purchase, unless otherwise agreed to by Sponsor.

Purchase Agreements will not be binding on Sponsor until approved and executed by it, and delivered by Sponsor to the prospective Purchaser. Sponsor will have 30 days after delivery by Purchaser of an executed Purchase Agreement and the Contract Deposit required thereby, within which to accept or reject such Purchase 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.

If a Purchase Agreement is not accepted by Sponsor within the aforesaid 30 day period, the Purchase Agreement shall be deemed to have been rejected and cancelled and the Contract Deposit shall be returned to Purchaser within 30 days thereafter. Sponsor hereby reserves the right at any time and from time to time for any reason whatsoever, without prior notice or prior amendment to the Plan and without the consent of the Condominium Board, to refuse to approve and execute (a) a Purchase Agreement for any Unit, except as prohibited by law, and (b) a Purchase Agreement(s) for more than one Unit to any one person or entity.

The Purchase Agreement shall not contain, and shall in no event be modified to contain, a provision waiving the Purchaser's rights or abrogating Sponsor's obligations under the Plan or under Article 23-A of the General Business Law of the State of New York. At the time of execution of a Purchase Agreement, a Purchaser is required to make a Contract Deposit in an amount equal to ten (10%) percent of the purchase price. All Contract Deposits must be made payable to the direct order of "Rosenberg & Estis, P.C., Escrow Agent." All checks delivered in payment of the Contract Deposit shall be accepted by Sponsor subject to collection, and if any such check is returned for insufficient funds or any other reason, Sponsor shall have the right, among other things, to deem such Purchase Agreement to be cancelled and of no further force or effect. Within fifteen (15) days of the date of the fully executed Purchase Agreement is returned to Purchaser, Escrow Agent shall notify Purchaser that such funds have been deposited in the escrow account at the bank indicated in the Plan, which notice shall indicate the account number and the interest rate then in effect. If the Purchaser does not receive notice of such deposit within fifteen (15) business days after the tender of the deposit which shall be deemed the date of Purchaser's receipt of a fully-executed Purchase Agreement, he or she may cancel the purchase and rescind within ninety (90) days thereafter, 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.

All Contract Deposits made pursuant to a Purchase Agreement are subject to the requirements of Sections 352(2)(b) - 352-h of the General Business Law of the State of New

York. Pursuant to this law, Sponsor will cause all Contract Deposits received by it directly or by its agents or employees to be promptly deposited and held in escrow in accordance with the procedures set forth in the Section of the Plan entitled "Escrow and Trust Fund Requirements."

The balance of the purchase price shall be payable simultaneously with the delivery of the deed to the Unit by an official bank check or an unendorsed certified check drawn on or issued by a New York bank or trust company which is a member of The New York Clearinghouse Association and shall be payable to the direct order of Sponsor, or otherwise if Sponsor should so notify Purchaser. The deed will be substantially in the form set forth in Part II of the Plan. Interest, if any, on Purchaser's Contract Deposit will be credited or paid to Purchaser at Closing.

**TIME IS OF THE ESSENCE TO PURCHASER AS TO PURCHASER'S OBLIGATIONS PURSUANT TO THE PURCHASE AGREEMENT, INCLUDING, WITHOUT LIMITATION, FOR THE PAYMENT OF THE BALANCE OF THE PURCHASE PRICE. FUNDS DRAWN ON OUT-OF-STATE OR FOREIGN BANKS WILL NOT BE ACCEPTED IN PAYMENT OF THE PURCHASE PRICE FOR A UNIT.**

It is anticipated that the First Unit Closing will occur on or about November 1, 2010. In the event that the date of the First Unit Closing is delayed twelve (12) months or more, the Plan will be amended and the Purchasers will be granted the right to rescind their Purchase Agreements for no less than fifteen (15) days from the Presentation Date of such amendment.

A Purchaser will receive no less than 30 days' prior written notice of the originally scheduled Closing Date. In the event that Sponsor adjourns the originally scheduled closing date, Sponsor shall give Purchaser no less than five (5) business days' notice of any adjourned closing date

In the event Purchaser fails to close on the designated date or in the event of any other default by Purchaser under his Purchase Agreement (*e.g.* the failure to tender the entire amount of the Contract Deposit), Sponsor shall give Purchaser written notice and a period of no less than thirty (30) days from the date that such notice is deemed received pursuant to the Purchase Agreement to cure such default. If Purchaser fails to cure such default within the time period set forth in Sponsor's notice to the Purchaser, Sponsor may, at its option, either (a) cancel such Purchase Agreement and retain the Contract Deposit made by Purchaser, together with any interest earned thereon, as liquidated damages, in which event all rights, obligations and liabilities of Sponsor and Purchaser shall wholly cease and terminate or (b) bring an action against Purchaser for specific performance.

If a Purchaser fails for any reason to close title to his Unit on the originally scheduled Closing Date (a) the closing apportionments described in the Section entitled "Unit Closing Costs and Adjustments" will be made as of midnight of the day preceding the originally scheduled Closing Date, regardless of when the actual Closing occurs, and (b) a 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 the Purchase Agreement and the Plan, an amount equal to 0.03 percent of the purchase price of his Unit for

each day starting from (and including) the originally scheduled Closing Date to (and including) the day before the actual Closing Date.

Prior to the closing of title to a Unit, the Purchase Agreement prohibits a Purchaser from listing the Unit for resale or rental with any broker or from advertising or otherwise offering, promoting or publicizing the availability of the Unit for sale or lease, without Sponsor's prior written consent.

If the Plan is withdrawn or abandoned, the Contract Deposit previously paid to and actually collected by Sponsor, shall be returned to Purchaser in accordance with the provisions herein set forth.

From the date of the Closing of each Unit, Purchaser will become obligated for the payment of Common Charges in proportion to the Purchaser's Common Interest, real estate taxes and assessments (including water charges and sewer rents, if separately assessed) and all other expenses with respect to his Unit, whether or not he has taken possession of his Unit, and whether or not all work required to be performed by anyone in or to his Unit has been completed.

The risk of loss to any Unit by fire or other casualty until the Closing for such Unit is assumed by Sponsor (unless and until a Purchaser takes possession of such Unit, at which time the risk of loss, to the extent not covered by Sponsor's insurance, shall be assumed by Purchaser), but without any obligation or liability by Sponsor to repair or restore any Unit. In the event of damage or destruction of a Unit due to a fire or other casualty prior to the Closing, but subsequent to the signing of a Purchase Agreement, provided Sponsor elects (which election shall be in its sole discretion) to repair or restore the Unit, the Purchase Agreement shall continue in full force and effect, and, thereafter, Purchaser shall not have the right to reject title or receive credit against, or abatement in, the purchase price for the subject Unit. In such event 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 of the Condominium Board and other Unit Owners, belong entirely to Sponsor. In the event of damage or destruction to any Unit by fire or other casualty prior to the Closing, but subsequent to the signing of a Purchase Agreement, if Sponsor notifies Purchaser that it does not elect (which election shall be in its sole discretion) to repair or restore the Unit or if the Unit Owners do not resolve to make such repair or restoration pursuant to the By-laws, or the Declaration, specifically the Section entitled "Rights and Obligations of the Condominium Board/Summary of By-laws"), the Purchase Agreement shall be deemed cancelled and of no further force or effect and Sponsor shall return Purchaser's Contract Deposit to Purchaser, whereupon the parties to the Purchase Agreement shall be released and discharged from all obligations and liability thereunder and under this Plan; provided, however, notwithstanding anything to the contrary herein, if Purchaser is then in default under the Purchase Agreement (beyond any applicable grace period), Sponsor shall retain all such sums as and for liquidated damages.

At Closing, each Unit will contain only those appliances, counter-tops, cabinets, sinks, vanities, heating, hardware and other fixtures, equipment and appliances, to be installed therein as

set forth in this Plan. Each Unit is being sold unfurnished. All fixtures, equipment and appliances will be in working order at closing.

At the Closing, Purchasers will be required to execute and deliver a Power of Attorney in favor of the Board of Managers of the Condominium in the form set forth as Exhibit I in Part II of the Plan.

## INTERIM LEASES

Sponsor reserves the right, prior to the date of closing title thereto, to rent or lease any Unit for such rent and term and on such other conditions as may be agreed to between Sponsor and any Purchaser who has paid the down payment required by his Purchase Agreement, provided that no occupancy may commence until either a Temporary or Permanent Certificate of Occupancy has been obtained for such Unit. Any such lease (also known as a "Use and Occupancy Agreement" or "Interim Lease") given to a Purchaser will provide that an uncured default by the tenant (Purchaser) under the Purchase Agreement for the unit which is the subject of the lease will constitute a default under the lease entitling the landlord (Sponsor), at its sole option, to immediately terminate such lease in accordance with applicable law. In the event the lease is terminated by reason of an uncured default by the tenant (Purchaser) under a Purchase Agreement, the Interim Lease will terminate on a date set forth in a notice given by Sponsor to Purchaser (the "Termination Date") no less than 30 days prior to the Termination Date. In addition, each Purchase Agreement may provide that an uncured default by the Purchaser under any lease with respect to the Unit which is the subject of a Purchase Agreement will constitute a default under the Purchase Agreement, entitling Sponsor, in its sole discretion, to terminate such Purchase Agreement and to exercise any remedies therein provided.

Purchasers or any other persons entering into a Use and Occupancy Agreement for a Unit shall be required to pay the sum of $1,500 (subject to increase) to Sponsor's attorney for legal fees in connection therewith upon execution of the Use and Occupancy Agreement. All other charges or other fees due under a Use and Occupancy Agreement shall be adjusted as of the Closing to the Unit. Notwithstanding any of the foregoing, Sponsor shall be under no obligation to enter into any Use and Occupancy Agreement.

Sponsor or its successors-in-interest further reserves the right to use or occupy itself or to rent or lease to a tenant who is not a Purchaser (for such rent and term and on such other conditions as may be agreed to between such parties) any Unit not conveyed or with respect to which a Purchase Agreement is not then outstanding. Accordingly, a Purchaser may be acquiring a Unit that has been previously occupied, but such Unit will be delivered at Closing free and clear of all leases, tenancies and rights of occupancy other than interim leases with such Purchaser or other leases or rights of occupancy of such Unit which Sponsor agreed to enter into at the request of the Purchaser of such Unit.

## ESCROW AND TRUST FUND REQUIREMENTS

All Contract Deposits will be held in escrow in conformity with the disclosure contained in this Section of the Plan.

Sponsor will comply with the escrow and trust fund requirements of General Business Law Sections 152-e[2-b] and 352-h and the Attorney General's regulations promulgated pursuant thereto.

Any provision of any contract or agreement, whether oral or in writing, by which a Purchaser purports to waive or indemnify any obligation of the escrow agent holding trust funds is absolutely void. The provisions of the Attorney General's regulations concerning escrow/trust funds shall prevail over any conflicting or inconsistent provision in the Plan or in a Purchase Agreement. Purchaser 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.

All Contract Deposits made by Purchasers prior to the closing of each individual transaction, whether received before or after the date of "consummation of the Plan" (as such term is defined in the Attorney General's regulations), will be placed, within five (5) business days after tender of the Contract Deposit by Purchaser to Sponsor or Selling Agent, in a segregated special escrow account of Rosenberg & Estis, P.C., the escrow agent (the "Escrow Agent"), whose address is 733 Third Avenue, New York, New York 10017, and whose telephone number is (212) 867-6000. Escrow Agent has established a master escrow account entitled Rosenberg & Estis, P.C. Attorney Trust Account at Valley National Bank Escrow Account No. [redacted] the "Master Escrow Account" at its branch located at 275 Madison Avenue, New York, NY 10017). All Contract Deposits will be placed initially in a non-interest bearing checking portion of the Master Escrow Account. Gary M. Rosenberg, Warren A. Estis, Richard L. Sussman and Blaine Z. Schwadel are the signatories on the Master Escrow Account. Each Purchaser is required to deliver a completed and signed Form W-9 (Request for Taxpayer Identification Number) or a Form W-8 (Certificate of Foreign Status), as applicable, to Sponsor or Selling Agent at the time Purchaser tenders the Contract Deposit and the Purchase Agreement. If a Contract Deposit is accompanied by a completed and signed Form W-9 or Form W-8, the Contract Deposit will thereafter be promptly transferred to an individual interest bearing sub-escrow savings account in the name of Purchaser. If a Purchaser does not deliver the Form W-9 or Form W-8, the Contract Deposit will remain in the non-interest bearing checking portion of the Master Escrow Account. Valley National Bank is covered by insurance issued by the Federal Deposit Insurance Corporation (the "FDIC") to a maximum of $250,000 per individual deposit. The following are special risks of this offer: (i) if a Purchaser makes a Contract Deposit in excess of $250,000 for the purchase of a Unit, such Contract Deposit will not be federally insured in excess of $250,000. Currently, there are no FDIC insurance limits in effect as to IOLA accounts. After January 1, 2014, while the Contract Deposit is in the non-interest bearing checking portion of the Master Escrow Account, which is an IOLA account, the Contract Deposit may not be federally insured even if the Deposit does not exceed $250,000.

The Contract Deposit may be tendered by Purchaser to Sponsor or Selling Agent by either personal delivery, delivery by messenger or courier service or mailed by certified mail, return receipt requested, overnight courier or express mail service. The Contract Deposit shall be deemed tendered by Purchaser on the date it is actually received by Sponsor or Selling Agent.

Acceptance of the Contract Deposit by Sponsor or Selling Agent and the deposit thereof by Escrow Agent into escrow shall not be deemed a binding agreement by Sponsor to sell to Purchaser unless and until Purchaser executes a Purchase Agreement and Sponsor or Selling Agent executes a duplicate thereof and delivers the Purchase Agreement to Purchaser in accordance with the terms of the Plan.

If a Purchaser tenders a Contract Deposit without an executed Purchase Agreement, Sponsor shall have the right to reject the Contract Deposit and return it to Purchaser: (i) within five (5) business days after tender, if the Contract Deposit has not been deposited into escrow, and (ii) at any time, if the Contract Deposit has been deposited into escrow.

The checking account portion of the Master Escrow Account will not be interest-bearing. The sub-escrow savings account portion of the Master Escrow Account will be interest-bearing. All interest will be credited to Purchaser at such time as: (i) there is a closing under the Purchase Agreement, or (it) Purchaser is entitled to a return of the Contract Deposit. All interest will be credited to Sponsor only in the event that: (i) the Plan is declared effective, (ii) a minimum of one (1) unit has been conveyed to Purchaser, and (iii) Purchaser defaults. The interest rate to be earned will be the prevailing rate for these accounts which currently is approximately .50 percent. Interest will begin to accrue within: (i) one (l) business day, if the Contract Deposit is cash or cash equivalent, or (ii) three (3) business days, if the Contract Deposit is other than cash or cash equivalent, of the transfer of the Contract Deposit from the checking account portion of the Master Escrow Account into the sub-escrow savings account portion of the Master Escrow Account.

All instruments shall be made payable directly to the order of "Rosenberg & Estis, P.C., Escrow Agent." Endorsed instruments will not be accepted. In the event a check delivered by a Purchaser fails collection, the Purchase Agreement will be deemed void *ab initio* ( as if the Purchase Agreement had never been executed) at the option of Sponsor, who reserves the right to exercise this option in its discretion by written notice to Purchaser given within five (5) business days of Sponsor receiving notice from Escrow Agent of such failure of collection.

Within ten (10) business days after the check tendered for the Contract Deposit is deposited into the escrow account, Escrow Agent will notify Purchaser that such funds have been deposited into escrow and will provide the account number and the initial interest rate, if any. If Purchaser does not receive notice of such deposit within fifteen (15) business days after the Contract Deposit is deposited into the Escrow Agent's Bank, Purchaser may cancel the Purchase Agreement and rescind so long as the right to rescind is exercised within ninety (90) days after tender of the Contract Deposit. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the Contract Deposit was timely deposited and requisite notice was timely mailed to Purchaser in conformity with the Attorney General's regulations.

Since all Purchase Agreements are contingent upon the Plan's becoming effective, under no circumstances will Sponsor apply for release of the Contract Deposit of a defaulting Purchaser until after "consummation of the Plan."

Escrow Agent will hold the Contract Deposit in escrow until otherwise directed in:

(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 Contract Deposit, Escrow Agent will not pay the Contract Deposit to Sponsor until Escrow Agent has given Purchaser written notice of no less than ten (10) business days. Thereafter, the Contract Deposit may be paid to Sponsor unless Purchaser has already made application to the Department of Law pursuant to the dispute resolution provisions of the regulations and has so notified Escrow Agent in accordance with such provisions and Escrow Agent has received such notice.

Sponsor will not object and will be deemed to have agreed, without the need for a written agreement, to the release of the Contract Deposit to:

(i) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an amendment to the Plan, and

(ii) all Purchasers after an amendment abandoning the Plan is accepted for filing by the Department of Law.

The Purchase Agreement provides that Purchaser will not object and will be deemed to have agreed, without the need for further written agreement, to the release of the Contract Deposit to Sponsor in the event Sponsor and Purchaser close title under the Purchase Agreement.

Purchasers and Escrow Agent may apply to the Attorney General in the event of a dispute for a determination on the disposition of the Contract Deposit 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 to all other parties by certified mail, return receipt requested, a copy of the application.

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

Set forth in Part II of the Plan is a copy of the form of escrow agreement between Sponsor and Escrow Agent which incorporates the terms of the Attorney General's regulations.

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

Sponsor has agreed to indemnify Escrow Agent from all costs, claims, expenses and damages incurred in connection with or arising out of the escrow agreement or the performance or non-performance of Escrow Agents duties under the escrow agreement, except with respect to actions or omissions taken or suffered by Escrow Agent in bad faith or in willful disregard of the escrow agreement or involving gross negligence of Escrow Agent.

Sponsor has agreed to compensate Escrow Agent for services rendered in connection with Escrow Agent's duties under the escrow agreement. Escrow Agent's fees and disbursements will neither be paid by Sponsor from the Contract Deposit nor deducted from the Contract Deposit by any financial institution under any circumstance, except if an instrument tendered by a Purchaser is returned for failure of collection, in which event the Bank's standard fee therefor may be deducted from a subsequent deposit.

Escrow Agent will maintain all records concerning the Master Escrow Account for seven years after the release of funds.

Before escrow funds are transferred to a new escrow account, or if the Escrow Agent is replaced, the Plan must be amended to provide the same full disclosure with respect to the new account, the escrow agent and the escrow agreement as was originally provided. A bond, letter of credit or other security may be substituted for the escrow account only after the Department of Law approves in writing the use of such alternate form of security.

## ASSIGNMENT OF PURCHASE AGREEMENTS

A Purchaser does not have the right to assign the Purchase Agreement without the prior written consent of Sponsor, which may be withheld in Seller's sole and absolute discretion. Any purported assignment by a Purchaser in violation of the Purchase Agreement will be voidable at the option of Sponsor. Sponsor's refusal to consent to an assignment will not entitle a Purchaser to cancel the Purchase 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 the Purchase Agreement, or for the addition, deletion or substitution of names on the Purchase Agreement, then the Purchaser shall be required to pay Sponsor's attorneys a fee of $1,200, in advance, for preparation of an assignment agreement.

## EFFECTIVE DATE

The offering by Sponsor under the Plan is contingent upon the Plan being declared effective and the First Closing shall not occur until the Plan has been declared effective. The Plan may be declared effective, at Sponsor's option, at any time when *bona fide* purchasers, including investors, have executed Purchase Agreements with respect to not less than fifteen (15%) percent

or, in this Plan, one of the Residential Units offered hereunder the Plan. The Plan must be declared effective at such time as Purchase Agreements have been executed and are in effect with respect to 80 percent or all of the Residential Units offered under the Plan. The Plan may be declared effective by (a) a duly filed amendment and a copy of such amendment will, thereafter, be sent to all Purchasers or (b) by personal service of notice on every Purchaser or by service by regular mail, certified mail or registered mail stating that the Plan is declared effective and submitting an amendment to the Department of Law within five (5) days thereafter confirming that the Plan was declared effective on a specified date. The First Unit Closing will not occur until the Plan is declared effective. Sponsor will submit to the Department of Law, if requested to do so, copies of all Purchase Agreements (and any amendments or modifications thereto) within five (5) business days after such request is made.

The Plan will not be declared effective based on Purchase Agreements: (i) signed by Purchasers who have been granted a right of rescission that has not yet expired or been waived; or (ii) signed by Purchasers who have not been afforded at least three (3) business days to review the Plan and all filed amendments prior to executing a Purchase Agreement or at least seven (7) days to rescind; or (iii) signed by any Purchaser who is Sponsor, the Managing Agent or a principal of either, or is related by blood, marriage or adoption or as a business associate, an employee, a shareholder or a limited partner of Sponsor, the Selling Agent, the Managing Agent or a principal of either (except that such a Purchaser other than Sponsor or a principal thereof may be counted only if Sponsor has submitted proof satisfactory to the Department of Law establishing that the Purchaser is *bona fide*).

The Plan may be withdrawn or abandoned by Sponsor for any reason whatsoever at any time prior to its being declared effective, in which event Purchasers will be notified by Sponsor in writing, by registered or certified mail.

Once the Plan has been declared effective, it may not thereafter be abandoned or withdrawn, except that, prior to the First Closing, the Plan may, at the option of Sponsor, be abandoned in the event of: (l) the existence of one or more title defects (including violations of record or work orders of a mortgagee or insurance carrier) affecting any one or more Units or the Property that cannot be removed, cured or complied with prior to the date set for the First Closing, without litigation, or for less than 0.5 percent of the total offering amount in the aggregate, and which are not waived by the Purchasers thereof; a substantial damage to or destruction of the Building (or any portion thereof) by fire or other casualty that cannot be repaired prior to the date set for the First Closing for less than 0.5 percent of the total offering amount in the aggregate; or (2) a taking of a material portion of the Property in condemnation proceedings or by eminent domain. Excluded from the dollar amounts set forth in (1) and (2) above are attorneys' fees and title defects or determinations of any authority or regulatory association which exist on the Filing Date of the Plan and are either known to Sponsor or are a matter of public record.

Sponsor expects to obtain a temporary Certificate of Occupancy for the Units in or about November 1, 2010. Accordingly, Sponsor hopes to begin closing units on or about November 1, 2010. In the event that such date is delayed twelve (12) months or more, Sponsor will offer to purchasers who are not in default under their Purchase Agreements, the right to rescind.

In the event the Plan is withdrawn or abandoned, all Contract Deposits will be returned to Purchasers within 30 days following such withdrawal or abandonment. Upon the return or retention of the Contract Deposits, the Purchase Agreements will be null and void and Sponsor will have no further obligation or liability to Purchasers under the Plan or the Purchase Agreements. Sponsor shall promptly submit an amendment to the Department of Law confirming such abandonment or withdrawal and shall file a notice of abandonment on form RS-3 or such other form as the Department of Law may require and explain the reason for the abandonment and disposition of all Contract Deposits received.

## TERMS OF SALE

The Closing to each Unit shall be held at the offices of Sponsor's attorney, or at such other place as Sponsor may designate on not less than 30 days' prior written notice to Purchasers given in accordance with the Purchase Agreement. The Closing to each Unit shall take place only after or concurrently with the following events:

(a) the Plan has been declared effective in accordance with its terms and an amendment disclosing the same has been accepted for filing by the Department of Law;

(b) the issuance of a temporary or permanent Certificate of Occupancy for the Building or the Unit being conveyed;

(c) the recording or filing of the Declaration, By-laws, Floor Plans and engineers and tax authority certifications required by Section 339-p of the New York Condominium Act or other applicable law and such other documents as may be required by law;

(d) the release of the Unit and its appurtenant interest in the Common Elements from the lien of all mortgages, if any;

(e) the delivery to Purchaser of written notice of the time and place of the Closing to his Unit at least 30 days prior to the Closing Date specified therein, including a reasonable opportunity, upon written request of Purchaser, for Purchaser to examine his Unit and the Property, during normal business hours and in the company of Sponsor's agent, prior to Closing;

(f) the execution and delivery by Sponsor of a bargain and sale deed with covenants against grantor's acts (which deed shall be substantially in the form set forth 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;

(g) the execution and delivery by Purchaser of the Unit Owner Power of Attorney, the form of which is set forth in Part II of the Plan;

(h) if Purchaser has requested title insurance, the issuance to Purchaser (at Purchaser's sole expense) of a policy of title insurance in at least the amount of the purchase price of the Unit, insuring that (i) Purchaser has fee title to his Unit free and clear of all liens and encumbrances except for (1) Permitted Encumbrances and standard printed exceptions, (2) liens and

encumbrances (other than Permitted Encumbrances) to which title of his Unit is subject, which have been expressly accepted by Purchaser, and (3) any mortgage and related security documents that Purchaser executes in connection with the financing of the purchase price of his Unit and (ii) the Condominium has been validly created pursuant to the Condominium Act; and

(i) the delivery to Purchaser of a bargain and sale deed with covenant against grantor's acts, in proper form for recording and containing the provisions set forth in subdivision 5 of Section 13 of the Lien Law upon delivery to Sponsor of the balance of the purchase price and such other checks and documents required pursuant to the Plan and the Purchase Agreement.

Prior to or at Closing, Sponsor shall cause the Unit to be released from the lien of the acquisition and construction loan mortgages, satisfy or bond any claims for mechanic's liens and satisfy or bond any judgments against Sponsor, provided however, in no event shall Sponsor be required to commence litigation to resolve any claim which would prevent the conveyance of marketable title to Purchaser. If Sponsor is unable to correct any title defect without commencing litigation, then, provided Purchaser is not then in default under the terms of the Purchase Agreement, the Purchasers sole right will be to either (i) take title subject to the title defect (without abatement in or credit against the Purchase Price or claim or right of action against Sponsor for damages or otherwise) or (ii) cancel the Purchase Agreement. If Purchaser elects to terminate the Purchase Agreement, Sponsor shall cause the Contract Deposit to be returned to Purchaser, within 30 days after receipt of Purchaser's termination notice. Upon making such refund, the parties shall be relieved of all further obligations and liabilities under the Purchase Agreement and the Plan. The foregoing option must be exercised by Purchaser in writing sent to Sponsor within fifteen (15) days after the giving of Sponsor's notice of refusal to remedy the title defect.

The existence of mortgages, liens and encumbrances other than Permitted Encumbrances shall not be objections to title, provided bonds or properly executed instruments in form for recording necessary to satisfy or release Units from such impermissible liens or encumbrances are delivered at Closing and proper adjustments are made for the cost of recording or filing such instruments. Sponsor will bear the responsibility and cost of recording or filing such instruments.

The acceptance of a deed by a Purchaser shall be deemed an acknowledgment that Sponsor has performed and discharged every agreement and obligation on the part of Sponsor to be performed under the Plan except those (if any) which may be expressly stated in the Plan, in the Purchase Agreement, in 13 NYCRR, Part 20 (the regulations of the Attorney General of the State of New York governing the acceptance for filing of this Plan) and in General Business Law Section 352-e to survive delivery of the deed.

## UNIT CLOSING COSTS AND ADJUSTMENTS

Closing Costs

The estimated closing costs and expenses to be borne by each Purchaser are set forth below. Recording charges, fees, title costs and taxes are based on rates in effect on the date of the Plan and are subject to change without notice.

(a) A contribution to the Working Capital Fund of the Condominium in an amount equal to two (2) months' Common Charges then applicable to each Unit being purchased.

(b) If Purchaser elects to obtain fee or mortgage title insurance, Purchaser will pay a premium which will vary depending upon the amount of insurance requested. Purchasers may select any title insurance company licensed to do business in the State of New York without incurring any additional fees to Sponsor or its attorneys. The premium for fee or mortgage title insurance if ordered from Chicago Title Insurance Company, 733 Third Avenue, New York, New York 10017 (212-880-1314), Attention: Patricia Lopinski, will be as follows:

Fee Title Insurance

$402.00 for the first $35,000.00 of coverage; plus from $7.00 to $4.59 for each $1,000.00 of additional fee insurance or fraction thereof depending on the amount of insurance.

Mortgage Title Insurance:

$344.00 for the first $35,000.00 of coverage; plus from $6.00 to $3.82 for each $1,000.00 of additional mortgage title insurance or fraction thereof depending on the amount of insurance.

(c) If a Purchaser elects to simultaneously obtain both fee title insurance and mortgage title insurance from Chicago Title, the premium for the mortgage title insurance will be at a simultaneous rate.

The premium for fee title insurance issued simultaneously is computed as described in subparagraph (b) above. To the extent there are any savings of title premiums for fee or mortgage insurance by virtue of a title company using a reissue or similar rate rather than the full rate for the purchase of such insurance (as a result of title premiums previously paid by or on behalf of Sponsor) the Purchaser shall be required to pay the amount of such saving directly to Sponsor as reimbursement for premiums previously paid by Sponsor in connection with Sponsor's acquisition of the Property.

(d) A fee for recording the Deed and Power of Attorney, being $32.00 for each instrument plus $5.00 per page and a service charge to the title company of approximately $10.00 and a fee of $100.00 for filing the New York City Real Property Transfer Tax return.

(e) New York State Real Estate Transfer Tax ("State Transfer Tax") currently equal to $2 per $500 of purchase price plus, if applicable, a Special Additional Tax of one (1%) percent where the purchase price equals $1 million or more and the New York City Real Property Transfer

Tax ("RPT Tax") currently equal to one (1%) percent of the purchase price where the purchase price is $500,000 or less and 1.425 percent of the purchase price where the purchase price is more than $500,000.

(f) New York City Real Property Transfer Tax ("RPT Tax") currently equal to one (1%) percent of the Purchase Price if the Purchase Price of the Unit is less than $500,000 and 1.425 percent of the Purchase Price if the Purchase Price of the Unit is $500,000 or more.

The City of New York, Department of Finance has taken the position that where the purchaser of property assumes the obligation for the State Transfer Tax and the RPT Tax, the amount of the tax which would otherwise be payable if the seller were to pay such taxes will be treated as additional consideration for the transaction subject to tax. Consequently, the amount of the RPT Tax is computed as follows:

(i) Multiply the purchase price by the RPT Tax rate to compute the City Tax on the amount of the purchase price;

(ii) Multiply the purchase price by the NYS Tax rate to compute the NYS tax due on the on the amount of the purchase price;

(iii) Add the amounts obtained by the computations in steps (i) and (ii) to the Purchase Price (the number is hereinafter referred to as the "Grossed-Up Purchase Price".

(iv) Multiply the result of (iii) by the RPT Tax rate to determine the RPT Tax payable;

(v) Multiply the result of (iii) by NYS rate to determine the NYS Tax payable.

Example:

Purchase Price = $650,000

(1) $650,000 x 1.425 percent = $9,262.50

(2) $650,000 x 0.4 percent = $2,600.00

(3) Grossed-up Purchase Price is $650,000 + 9,262.50 + $2,600.00 = $661,862.50

(4) RPT Tax: = $661,862.50 x 1.425 percent = $9,431.54

(5) NYS Tax = $661,862.50 x 0.4 percent = $2,648.45

In addition, where a purchaser purchases two or more Units, the NYC RPT Tax rate, where the consideration if $500,000 or less will be 1.425 percent, while the tax rate where the consideration is in excess of $500,000 will be 2.625 percent.

Thus, the effective RPT tax rate is approximately 1.014 percent of the purchase price where the purchase price is $500,000 or less and 1.451 percent where the purchase price is

$500,000 or more. A similar position has been taken by the New York State Department of Taxation and Finance and as a result the effective tax rate for the State Transfer Tax is $4.06 per thousand dollars of the purchase price for the Unit where the consideration is less than $500,000 and $4.076 per thousand dollars of the purchase price of the Unit where the consideration is $500,000 or more. However, payment by Purchaser of the Special Additional Tax is not considered additional consideration to Sponsor for purposes of the calculation of the State Transfer Tax.

Thus, the effective RPT tax rate is approximately 1.014 percent of the purchase price where the purchase price is $500,000 or less and 1.451 percent where the purchase price is $500,000 or more. A similar position has been taken by the New York State Department of Taxation and Finance and as a result the effective tax rate for the State Transfer Tax is $4.06 per thousand dollars of the purchase price for the Unit where the consideration is less than $500,000 and $4.076 per thousand dollars of the purchase price of the Unit where the consideration is $500,000 or more. However, payment by the Purchaser of the Special Additional Tax is not considered additional consideration to Sponsor for purposes of the calculation of the State Transfer Tax.

(g) If Purchaser obtains a mortgage loan, Purchaser will be responsible for the payment of the mortgage recording tax, mortgage recording fees, origination, appraisal and closing costs and other expenses in connection therewith (including legal fees) in amounts determined by governmental authorities and such lender. Currently, the mortgage recording tax for mortgages under $500,000 is 2.05 percent of the face amount of the mortgage and 2.175 percent of the face amount of the mortgage if the mortgage is $500,000 or more. Of the total tax due, the mortgagee pays an amount equal to 0.25 percent of the face amount of the mortgage. In addition, there is a $30 exemption for residential real property. No representation or warranty is made with respect to the amounts of such closing costs and expenses or the availability or cost of mortgage loans from any sources. As indicated above, a discounted rate may apply where fee and mortgage title insurance policies are issued simultaneously. In the event that Sponsor is entitled to a credit for the Mortgage Recording Tax paid by Sponsor in connection with its construction financing, at Closing, Sponsor will execute and deliver the requisite affidavit as required under Section 339(e)2 of the New York Real Property Law and Section 252 of the New York State Tax Law. In such instances, Purchaser shall reimburse Sponsor to the extent of the mortgage tax credit received by reason of the delivery of such affidavit. Purchaser will be liable to pay the tax authorities any Mortgage Recording Tax payable in excess of the credit available. In no event shall the total amount paid to Sponsor and the tax authorities be in excess of the mortgage recording tax that would otherwise be payable by Purchaser.

In addition to the above-specified costs and expenses, a mortgage on a Unit may provide that the Unit Owner deposit monthly with the lender one-twelfth (1/12) of the estimated annual real estate taxes and tax assessments which are assessed or to be assessed against the Unit, together with one-twelfth (1/12) of the annual fire and casualty insurance policy premiums for the Unit, or other amounts, and, at Closing, Purchaser may be required to deposit with the lender a multiple of the aggregate of such one month's real estate taxes, tax assessments and insurance premiums, or other amounts, in order that sufficient funds will be available for the lender to pay the same when due.

(h) Fees payable to Sponsor's attorney in accordance with the following schedule, all of which fees will be cumulative to the extent applicable to any individual closing:

For each Unit, the sum of $2,250 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. For the conveyance of a Storage Unit, the sum of $750 to reimburse Sponsor for a portion of its attorney fees in connection with the conveyance of each Storage 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) $750 if the closing is held elsewhere in Manhattan; and (b) $1,200 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 $750 for each adjournment to help defray the cost of preparing for and coordinating the new closing; (ii) 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 $750, payable in advance, for preparation of an assignment agreement; and (iii) if Purchaser obtains mortgage financing, then Purchaser shall pay Sponsor's Counsel an additional fee of $750 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.

Purchaser may pay more than one fee pursuant to (h) above with respect to a Unit. In addition to an attendance fee in connection with a completed Unit transfer, Sponsor's attorneys shall also be entitled to an attendance fee in the amount set forth above if they attend a scheduled Closing, but the Closing is adjourned due to Purchaser's failure to comply with Purchaser's closing obligations. In addition, more than one assignment fee shall be payable if Sponsor consents to more than one request.

All legal costs, fees and expenses of Sponsor's attorneys, other than those specifically set forth above, will be the sole responsibility of Sponsor.

(i) If Purchaser has dealt with any broker other than the Selling Agent or any other broker engaged in writing by Sponsor in connection with his purchase, then Purchaser will be required to pay any commission due to such broker.

A numerical example for the costs set forth in this section of the Offering Plan for a typical Unit with a purchase price of $3,000,000 and a mortgage of $2,400,000 are estimated as set forth below. Tax, insurance and recording rates are subject to change.

1. Title insurance for fee and mortgage, including the simultaneous fee discount: approximately $9,600.00;

2. Recording costs for deed and power of attorney: $350.00;

3. Mortgage Recording Tax: $52,200.00;

4. New York City Real Property Transfer Tax: $42,808.00;

5. New York State Real Estate Transfer Taxes (deed stamps): $12,000.00;

6. New York State Mansion Tax: $30,000.00;

7. Legal fee due to Sponsor's attorney: $2,250.00; and

8. Contribution to Working Capital Fund: $2,010.00.

The foregoing projections do not include other fees which cannot be estimated, as the same are outside of Sponsor's control including, but not limited to, purchaser's attorney's fee, lender's attorney's fee, and bank fees.

The total closing costs for a unit with a purchase price of $3,000,000.00 and a mortgage of $2,400,000.00 are estimated to be approximately $152,007.74.

Closing Adjustments

At Closing, adjustments will be made as of midnight of the day preceding the Closing Date between Sponsor and each 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 an interim lease or use and occupancy agreement, if any, covering Purchaser's Unit. In the event the Units have not been separately assessed for real estate tax purposes prior to the First Closing, Sponsor shall place in a special escrow account with Sponsor's attorney an amount equal to the unpaid real estate taxes which will be payable with respect to the Property for the six (6) month period following the First Closing or until the Units are separately assessed, whichever is shorter, or Sponsor will pay the real estate taxes with respect to the Property from the special escrow account as and when such taxes become due and payable, and Sponsor will be reimbursed for such payments by the Condominium Board. Until the Units are separately assessed and billed, each Unit Owner will pay his *pro rata* share (in the proportion that his Unit's Common Interest bears to the aggregate Common Interest of all Units) of all real estate taxes with respect to the Property to the Condominium Board. The Condominium Board will pay such taxes either to the Department of Finance of The City of New York or directly to Sponsor if Sponsor has already paid such real estate taxes. If any Unit Owner fails to pay his *pro rata* share as set forth above, the Condominium Board will have a lien on such Unit for non-payment thereof, as if such charges were Common Charges. (See the Section entitled "Rights and Obligations of Unit Owners-Common Charges: Collection and Lien for Non-Payment" for further discussion.) At such time as a Unit is separately assessed and separately billed, its Unit Owner will pay such taxes directly to the taxing authority.

If a Purchaser fails for any reason to close title to his Unit on the originally scheduled Closing Date, (a) the closing apportionments described above will be made as of midnight of the day preceding the originally scheduled Closing Date, regardless of when the actual Closing 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 the Purchase Agreement and the Plan, an amount equal to 0.03 percent of the purchase price of his Unit for each day starting from (and including) the originally scheduled Closing Date to (and including) the day before the actual Closing Date.

Except as specifically set forth in the Plan, Sponsor must pay all costs and expenses incurred in connection with the promulgation and consummation of the Plan and the initial sale of Units, including, but not limited to, all selling expenses and commissions payable to Selling Agent for the initial sale of Units pursuant to the Plan, advertising, printing and architect's fees, the fees of Sponsor's attorneys, engineering and appraisal costs and governmental filing fees, whether incurred prior or subsequent to the effective date of the Plan, in connection with the obligations of Sponsor (See the Section entitled "Rights and Obligations of Sponsor").

## RIGHTS AND OBLIGATIONS OF SPONSOR

Sponsor's Obligations with Respect to the Building

Subject to the terms and conditions of the Plan, Sponsor shall have the following obligations and all Purchasers upon execution of their respective Purchase Agreements will be deemed to have accepted, approved and agreed to abide and be bound by the following:

(a) Each Unit and the fixtures and personal property contained therein, are being sold and delivered as described in the Plan, subject to the issuance of a temporary Certificate of Occupancy for the Building, unless Sponsor and Purchaser otherwise agree. Each Unit is being sold unfurnished. Sponsor will maintain each Unit and the fixtures and personally contained therein, up to the time of the transfer of title to the Unit in question. The Purchaser of a Unit may inspect such Unit prior to the Closing Date.

(b) Prior to the Closing of title for each Unit, Sponsor will cause such Unit and its appurtenant Common Interest, benefits, rights and easements as described in the Declaration and By-laws to be released from the lien of any mortgages or security agreements encumbering the Unit (other than any such agreements obtained by the Purchaser).

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

(d) Sponsor will pay or cause to be paid all contractors, subcontractors and materialmen and all others involved in the construction and equipping of the Building in accordance with the New York Lien Law, for work performed and fixtures, material and equipment supplied or installed during construction thereof and will cause any and all mechanics'

liens arising out of such construction and equipping, if any, to be discharged by bonding, or otherwise, promptly after the filing of any such liens.

(e) Sponsor shall have the obligation to defend any suit or proceeding arising out of Sponsor's acts or omissions and to indemnify the Condominium Board or Unit Owner(s) in any such action or proceeding.

(f) Sponsor will deliver a set of "as-built plans" to the Condominium Board.

(g) In accordance with Section 339(p) of the 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 and approved by the municipal or other governmental authority having jurisdiction over the issuance of permits for the construction of the Building.

(h) Sponsor will pay all Common Charges, real estate taxes and special assessments allocated to any Unsold Units in accordance with the provisions of the By-laws. Sponsor will use revenues generated by the occupancy of the Commercial Unit and income from other sources to pay such obligations. Sponsor represents and warrants that it has the financial resources to meet such obligations as the same become due. No bond or other security will be posted by Sponsor with respect to this obligation.

(i) Sponsor will initially procure on behalf of the Condominium Board the insurance relating to the Condominium which is required to be maintained by the Condominium Board in accordance with the provisions of the By-laws (see the Section entitled "Rights and Obligations of the Condominium Board/Summary of By-laws") the cost of which insurance has been reflected in the First Year's Budget.

(j) Pursuant to the provisions of Section 352-e of the New York General Business Law, copies of the Plan and all exhibits or documents referred to herein shall be available for inspection, by prospective purchasers and by any person who shall have purchased a Unit offered by the Plan or shall have participated in the offering of such Unit, at Sponsor's office and shall remain available for such inspection for a period of six (6) years from the date of the recording of the Declaration. In addition, a set of Floor Plans showing the layout, location 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, and an additional set will be furnished to the Condominium Board.

(k) Sponsor is obligated to deliver to the Condominium Board all books and records pertaining to the Building's operation in Sponsor's possession on the First Unit Closing.

(l) Sponsor may dissolve or liquidate at any time after the transfer of 20 percent or more of the total number of units of the Condominium. Sponsor's obligations under the Plan will be assumed by financially responsible persons or entities who will assume the status and all of the obligations of Sponsor for those units under the Offering Plan, applicable laws or regulations.

(m) Sponsor shall complete the construction of the Building in accordance with the building plans and specifications indentified herein the Description of the Property and Specifications contained in Part II of the Plan as Exhibit D. Notwithstanding the foregoing, Sponsor has the right to substitute materials or equipment or may make modification of the layout or design of the Units, provided however, Sponsor may not:

(i) substitute equipment of materials of a lesser quality or design; or

(ii) change the size, location of the units or common elements if such changes affect the percentage of common interests or adversely affect the value of any unit to which title has closed or for which a purchase agreement has been executed and is in force and effect unless all affected unit owners and contract vendees consent in writing to such change.

(n) Sponsor has obtained construction loan and project loan financing from Bank HaPoalim, B.M. having an address at 1177 Avenue of the Americas, New York, NY 10036. Such financing is in place having been most recently modified in March 2010 and Sponsor believes that the remaining balance of such construction and project loans to be adequate to complete the construction of the Building.

(o) If Sponsor fails to obtain a permanent Certificate of Occupancy for the Building prior to the First Closing, Sponsor will be obligated to hold and maintain all monies received pursuant to all Purchase Agreements (See "Procedure to Purchase" in Part I) in the special trust account required by the General Business Law of the State of New York, Sections 352-e(2)(b) and 352(h), originally established for the purpose of holding such deposits, provided, however, that if an architect or engineer chosen by Sponsor certifies that a lesser amount than the amount held in the special trust account is reasonably necessary to complete the work needed to obtain a permanent Certificate of Occupancy, then the amount exceeding the sum so certified by Sponsor's architect or engineer shall be released from the special escrow account. Sponsor expects to obtain a permanent Certificate of Occupancy for the entire project within two (2) years subsequent to the First Closing or at such sooner time as the Temporary Certificate of Occupancy, as same may be renewed, replaced or extended, expires.

(p) Sponsor has no obligation to repair or improve Units or the fixtures or personal property attached to or used in connection with the operation of Units, except as otherwise expressly provided in this Plan. Sponsor will not warrant the materials or workmanship of any Unit, or the materials or workmanship of the Common Elements. Sponsor, however, shall assign to each Purchaser all warranties, if any, in Sponsor's possession at the Closing for the Unit. All warranties, if any, in Sponsor's possession as of the First Closing which relate to the General Common Elements will be assigned to the Condominium Board at the First Closing.

(q) All representations contained in the Plan and all of Sponsor's obligations under the General Business Law of the State of New York Section 352-eeee, which are to be performed subsequent to the Closing, shall survive the delivery of the deed.

(r) Notwithstanding anything to the contrary contained in the Plan, Sponsor shall construct the Building in accordance with the filed plans and specifications in compliance with all applicable laws and regulations.

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 and performing certain alterations and repairs in or about the Unsold Units. Sponsor will use reasonable efforts in order to exercise such access in such a manner as will not unreasonably interfere with the use of any Unit for its permitted purposes. If reasonable care under the circumstances is exercised to safeguard the Unit Owner's property, such entry shall not render Sponsor or its authorized agents liable for any damage to the Unit or to the personality or fixtures contained therein.

The foregoing sets forth the entire obligations of Sponsor hereunder and no others shall be implied, except that nothing contained herein shall be deemed to limit the rights of Unit Owners under their respective Purchase Agreements. Sponsor makes no representation or warranty as to the work, materials, appliances, equipment or fixtures other than as set forth in the Plan.

Obligations of Sponsor hereunder with respect to the Building shall be enforceable by the Condominium Board on behalf of all Unit Owners. Obligations of Sponsor shall be enforceable by individual Unit Owners if either (i) the Condominium 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 Condominium Board or (ii) the applicable statute of limitations with respect to any claim by a Unit Owner which would otherwise be enforceable by the Condominium Board will expire during the aforesaid 90-day period.

Except as set forth above or as required by law or governmental regulation, Sponsor has not furnished any bond or other security for the performance of the obligations of Sponsor under the Plan. The ability of Sponsor to perform its obligations hereunder will partly depend upon its financial condition at the time it is called upon to perform. No representation can be made that it will be financially able to perform any or all of such obligations.

All representations under the Plan, all obligations pursuant to the General Business Law, and such additional obligations under the Plan which are to be performed subsequent to the First Closing will survive delivery of a deed to a Purchaser of a Unit.

Housing Merchant Implied Warranty

The Housing Merchant Implied Warranty does not apply to this offering. Sponsor has entered into a construction management contract for the renovation and construction of the Building with Nexus Building Development Corp. (the "Construction Management Contract"). Nexus Building Development Corp. is owned by Yaniv Cohen, a principal of Sponsor. The Construction Contract provides that the Contractor warrants the construction of the Building for a period of one-year following the issuance of a temporary Certificate of Occupancy. Certain building equipment shall be subject to manufacturer's warranties. In addition, there will be a manufacturer's warranty for the roof for a twenty-year period following the date of completion.

As of the date of the First Unit Closing, Sponsor shall assign the aforementioned warranties to the Board of Managers of the Condominium. Each Purchaser will receive, at Closing, the manufacturer's warranties for the appliances located in their Units.

Use of Unsold Units

Sponsor reserves the right, without prior notice or amendment to the Plan, to use any Unsold Unit as sales and rental offices and model apartments. In the event Sponsor thereafter elects to sell any such Unsold Units, Sponsor may require the Purchaser thereof to purchase all or any of the furnishings, equipment or decorations therein and pay, in addition to the purchase price for such Unit, such amounts as Sponsor may determine. In no event shall the presence of any furniture, furnishings, equipment or decorations in any model apartment imply or represent that any Unit will contain such furniture, furnishings, equipment or decorations upon delivery of the Unit to the Purchaser of such Unit unless such Purchaser agrees to pay Sponsor an amount as determined by Sponsor in addition to the purchase price for such Unit.

## CONTROL BY SPONSOR

Sponsor shall have the right to vote all of the Common Interests attributable to Unsold Units when voting for members of the Condominium Board. At all elections held after the expiration of the period ending on the earlier of: (i) the Closing of Title with purchasers under the Plan to Units having more than 75 percent of the aggregate Common Interests pertaining to all Units, or (ii) five (5) years after the First Closing (the "Sponsor Control Period"), not more than one (1) of the members of the Condominium Board may be elected or designated by Sponsor or the then owner of the Unsold Units. After the end of Sponsor Control Period, a majority of the Condominium Board must be owner-occupants of the Building.

Within approximately 30 days after the Initial Control Period, the applicable number of members of the Condominium Board representing the Unit Owners which were designated by Sponsor shall resign and their replacement shall be filled by a majority vote of the members of the Condominium Board representing the Unit Owners (excluding members designated by Sponsor) at any regular meeting of the Condominium Board or at a special meeting thereof called for such purpose.

Until the first annual meeting of the Unit Owners (the "First Annual Meeting"), the Board shall consist of one person designated by Sponsor. Sponsor anticipates designating the following persons as the initial Board members (all of whom are experienced in real estate matters and familiar with the property): Yaniv Cohen. Yaniv Cohen is a principal of Sponsor. Sponsor will amend the Plan prior to the First Closing in the event such three persons shall not constitute the initial Board members. The First Annual Meeting shall be held not later than 30 days following the later to occur of: (a) the first anniversary of the First Closing; or (b) the closing of title to Units representing at least 75 percent both in number and aggregate Common Interests of all Units to Purchasers and at such meeting, the incumbent three-member Board designated by Sponsor will resign and a new Board will be elected and/or designated by the Unit Owners and Sponsor, as the case may be, as described below. As a result of the foregoing, there is no

provision in the By-laws that assures a majority of the Condominium Board will be Unit Owners, Unit occupants or members of a Unit Owner or Unit occupant's household who are unrelated to Sponsor and its principals within five (5) years after the First Closing. In addition, because Sponsor has the unconditional right to rent or lease the Units, there is no commitment to sell more Units than the fifteen (15%) percent of Units necessary to declare the Plan effective and owner-occupants may never gain effective control and management of the condominium.

From and after the First Annual Meeting, the Board shall consist of three (3) persons: two (2) members elected by the Residential Unit Owners (including Sponsor) (subject, however, to Sponsor's right to designate certain Board members during the Initial Control period, as hereinafter set forth) and one (1) Board member designated by the Commercial Unit Owner. At meetings of the Unit Owners, Sponsor will have the right to vote all of the Common Interests appertaining to the Units owned by Sponsor as it sees fit. However, in addition, at elections of the Condominium Board held before the expiration of the Initial Control Period, Sponsor and/or its successor-in-interest shall have the right to designate two (2) members of the Board, in the aggregate, who are related to or affiliated with Sponsor, such successor-in-interest or other Unsold Unit Owner(s), and Sponsor, such successor-in-interest and all other Unit Owners shall have the right to elect the remaining one (1) member of the Board who shall not be related to or affiliated with Sponsor, such successor-in-interest or other Unsold Unit Owners. For so long as Sponsor or its successors own at least fifteen (15%) percent of the Units, but in no event later than the fifth anniversary of the First Closing, Sponsor may designate up to two (2) of the three (3) Board Members.

Accordingly, until the expiration of the Initial Control Period, if: (i) Sponsor and/or its successor shall have the right, in such capacity, to designate two (2) of the three (3) Residential Board Members, all of whom may be persons related to or affiliated with Sponsor and/or its successor or other Unsold Unit Owner, and Sponsor and/or its successor and all other Residential Unit Owners shall elect the one (1) remaining Residential Board Member who shall not be a person related to or affiliated with Sponsor and/or its successor-in-interest or other Unsold Unit Owner. Any person who wishes to serve as a member of the Board shall give written notice to the Managing Agent no less than fourteen (14) days prior to the annual meeting.

In addition, at elections of members to the Board held after the expiration of the Initial Control Period but while Sponsor and/or its successor-in-interest still owns at least one Residential Unit, Sponsor and/or its successor-in-interest shall have the right to designate one of the Board Members. Accordingly, from and after the expiration of the Initial Control Period, Sponsor shall have the right to designate not more than one (1) member of the Board and shall no longer exercise voting control over the Board, *i.e.*, following the expiration of the Initial Control Period, at least two (2) of the three (3) members of the Board shall not be designated by Sponsor or its successor-in-interest or other owner of Unsold Units but shall be elected by the Unit Owners. There is no restriction on the right of Sponsor and its successor-in-interest(s) or any Unsold Unit Owner to vote for members of the Board who are not related to or affiliated with Sponsor or such successor-in-interest or Unsold Unit Owner; however, after the expiration of the Initial Control Period, neither Sponsor nor its successor-in-interest will designate a majority of the Members.

Accordingly, from and after the expiration of the Initial Control Period, at least two (2) of the three (3) members of the Board shall not be related to or affiliated with Sponsor or its successor-in-interest or such Unsold Unit Owner. There is no restriction on the right of Sponsor and/or its successor-in-interest(s) or other Unsold Unit Owner(s) to vote for members of the Board who are not related to or affiliated with Sponsor or such successor-in-interest or such Unsold Unit Owner(s). The number of members of the Board may not be increased without the consent of the owner(s) of the Unsold Units, for so long as there remains at least one (1) Unsold Unit.

Until Sponsor no longer designates a majority of the members of the Board, Sponsor will, through its control of the Board, be able to control the maintenance and operation of, and the services to be provided by, the Condominium, and also the determination of Common Charges to be paid by all Unit Owners. Prospective Purchasers should be 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.

Sponsor may not exercise veto power over expenses described in Schedule B, or over expenses required to comply with any Legal Requirements applicable to the Building, or to remedy any notice of violation entered against the Building or to comply with any proper work order by an insurer of the Building. Sponsor may, however, exercise veto power over expenses other than those described in the preceding sentence, to the extent provided in the Plan, for a period ending not more than five (5) years after the First Closing or whenever the Unsold Units constitute less than 25 percent of the Common Interest, whichever is sooner.

The number of members of the Condominium Board representing the Unit Owners may not be increased or decreased without the consent of Sponsor as owner of the Unsold Units for so long as there remains one Unsold Unit.

Until Sponsor no longer elects a majority of the members of the Condominium Board, Sponsor will through its control of the Condominium Board have control of the maintenance and operation of, and the services to be provided by the Condominium and will determine the Common Charges to be paid by all Unit Owners.

The Condominium Board may not, for as long as Sponsor has title to the Units having more than 25 percent of the aggregate Common Interests pertaining to all Units, but in no event later than five (5) years after the First Unit Closing, whichever shall first occur, take any of the following actions without Sponsor's prior written consent (notwithstanding the number of votes sponsor controls): (a) make any addition, alteration or improvement to the Common Elements or to any Unit unless the same are required to comply with applicable laws or regulations, (b) assess any Common Charges or Special Assessments for the creation of, addition to or replacement of or addition to all or part of a reserve, contingency or surplus fund, (c) increase or decrease the number, or change the kind of, employees from that described in the First Year's Budget, (d) enter into any service or maintenance contract for work or otherwise contract for work or services not covered in the First Year's Budget, except as is required to reflect normal annual increases in operating services, (e) borrow money on behalf of the Condominium, or (f) exercise a right of

first refusal to lease or purchase a Unit; provided, however, that Sponsor's written consent is not necessary to perform any function or take any action described in items (a) through (f) above, if, and only if, the performance of such function or the carrying out of such an action is necessary, and no other alternative is available, to enable the Condominium Board to comply with applicable laws or regulations or to remedy any notice of violation or work order of the Condominium's insurer.

During the time that Sponsor or its successors-in-interest have the right to control the Condominium Board or to control the expenditures of the Condominium as above provided, Sponsor or its successors-in-interest will effectively control the budget of the Condominium, the selection of a management company, the maintenance charges imposed upon Unit Owners or similar matters which will ultimately be the responsibility of resident members of the Condominium Board.

All members of the Condominium Board and officers shall serve without compensation from the Condominium, and Sponsor has agreed that the By-laws will not be amended to provide otherwise while Sponsor is in control of the Condominium Board.

The term of office of the members of the Condominium Board and Condominium Board shall be for one year or until their successors are elected. Any member of the Condominium Board may resign at any time by written notice hand delivered or sent by certified mail, return receipt requested, to the President or Secretary of the Condominium Board. Notwithstanding the term of such member's office, such resignation shall take effect at the time specified therein.

A member of the Condominium Board may be removed with or without cause by an affirmative vote of a majority of Unit Owners (as defined in the By-laws) who are present at a meeting containing a quorum of Unit Owners; provided, however, that Condominium Board members designated by Sponsor may only be removed with cause and replaced by another Sponsor designee. No member of the Condominium Board shall continue to serve on the Condominium Board if, during his term of office, such member shall cease to be a Unit Owner or an interested party as described in Section 2.7 of the By-laws; provided, however, that this provision respecting Unit ownership and Condominium Board membership shall not apply to members of the Condominium Board designated by Sponsor.

Upon the affirmative vote of a majority of the members of the Condominium Board, any officer may be removed with or without cause. A successor officer may be elected at any regular Condominium Board meeting or at any special Condominium Board meeting called for such purpose.

Any member of the Condominium Beard who is a designee of Sponsor may contract or deal with Sponsor and no other member of the Condominium Board or any Unit Owner may claim that such designee is self-dealing.

## RIGHTS AND OBLIGATIONS OF UNIT OWNERS

Sales and Leases of Units

Each Unit Owner may sell or lease his Unit provided the selling Unit Owner (the "Transferor") first gives the Condominium Board, on behalf of all Unit Owners, notice of his intention to sell or lease such Unit and an opportunity to purchase or lease such 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 provided in Article 7 of the By-laws. If the Condominium Board does not elect to purchase or lease the Unit within 30 days after receipt of the offering Unit Owner's notice, the Transferor will have an additional 60 days to enter into a written agreement with the prospective purchaser or lessee, as the case may be, embodying the terms set forth in said notice. In the event such written agreement is not executed by the Transferor within said 60-day period or such sale or lease is not consummated within an additional 60 days following the expiration of said 60-day period, the Transferor will be required to again first offer the same to the Condominium Board, provided that the Condominium Board shall be entitled to waive, or to permit an extension of, either or both of such 60 day periods. The Condominium 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. In any vote of all the Unit Owners, the Transferor shall have the right to vote in any vote conducted by the Condominium Board for the purpose of determining whether the Condominium Board shall exercise its right of first refusal to purchase or lease the Transferor's Unit. Any such deed given by a Transferor shall provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the By-laws and the Rules and Regulations, as the same may be amended from time to time. Any such lease shall be consistent with the By-laws and shall provide that it may not be materially modified, amended, or extended without the prior consent in writing of the Condominium Board, that the tenant shall not assign the lease or sublet the demised premises or any part thereof without the prior consent in writing of the Condominium Board, and that the Condominium Board, if permitted by applicable law, 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 default by the tenant in the performance of such lease. The form of any such lease shall be a printed, reasonably applicable form of residential lease which is generally accepted in New York City such as an appropriate Real Estate Board of New York, Inc. or Blumberg form, except for such changes therein as provided in the By-laws.

Any purported sale or lease of a Unit in violation of this section shall be voidable at the election of the Condominium Board. Other than the exercise of the Right of First Refusal, the Condominium Board has no right to approve or disapprove prospective purchasers of the Units. Accordingly, there is no limit on the number of owners who may purchase a unit for investment rather than for personal occupancy. Therefore, there may always be a substantial percentage of Unit Owners who are non-residents of the Condominium.

A Unit Owner may lease, sell or convey the Unit to a spouse, adult child or grandchild, parent, grandparent or adult sibling, may convey his Unit by gift, may devise his Unit by will, or have it pass by intestacy, without complying with the foregoing restrictions; provided, however, that each succeeding Unit Owner shall be bound by, and his Unit shall be subject to, the preceding

restrictions. In addition, any Unit Owner may lease, sell or convey the Unit to a related or controlled individual or entity, as more particularly set forth in the By-laws.

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

A Unit Owner may only sell or lease his entire Unit. In addition, each conveyance of a Unit by a Unit Owner shall include, as part of the property to be conveyed, such Unit owner's undivided interest in (a) the Common Elements, (b) any Unit or Units acquired by the Condominium Board on behalf of all Unit Owners, or any proceeds of the sale or lease thereof and (c) any other assets of the Condominium. No part of the 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 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/or satisfied at or prior to closing. In addition, the Condominium Board may establish reasonable fees for the processing of sale and lease notices, which shall be payable by the selling or leasing Unit Owner, as the case may be, to the Board of Managers.

Notwithstanding anything contained herein to the contrary, prior to the closing of title to a Unit, the Purchase Agreement prohibits a Purchaser from listing such Unit for resale or rental with any broker or from advertising or otherwise offering, promoting or publicizing the availability of the Unit for sale or lease, without Sponsor's prior written consent.

Use of Units

Residential Units shall be used only as a residence (except as described below), and not more than one family may occupy a Unit at one time. A Unit owned or leased by an individual, corporation, partnership, fiduciary or any other entity may only be occupied by said individual, an officer, director, stockholder or employee of such corporation, a partner or employee of such partnership, the fiduciary or beneficiary of said fiduciary, a principal or employee or such other entity, respectively, or by members of the immediate family or guests of any of the foregoing. A Unit may be used as an office for a "home occupation", provided such use is permitted by applicable laws or regulations, does not violate the then existing Certificate of Occupancy covering the Building, complies with all applicable governmental regulations and the Condominium Board, in its sole discretion, grants permission for such use.

The Common Elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and capable and which are incident to the use and occupancy of Units.

Communal Units may be used for any purpose permitted under applicable law.

No nuisance, immoral, improper, offensive or unlawful use shall be allowed in the Building. All valid laws, zoning ordinances and regulations of governmental bodies having jurisdiction thereof relating to any portion of the Property shall be complied with at the sole expense of the respective Unit Owners or the Condominium Board, whoever or whichever shall have the obligation to maintain or repair such portion of the Property.

No "For Sale", "For Rent", "For Lease" signs, or any other sign evidencing a similar purpose, or other window display or advertising shall be maintained or permitted in any Unit, except that these sign restrictions shall not apply with respect to Unsold Units.

No awnings, air-conditioning equipment or ventilators shall be installed or modified in the Building without prior written approval of the Condominium Board. No radio or television aerial or other similar device shall be erected on the roof or exterior walls of the Building or on the Property, without obtaining in each instance the written consent of the Condominium Board.

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

Each Unit Owner shall keep his Unit in a good state of preservation and cleanliness and each Unit Owner shall be obligated to maintain and keep in good order and repair his own Unit in accordance with the provisions of the By-laws and the rules and regulations of municipal departments or agencies having jurisdiction thereof. The Rules and Regulations concerning the use of Units may be amended from time to time by the Condominium Board provided that copies thereof are furnished to each Unit Owner prior to the time that they become effective (except that no amendment thereof affecting the Unsold Units may be made unless agreed to by Sponsor). Further restrictions on the use and leasing of Units are set forth in the By-laws and Rules and Regulations.

Mortgage of Units by Unit Owners

Each Unit Owner may mortgage his Unit, provided that the conditions with respect thereto set forth in the By-laws are first complied with by him. As more fully set forth in the By-laws, these conditions include the requirements that (a) the mortgage be substantially in the form of the New York Board of Title Underwriters form of mortgage, except for such changes or additions as may be required to permit a lender to make the loan, (b) the Condominium Board is notified in writing of the making of such mortgage and receives a conformed copy of the note and mortgage, and (c) the owner making such mortgage first satisfies all unpaid liens against his Unit, other than Permitted Mortgages. Sponsor shall have the right to mortgage any Unsold Unit without any restriction or limitation.

As more particularly set forth in the Section entitled "Amendments to Condominium Documents", in certain instances the consent of the Mortgage Representatives are necessary in

order to amend the Declaration, By-laws or Rules and Regulations. The By-laws provide that no more than one Residential Mortgage Representatives shall be designated by the holders of mortgages (a) which satisfy the conditions set forth in the By-laws (as described above) and (b) which holders of such mortgages are (i) Sponsor or its successor-in-interest, (ii) a bank, trust company, insurance company, real estate investment or mortgage trust or (iii) a governmental or union employee, welfare, pension or retirement fund or system.

Common Charges: Determination and Assessment

Common Expenses, which are payable only by Unit Owners and are included in their Common Charges, are allocated among Unit Owners in proportion to their respective Common Interests. Common Expenses include, among other things, all costs and expenses (including the payment of wages) in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the Common Elements, and may include amounts for certain other items as the Condominium Board may deem proper, such as amounts for reserves or in connection with the purchase or lease by the Condominium Board of any Unit.

At least annually the Condominium Board will prepare a budget for Common Expenses and allocate, as aforesaid, and assess among all Unit Owners, Common Charges to meet Common Expenses.

The Condominium Board will furnish copies of each budget on which Common Charges are based to all Unit Owners and advise such Unit Owners of the amount of Common Charges payable by them. Unless otherwise determined by the Condominium Board, Common Charges will be payable monthly in advance on the first day of each month.

Common Charges: Collection and Lien or Nonpayment

Under the provisions of the By-laws, the Condominium 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 in proportion to the respective Common Interests of the Units. 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. Any lien for unpaid Common Charges against a Unit will be effective from and after filing of a verified notice thereof in the Register's Office until all sums secured thereby with interest accrued thereon shall have been fully paid, or until six (6) years from the date of filing (unless foreclosure of such lien is started within such six (6) year period), whichever shall occur sooner. The By-laws provide that such liens may be foreclosed by a suit brought in the name of the Condominium Board (acting on behalf of all Unit Owners) in like manner as the foreclosure of a mortgage on real property or an action may be brought by the Condominium Board to recover unpaid Common Charges without foreclosing such lien.

No Unit Owner may exempt himself from liability for his Common Charges by waiving use of any of the Common Elements or by abandonment of his Unit. No Unit Owner, however, will be liable for the payment of any part of the Common Charges assessed against his Unit

subsequent to a permissible sale, transfer or other conveyance by him of such Unit. In addition, as more specifically set forth in the By-laws, a Unit Owner may, by conveying his Unit without consideration to the Condominium Board and complying with certain conditions in connection therewith, exempt himself from Common Charges thereafter accruing. Such conditions include the payment of all Common Charges and assessments then due and payable with respect to his Unit and such Unit being free and clear of all liens and encumbrances other than Permitted Mortgages. However, in no event shall Sponsor be permitted to convey any Unsold Unit to the Condominium Board and thereby exempt itself from Common Charges attributable to such Unit thereafter accruing, unless: (i) the aggregate Common Interests appurtenant to the Unsold Units constitutes fifteen (15%) percent or less of the total Common Interests then appurtenant to all Units; (ii) at least five (5) years have elapsed from the date of the First Closing; and (ii) at the time of conveyance, Sponsor shall pay the Condominium Board a sum equal to the product of the then current monthly Common Charges for the Unsold Units being conveyed multiplied by twenty-four (24).

On a resale of a Unit, the purchaser thereof will be liable for the payment of Common Charges accrued and unpaid against such Unit prior to his acquisition. Prior to the permissible sale, transfer or other conveyance of a Unit, any seller or purchaser of a Unit shall be entitled to a statement from the Condominium Board, setting forth the amount of the unpaid Common Charges accrued against the Unit and neither such seller nor purchaser shall be liable for, nor shall the Unit be conveyed subject to a lien for, any unpaid Common Charges against such Unit accrued prior to such conveyance in excess of the amount set forth in such statement. In the event of a foreclosure by the Condominium Board of its lien on any Unit for unpaid Common Charges, if the net proceeds of the foreclosure sale shall be insufficient for the payment of such unpaid charges or if a Unit is acquired by a mortgagee or purchaser in foreclosure, the Unit Owner will remain liable for the unpaid balance. Neither (a) a Permitted Mortgagee acquiring title to a Unit at foreclosure sale, nor (b) a purchaser at a foreclosure sale shall be liable, and the Unit shall not be subject to a lien, for the payment of the Common Charges assessed prior to the acquisition of title to such Unit by such Permitted Mortgagee or purchaser. 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. The Condominium Board will have the right to assess such unpaid balance as a common charge among all Unit Owners.

Repairs to and Maintenance of Units and Common Elements

Generally, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary, (a) in or to any Unit (other than to the Common Elements), including the heating/cooling systems and the interior side of entrance doors thereto, will be made by the owner of such Unit at such Unit Owner's sole cost and expense, and (b) in or to the Common Elements will be made by the Condominium Board and the cost and expense thereof will be charged to all Unit Owners as a Common Expense.

Notwithstanding the above, all normal maintenance, repairs and replacements of any Terrace or Balcony shall be made by the Unit Owner having exclusive access to same, at his own cost and expense, but any structural or extraordinary repairs or replacements to such Terrace or Balcony (including any leaks which are not caused by the negligence of the Unit Owner having

access to the same) will be made by the Condominium Board and the cost and expense thereof will be charged to all Unit Owners as a Common Expense. Any Unit Owner having exclusive access to a Terrace or Balcony shall keep it free of snow, ice and accumulation of water. In accordance with the By-laws, the type, size and quantity of plantings and other installations to be placed on the Terrace or Balcony by Unit Owners and the rights of such Unit Owners to paint and decorate the Terrace or Balcony shall be subject to the prior written approval of the Condominium Board. Notwithstanding anything to the contrary contained herein, the Board of Managers of the Condominium and their representatives will have additional access to the roof for the purpose of inspecting and repairing the same.

The interior glass surfaces of all windows located in any Unit shall not be colored or painted and are to be washed and cleaned by the Unit Owner at such Unit Owner's sole cost and expense. Any replacement of glass windows in any Unit because of breakage or otherwise shall be made by the Unit Owner thereof at the sole cost and expense of the Unit Owner (unless such breakage is caused by the Condominium Board or the negligence of any other Unit Owner, in which event such replacement of glass windows will be at the sole cost and expense of the Condominium Board or such Unit Owner).

The By-laws provide that each Unit and all portions of the Limited Common Elements which are used exclusively by certain Unit Owners (*e.g.* Terraces and Balconies) shall be kept in first-class condition (and with respect to any roof or other part of the Property exposed to the elements, free of snow, ice and accumulation of water) by the Unit Owner. In the event any Unit Owner fails to keep his Unit or such Unit Owner's designated Limited Common Element in such condition, the Board may, at the expense of such Unit Owner, enter such Unit and/or the Limited Common Element and perform such acts as are necessary to cure such default. (See the Section entitled "Rights of Access").

The By-laws further require that those public or other areas of the Building exposed to public view that are required to be maintained by each Unit Owner or the Condominium Board, be kept in good appearance in conformity with the dignity and character of the Building by such Unit Owner or the Condominium Board.

Alterations and Improvements of Units and Common Elements

No Unit Owner may make any structural alteration, addition, improvement or repair in or to his Unit or the Limited Common Element without the prior written approval of the Condominium Board but, as more fully set forth in the By-laws, this provision does not apply to an Unsold Unit. Except as otherwise permitted in the By-laws, no Unit Owner may make any alteration, addition, improvement or repair in or to the Limited Common Elements without the prior written approval of the Condominium Board.

No construction may be done on the roof or any Terrace or Balcony without having approved plans and a building permit from the Department of Buildings and the approval of the Condominium Board. Sponsor makes no representation as to whether additional structures may be constructed on the roof or any Terrace located thereon. Any prospective purchaser who is

interested in constructing improvements on a Terrace or Balcony should consult with its own advisors.

Prior to, and as a condition of, the granting of its consent to the making of a structural alteration, addition, improvement or repair in or to a Unit, the Condominium Board shall have the right to reasonably approve the Unit Owner's contractors and suppliers and may, at its option, require the Unit Owner to execute an agreement in form and substance satisfactory to the Condominium Board setting forth the terms and conditions under which such alteration, addition, improvement or repair may be made, including, without limitation, the days and hours during which any work may be done.

Any contractor performing work shall not employ any personnel or means that may cause labor disturbances or stoppage in the work of Building employees or other contractors or subcontractors employed in the Building.

No application or other document shall be filed with any governmental authority for a permit covering an addition, alteration or improvement to be made in a Unit, unless approved and executed, if necessary, by the Condominium Board. The Condominium Board will not unreasonably refuse to approve and execute, if necessary, any application or other document required to be filed in connection with approved structural alterations, additions, improvements or repairs, provided that the Condominium Board other and the other Unit Owners shall not be subject to any expense or liability by reason of such approval and execution or, by reason of such addition, alteration or improvement, including, without limitation, liability to any contractor, subcontractor, materialman, architect or engineer, or to any person having any claim for injury to person or damage to property arising therefrom. The provisions of this paragraph shall not apply to an Unsold Unit, provided any alteration to such Unit shall be in accordance with, and only as permitted by, the Condominium Act and all governmental regulations. Generally, all alterations or improvements in or to the Common Elements will be made by the Condominium Board and the cost and expense thereof will be charged to all Unit Owners as a Common Expense.

Insurance

The Condominium Board is required to obtain and maintain the forms of insurance described in the Section entitled "Rights and Obligations of the Condominium Board/Summary of By-laws." The Condominium Board is not required to obtain or maintain any insurance with respect to any property contained in a Unit. Consequently, individual Unit Owners are strongly urged to consider obtaining casualty insurance with respect to the fixtures, furniture, furnishings and other personal property located within their respective Units and liability insurance with respect to occurrences in or about their respective Units.

Rights of Access

As more fully set forth in the By-laws, the Condominium Board and any managing agent, manager, superintendent and other persons authorized by the Condominium Board, will have a right of access to any Unit for the purposes of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements in the Unit or elsewhere in the

Building, to remove violations, cure defaults by a Unit Owner, correct any condition originating in any Unit and threatening another Unit or any Common Element, and for any other purposes provided in the Plan, Declaration or as may be required by law or governmental regulation, provided that requests for entry (except in emergency situations) are made in advance and that any such entry (except in emergency situations) is at a time reasonably convenient to the Unit Owner and the tenants of any Unit. In case of an emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not.

In accordance with the provisions of the multiple dwelling laws, each Unit Owner must deliver a complete set of keys for his or her Unit to the Board of Managers of the Condominium to facilitate any necessary entry. Provided reasonable care is exercised to safeguard the Unit Owner's property, any entry described herein shall not render the Condominium Board or its authorized agents liable for damage incurred in connection with the exercise of such right of entry.

Compliance with Terms of Declaration, By-laws and Rules and Regulations

Each Unit Owner must strictly comply with the provisions of the Condominium Documents. Pursuant to Section 339(j) of the Condominium Act, failure to comply is grounds for an action for damages or injunctive relief, or both, but such forms of relief shall not be exclusive of other remedies provided by law. The By-laws, together with the Rules and Regulations, will be recorded with the Declaration in the Register's Office.

Examination of Books and Records

Each Unit Owner and each mortgagee of a Unit shall be permitted twice during any calendar year, upon prior request, to examine the books of account of the Condominium and other records of the Condominium during normal business hours on business days at the office of the Condominium.

Self-Help

In the event that any Unit Owner fails to maintain or repair his Unit or any Limited Common Elements appurtenant to such Unit, if any, or in the event of any breach of the Condominium Documents, then, as set forth in Article 9 of the By-laws, the Condominium Board shall have certain rights to perform such maintenance or repairs, or to cure such breach, at such Unit owner's expense.

Units Held by Non-Occupying Unit Owners

Section 339-kk of the New York Real Property Law provides that if a Non-Occupying Unit Owner rents any dwelling unit to a tenant and then fails to make payments due for common charges, assessments or late fees for such Unit within sixty (60) days of the expiration of any grace period after they are due, all rental payments from the tenant shall be directly payable to the Condominium. A "Non-Occupying Owner" shall mean a Unit Owner who does not use his or her dwelling unit for occupancy by themselves or a member of their immediate family.

If the common charges, assessments or late fees due for any Unit have not been paid in full within sixty (60) days after the expiration of any grace period of the earliest due date, the Board of Managers shall provide written notice to the rental tenant and the Non-Occupying Owner providing that, commencing immediately and until such time as all payments for maintenance, 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 at the address listed on the notice. Where a majority of the Board of Managers has been elected by and from among the owners who are in occupancy, the Board may elect not to require that rental payments be made payable to the Condominium. At such time as payments for maintenance, assessments and late fees from the Non-Occupying Owner are once again current, notice of such fact shall be given within three (3) business days to the rental tenant and Non-Occupying Owner. Thereafter, all rental payments for such unit shall be made payable to the Non-Occupying Owner or to a designated agent. A Non-Occupying Owner who disputes the Condominium'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 30 days.

## RIGHTS AND OBLIGATIONS OF THE CONDOMINIUM BOARD/SUMMARY OF BY-LAWS

Condominium Board

The affairs of the Condominium shall be governed by the Condominium Board, which shall initially be comprised of a single members designated by Sponsor. Within 30 days of the first anniversary of the First Unit Closing, the Condominium Board will call for the first annual meeting of Unit Owners. At such meeting, the incumbent Condominium Board shall resign and, subject to Sponsors right to designate members of the Condominium Board, the Unit Owners shall elect a new Condominium Board consisting of three (3) members. (See the Sections entitled, "Meetings and Votes of Unit Owners" and "Control by Sponsor"). Thereafter, at each annual meeting, members of the Condominium Board shall be elected and shall serve until the next annual meeting thereof and until a successor has been elected and qualified.

Except for the Condominium Board members designated by Sponsor, all members of the Condominium Board must be either Unit Owners or certain interested parties as described in the By-laws. No member of the Condominium Board shall continue to serve on the Condominium Board if, during his term of office, said member shall cease to be a Unit Owner or an interested party. All Board members shall serve without compensation.

Powers and Duties of and Determinations by the Condominium Board

The Condominium Board shall have the powers and duties necessary for or incidental to the administration of the affairs of the Condominium. Generally, all determinations with respect to the administration of the affairs of the Condominium shall be made by the Condominium Board.

As more fully set forth in the By-laws, all determinations required to be made by the Condominium Board shall be by majority of the votes cast at any meeting at which a quorum is present.

Notwithstanding anything to the contrary contained herein, so long as Sponsor shall continue to own units with an aggregate common interest of more than 25 percent of the Common Elements, but in no event later than five (5) years from the First Closing, the Condominium Board may not without Sponsor's prior written consent (notwithstanding the number of votes Sponsor controls): (a) make any addition, alteration, or improvement to the Common Elements or to any Unit unless the same are required to comply with applicable laws or regulations; (b) assess any Common Charges for the creation or replacement of, or addition to, all or part of a reserve, contingency, or surplus fund; (c) increase or decrease the number or change the kind of employees from that described in the First Year's Budget; (d) enter into any service or maintenance contract for work or otherwise provide services in excess of those set forth in the First Year's Budget, except as is required to reflect normal annual increases in operating services; or (e) borrow money on behalf of the Condominium; or (f) exercise a right of first refusal to lease or purchase a Unit; provided, however, that Sponsor's written consent is not necessary to perform any function or take any action described in clauses (a) through (f) above, if, and only if, the performance of such function or the carrying out of such action is necessary (and no alternatives are available) to enable the Condominium Board to: (i) comply with applicable laws or regulations; or (ii) remedy any notice of violation; or (iii) remedy any work order of the Condominium's insurer.

Meetings and Votes of Unit Owners

Annual meetings of Unit Owners shall be held within approximately 30 days of each anniversary of the first annual meeting. At such meetings, the Residential Unit Owners shall elect the two (2) members of the Condominium Board and the Commercial Unit Owner shall designate one (1) member, subject to any rights of Sponsor to designate Condominium Board members, and there shall also be transacted such other business as may properly come before such meetings. In addition, special meetings may be held from time to time pursuant to the By-laws. The Secretary of the Condominium Board shall mail a notice of each annual or special meeting to all Unit Owners of record. The notice, which will be given not less than ten (10) nor more than 30 days prior to any such meeting, shall state the purpose of the meeting as well as the time and place where it is to be held. Except as otherwise provided in the By-laws or Declaration, at all meetings of Unit Owners, the presence in person or by proxy of Unit Owners owning more than 40 percent of the Common Interests attributable to all Units shall constitute a quorum and a majority of the votes cast at any such meeting at which a quorum is present shall be binding upon all Unit Owners.

At all meetings, each Unit Owner (or his proxy) entitled to vote thereat (including Sponsor or its successors-in-interest with respect to Unsold Units) shall be entitled to cast one vote for each 0.50 percent of interest in the Common Elements attributable to his Unit or Units.

Officers

The principal officers of the Condominium shall be a President, a Vice President and a Secretary-Treasurer, all of whom shall be elected by the Condominium Board. The Condominium Board may appoint additional officers. None of the officers of the Condominium need be Unit Owners or have any interest therein or be Condominium Board members until the first organizational meeting of the Condominium Board following the first annual meeting. Thereafter, the President, a Vice President and a Secretary-Treasurer must be members of the Condominium Board. Except as otherwise provided by the Condominium Board, no officer shall receive any compensation for acting as such. The By-laws provide that all instruments of the Condominium are to be executed by any two (2) officers thereof or by such other person or persons as may be designated by the Condominium Board. However, any significant expenditure by the Condominium Board in excess of $10,000 must be countersigned by two (2) members of the Condominium Board. If, for any reason whatsoever, one member refuses to countersign such an expenditure which has been authorized, the Condominium Board shall designate and authorize another Board member to countersign the expenditure.

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, the Condominium Board will, except as set forth below, arrange for the prompt repair and restoration thereof (including each Unit, but excluding fixtures, furniture, furnishings or other personal property not constituting a part of such Unit).

If the Building is damaged or destroyed by fire or other casualty and the insurance proceeds are insufficient to cover, or exceed, the cost of repairs and restoration, the deficit or surplus, as the case may be, will be shared entirely by all Unit Owners in proportion to their respective Common Interests. Notwithstanding anything in this paragraph to the contrary, no payment of surplus insurance proceeds shall be made to a Unit Owner until there has first been paid out of his share of such funds such amounts as may be necessary to reduce unpaid liens on his Unit, other than mortgages which are not Permitted Mortgages, in the order of priority of such liens. The provisions of this paragraph are subject to the next paragraph.

If 75 percent or more of the Building is destroyed or substantially damaged and if 75 percent or more in Common Interest of all Unit Owners do not promptly resolve to proceed with the repair or restoration thereof, the Building will not be repaired and the Property shall be subject to an action for partition instituted by any Unit Owner or lien or, 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 in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first has been paid out of his share of such funds such amounts as may be necessary to discharge all unpaid liens on his Unit (other than mortgages which are not Permitted Mortgages) in the order of the priority of such liens.

Notwithstanding anything contained herein to the contrary, the proceeds of all policies of physical damage insurance maintained by the Condominium Board shall be payable to the

Condominium Board in the event of a loss amounting to $100,000 or less. In the event that such proceeds are in excess of $100,000, such proceeds shall be payable to a New York City bank or trust company designated by the Condominium Board as insurance trustee pursuant to the provisions 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.

Insurance

The Condominium Board is required to obtain and maintain, in accordance with the provisions of the By-laws, to the extent obtainable and to the extent determined by the Condominium Board to be appropriate, the following insurance: (a) fire insurance with all risk extended coverage, vandalism and malicious mischief endorsements, insuring the entire Building (including each Unit, but excluding fixtures, furniture, furnishings or other personal property not constituting a part of such Unit), together with all service machinery contained therein and covering the interests of the Condominium, 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); (b) rent insurance in an amount equal to Common Charges for one year; (c) worker's compensation and New York State disability benefits insurance; (d) plate glass insurance to the extent, if any, determined by the Condominium Board; (e) water damage insurance to the extent, if any, determined by the Condominium Board; (f) elevator liability and collision insurance; (g) directors and officers liability coverage; and (h) such other insurance as the Condominium Board may determine.

The fire insurance policies shall contain a New York standard mortgagee clause in favor of each Permitted Mortgagee which shall provide that the loss, if any, thereunder shall be payable to such Permitted Mortgagee as its interest may appear, subject, however, to the loss payment provisions described in the By-laws.

The amount of fire insurance and all risk extended coverage to be maintained until the first Condominium Board meeting following the First Annual Meeting of the Unit Owners shall be in an amount no less than the coverage set forth in the First Year's Budget in Schedule B hereof.

All policies of physical damage insurance shall contain, to the extent obtainable, waivers of subornation 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 ten (10) days prior written notice to all of the insureds, including all Unit Owners and Permitted Mortgagees. Duplicate originals or certificates of insurance of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all Unit Owners and Permitted Mortgagees at least ten (10) days prior to the expiration of the then current policies.

The Condominium 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 limits as the Condominium

Board may from time to time determine, covering (1) the Condominium Board, the Managing Agent or agents thereof, each Condominium Board member and each officer and employee of the Condominium, and (2) each Unit Owner, except that such policy will not cover liability of a Unit Owner arising from occurrences within his own Unit or within the Common Elements, if any, exclusive to his Unit. The Condominium Board shall review such limits not less than once each year. Until the first meeting of the Condominium Board following the First Annual Meeting of Unit Owners, such liability insurance shall be in at least the sum set forth in Schedule B with respect to bodily injury and property damage, combined single limit. The insurance discussed above shall also include cross-liability claims of one insured against another.

Any insurance maintained by the Condominium Board may provide for such deductible amounts as Condominium Board determines. The premiums for all insurance referred to above shall be a Common Expense.

Unit Owners may carry other insurance for their own benefit, provided that all such policies shall contain waivers of subrogation, if available, and further provided that the liability of the carriers issuing insurance obtained by the Condominium Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

Liability of the Condominium Board and Unit Owners

Every contract made by the Condominium Board or by any managing agent or manager thereof shall state that (a) it is made only as agent for all Unit Owners and the Condominium Board members or managing agent or manager shall have no personal liability thereon (except in their capacities as Unit Owners) and (b) the liability of any Unit Owner with respect to such contract shall be limited to 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. To the extent permitted by Law, the Condominium Board members shall have no liability to Unit Owners except that a Condominium Board member shall be liable for his own bad faith or willful misconduct. All Unit Owners shall severally, to the extent of their respective interests in their Units and their appurtenant Common Interests, indemnify each Condominium Board. member 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 transaction with any Condominium Board member, any 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.

Reports to Unit Owners

An annual report of the receipts and expenditures of the Condominium, certified by an independent certified public accountant, shall be submitted by the Condominium Board to all Unit Owners within four months after the end of each fiscal year.

Amendments to Condominium Documents

Generally, subject to certain exceptions concerning, among other things, Sponsor, and Unsold Units, and provided that required consents of the Mortgage Representatives, if any, are

obtained, any provision of the Declaration, By-laws or Rules and Regulations affecting the Common Elements or all Unit Owners may be amended, modified, added to or deleted by affirmative vote of at least 66 2/3 percent in number and in Common Interest of all Unit Owners; provided, however, that the Common Interest appurtenant to each Unit may not be altered without the written consent of all Unit Owners directly affected thereby.

No amendment, modification, addition or deletion of the Declaration, By-laws or Rules and Regulations (other than those required by law) shall be effective (a) against Sponsor or any Unsold Unit unless Sponsor has given its written consent thereto, or (b) against the holder of any mortgage, pledge or other lien or security interest covering any Unsold Unit unless such holder has given its prior written consent thereto.

Action for Partition 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 provided in the By-laws) until such time as the Property shall be withdrawn from the provisions of the Condominium Act as a result of the vote to do so of at least 100 percent in number and in Common Interest of all Unit Owners. Such vote shall not be effective, however, unless written consents are obtained from the Mortgage Representatives, if any.

In the event of withdrawal, the Property shall be subject to an action for partition by any Unit Owner or any lienor as if 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 after first applying the share of the net proceeds of such sale otherwise payable to any Unit Owner to the payment of any liens on his Unit (other than mortgages which are not Permitted Mortgages), in the order of priority of such liens.

Units Acquired by Condominium Board

All Units acquired or leased by the Condominium Board or its designee shall be held by the Condominium Board, or its designee, on behalf of all Unit Owners and 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 Condominium Board shall carry any voting rights.

The purchase of any Unit by the Condominium Board on behalf of the Unit Owners, may be made from the funds deposited in the capital and/or operating accounts of the Condominium Board. If the funds in such account is insufficient to effectuate any such purchase, the Condominium Board may levy an assessment against each Unit Owner in proportion to his respective Common Interest, as a Common Charge and/or the Condominium Board may, in its discretion, finance the acquisition of such Unit; provided, however, that financing may only be obtained when permitted by the By-laws and that no such financing 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 interests in the Common Elements.

Procedure to Review Real Estate Tax Assessments

The Condominium 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.

Borrower by Board of Managers

Section 339-jj of the Real Property Law authorizes the Condominium Board to incur debt provided that such debt (a) is incurred no earlier than the fifth anniversary of the First Closing and (b) is approved by Unit Owners owning Units appurtenant to a majority of the Common Elements. 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 Condominium Board cannot secure such debt by a lien on the Common Elements without the consent of the majority of the Unit Owners.

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

The following discussion of certain income tax consequences of the ownership of a Unit as a personal residence was prepared by Sponsor based, in part, upon the income tax opinion of Rosenberg & Estis, P.C., counsel to Sponsor, a copy of which is set forth herein.

ROSENBERG & ESTIS, P.C. IS COUNSEL TO SPONSOR AND NOT THE UNIT OWNERS. EACH PURCHASER SHOULD CONSULT HIS OWN TAX COUNSEL AS TO THE TAX CONSEQUENCES OF UNIT OWNERSHIP UNDER THE PLAN.

Income Tax Deductions to Unit Owners

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

It is the opinion of Rosenberg & Estis, P.C. that a Unit Owner who uses his Residential Unit as a personal residence will, under present law, for Federal, New York State and New York City income tax purposes, be entitled to a deduction for mortgage interest and real estate taxes in the year paid in the case of cash basis taxpayers or accrued in the case of other taxpayers, subject to certain exceptions and limitations which are more particularly discussed in the Attorney's Income Tax Opinion. Purchasers should note that mortgage interest is deductible generally only with respect to (1) secured debt used to acquire, construct or substantially improve a principal or second residence (or which constitutes a refinancing of such debt up to the then outstanding balance of the acquisition or improvement debt) up to a total indebtedness of $1 million ($500,000 for married couples filing separately), plus (2) other "home equity" debt not in excess of $100,000 ($50,000 for married couples filing separately) secured by a principal or second

residence. However, interest paid by a Residential Unit Owner with respect to a "home equity" loan which was extended subsequent to the acquisition of the Residential Unit and not used in connection with the substantial improvement thereof, will not be deductible if the aggregate amount of such Residential Unit Owner's debt (*i.e.* a mortgage, plus the home equity loan) exceeds the then fair market value of the Unit. Interest on home mortgage debt in excess of these limitations would not be deductible. In addition, Residential Unit Owners should note that special limitations may apply to the deductibility of points and prepaid interest, if any, on their mortgage loans and to the overall allowance of itemized deductions. In any event, Residential Unit Owners are advised to consult with their personal tax advisors to determine the deductibility of interest in their individual circumstances.

Each Unit Owner's proportionate share of the income received by the Board of Managers, including, but not limited to, income, if any, from the sale or leasing of Units owned by the Board of Managers or its designee on behalf of all Unit Owners (or from similar sources), will either be included by the Unit Owner as taxable income for Federal and New York State income tax purposes, or taxed on the Condominium itself if the Condominium is required to pay taxes, the amount thereof will be levied as additional Common Charges. In such event this additional Common Charges may also be subject to tax.

Tax Status of the Condominium

Under Section 528 of the Internal Revenue Code, in certain instances, condominiums may be eligible to be treated as a "homeowners association" within the meaning of the Internal Revenue Code exempt from taxation on Common Charges collected from the Unit Owners, provided the requirements of Section 528 are met. If such an election is made, the Condominium will remain liable for Federal income tax on any taxable income it may have from other sources, such as income in connection with the provision of laundry facilities, interest earned on any reserve funds, and possibly income from assessments from Commercial Unit Owners (in each case, less expenses directly connected with the production of such income).

To qualify as a condominium management association, the Condominium must meet all of the following conditions: (1) it must be organized and operated to provide for the acquisition, construction, management, maintenance and care of association property, (2) at least 60 percent of its gross income for each taxable year must consist solely of amounts received as membership dues, fees or assessments from Residential Unit Owners, (3) 90 percent or more of its expenditures for each taxable year must be made for the acquisition, construction, management, maintenance and care of association property, (4) no part of its net earnings can inure to the benefit of any private shareholder or individual (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by rebate of excess membership dues, fees or assessments), (5) the Condominium must annually elect to be treated as a condominium management association, and (6) at least 85 percent of the total square footage of all Units within the Condominium must be used by individuals for residential purposes. The qualification of an organization under the provisions of Section 528 is to be determined annually at the close of each taxable year and it is possible, therefore, that if the Condominium does not qualify in one year, it may nevertheless, qualify in one or more future years. Assuming that the foregoing criteria are met, the Board of Managers may elect to have the

Condominium treated as a condominium management association under Section 528. However, even if the Condominium Board were eligible to make a Section 528 election, it would still be subject to tax on any income not received as assessment or other such payment from Unit Owners, thus, if the Condominium Board realized interest income from funds on deposit, such interest may be taxable to it.

However, in this instance, due to the portion of the Building occupied by the Commercial Unit, based upon the regulations presently in effect, Sponsor has been advised that the Condominium will not qualify as a homeowners association. Assuming that the Condominium does not qualify as a homeowners association, the present state of the law is uncertain as to the tax treatment of any income of the Condominium in excess of appropriate deductions and credits. As discussed in the tax opinion, the tax authorities may take the position that the Condominium is a separate taxable entity and that some or all of such income (including the non-membership, and possibly membership, income described above less expenses related to such income) is subject to Federal corporate income tax, New York State Corporation Franchise Tax and New York City Corporate Franchise or Unincorporated Business Tax. In any event, Schedule B, Budget for the First Year of Condominium Operation, does not contemplate the receipt of substantial income in excess of expenses which might be taxable and, accordingly, does not specifically budget any amounts for taxes for non-membership or membership income. Alternatively, it is possible that some or all of such income might be reportable directly by the Unit Owners or otherwise treated. Finally, the qualification of an organization as a homeowners association is determined annually at the close of the taxable year and it is therefore possible that if the condominium does not qualify in one year, it may, nonetheless, qualify for such treatment in one or more future years.

In no event will Sponsor, Sponsor's counsel, the Board of Managers of the Condominium, or any other person be liable if the Residential Unit Owners cease to meet the requirements of the Internal Revenue Code of 1986, as amended, or the New York State tax law, as amended, if there are changes in the facts on which counsel relied in issuing its opinion, or if there are changes in the applicable statutes or regulations.

IRS Circular 230 Disclosure:

In compliance with the requirements of the Internal Revenue Service, any advise with respect to U.S. Income Taxes contained in this Plan including, without limitation, any advice set forth in this offering plan is not intended to and cannot be used for the purpose of (i) avoiding or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

ROSENBERG & ESTIS, P.C.
ATTORNEYS AT LAW

733 Third Avenue
New York, New York 10017
212.867.6000
Fax 212.551.8484
www.rosenbergestis.com

**COUNSEL'S INCOME TAX OPINION LETTER**

September 8, 2010

Board of Managers of
Bowery 263 Condominium
451 Broome Street, Suite 5E
New York, NY 10013

Re: Condominium Offering Plan (the "Plan") for the
Bowery 263 Condominium, located at
Premises known as 263 Bowery, New York, NY

Gentlemen/Mesdames:

You have requested our opinion regarding: (i) the availability of certain deductions for Federal, New York State and New York City income tax purposes (but not for purposes of the New York City earnings tax on residential use) to individuals who purchase "Residential Units" (defined below) under the Plan (each a "Residential Unit Owner" and collectively, "Residential Unit Owners"), and (ii) the tax treatment by the Condominium Board of the Common Charges paid or borne by all Unit Owners for such income tax purposes. This opinion does not address in any respect any tax implicating with regard to ownership of the "Commercial Unit" (as defined below), including whether any tax deductions are available to the owner of the Commercial Unit. Except where otherwise indicated herein, the terms in this opinion have the same meanings as in the Plan.

The "Bowery 263 Condominium" will be organized under Article 9B of the Real Property Law of the State of New York for the purpose of providing for the management, maintenance and care of the seven-story mixed use building located at 263 Bowery, New York, New York (the "Building"). The Building will contain four (4) units which will be designated as residences on the certificate of occupancy for the Building (each a "Residential Unit" and, collectively, the "Residential Units") and there will be one (1) commercial unit (the "Commercial Unit"). The Commercial Unit may be used for any purpose that may be permitted under applicable law and code.

The By-Laws of the Condominium provide that, in addition to the status conferred upon the Condominium Board pursuant to the provisions of the New York Condominium Act, to the extent permitted by applicable law, the Condominium Board is deemed to constitute an unincorporated association for all purposes under the provisions of the General Association Law of the State of New York.

In connection with the preparation of this letter, we have reviewed the Plan, relevant sections of the Internal Revenue Code of 1986, as amended ("Code"), the New York State Tax Law, the New York City Administrative Code, the Regulations promulgated thereunder and such other materials as we deemed relevant, and we have assumed that the first closing of a Residential Unit under the Plan will occur in 2010, and that the Plan will not be amended in any material respect, which is relevant to opinions expressed herein.

## I. Deductions for Mortgage Interest and Real Estate Taxes Available to a Residential Unit Owner

A Residential Unit Owner will own his or her Residential Unit and its appurtenant interest in the "Common Elements", as such term is defined in the Declaration in fee simple absolute. Accordingly, each Residential Unit will be taxed as a separate tax lot for real estate tax purposes and each Residential Unit Owner will be individually liable for the payment of such real estate taxes due and owing on his or her respective Unit. A Residential Unit Owner, pursuant to the terms of the Declaration of Condominium and By-Laws, may also obtain a loan which may be secured by a mortgage lien on his or her Residential Unit(s). If a Residential Unit Owner borrows money and such loan is secured by a mortgage lien on his or her Residential Unit, such Residential Unit Owner will be individually liable for the repayment of such loan including the principal balance, the interest thereon and any finance charges.

In our opinion, a Residential Unit Owner who is an individual and itemizes his or her deductions will be entitled to a deduction in computing his or her taxable income for Federal Income tax purposes for *bona fide* mortgage interest paid with respect to his or her Residential Unit in the year paid **provided that** (a) the indebtedness is incurred in acquiring, constructing or improving the Residential Unit, (b) the indebtedness is secured by the Residential Unit, (c) the indebtedness does not exceed $1 million ($500,000 for married couples filing separately), and (d) the Residential Unit is a "qualified residence debt." In addition, the owner of a Residential Unit (which is a "qualified residence") may deduct interest paid on "home equity debt" of up to **$100,000, provided that** the "acquisition debt" plus the "home equity debt" does not exceed the then fair market value of the Residential Unit. If the aggregate balance of the "acquisition debt" and the "home equity debt" exceeds the then fair market value of the Residential Unit, the interest paid on that portion of the

"home equity debt" in excess of the fair market value of the Residential Unit will not be deductible. Interest paid on indebtedness that refinances acquisition debt is similarly deductible, **provided that** the amount borrowed in connection with such a refinancing does not exceed the then outstanding balance of the acquisition debt being repaid with the proceeds of such new loan.

A Residential Unit will be a "qualified residence" if it is either (i) the Unit Owner's "principal residence" within the meaning of Code Section 121 or (ii) a residence as defined by Code Section 280A(d)(1) that the owner selects as a qualified residence. Thus, a single taxpayer or a married couple filing a joint return is limited to two (2) qualified residences. In the case of a married couple filing separate returns, each taxpayer may take a deduction for mortgage interest paid with respect to a single "qualified residence", unless by written agreement both parties consent to one of them taking the deduction for both residences. Under Section 461(g) of the Code, no deduction will be allowed to a cash basis taxpayer in the year of payment for prepaid interest (other than, in certain instances, loan origination fees, commonly referred to as "origination fees" or "points" paid).

In our opinion, a Residential Unit Owner who itemizes his or her deductions and whose Residential Unit is used by such Residential Unit Owner for his or her personal residence will, for Federal income tax purposes, be entitled to a deduction for real estate taxes incurred with respect to his Residential Unit in the year paid under Section 164 of the Code.

It is also our opinion that each Residential Unit Owner whose Residential Unit is used in an active profession and/or trade or business, other than the rental of such Residential Unit, in which the Residential Unit Owner materially participates, may be entitled, for Federal Income tax purposes to a deduction against the income generated by such profession, trade or business for real estate taxes incurred with respect to his Residential Unit (or a portion thereof) for the year paid or accrued (as applicable, dependent upon whether cash is accrued tax herein) under Section 164 of the Code. We note, however that, the use of the Residential Units, other than as a residence, is subject to the provisions of the Declaration and is subject to all applicable zoning laws and the regulations promulgated thereunder.

There are other regulations which are applicable to a Residential Unit Owner if a Residential Unit is used in a trade or business or is to be held for investment as rental property. This opinion does not address the tax consequences to a Residential Unit Owner who is purchasing a Residential Unit for such other uses.

It is also our opinion that each Residential Unit Owner will be entitled, for New York State and New York City income tax purposes, to the same deductions which are allowed for Federal income tax purposes for the mortgage interest and real estate taxes paid or accrued during the taxable

year with respect to such Residential Unit under Section 615 of the New York State Tax Law and Section 11.715 of the Administrative Code of the City of New York. However, if a Residential Unit Owner has New York State or New York City adjusted gross income in excess of $100,000.00, the amount of such Unit Owner's deduction on their New York City and New York State tax returns will be reduced by as much as 50 percent.

Furthermore, it should be noted, that the amount of a Residential Unit Owner's deductions for interest and real estate taxes payable in connection with the ownership of a Residential Unit may be reduced if the Unit Owner is subject to the Federal alternative minimum tax under Section 55 of the Code. Purchasers should also note that state and local taxes, including real estate taxes, are not deductible for purposes of calculating an individual's federal alternative minimum taxable income.

This opinion does not address the specific tax _____ of a Purchase and, since the rules and limitations regarding the deductibility of home mortgage interest are complex, purchasers are advised to consult their own financial advisors regarding the applicability of the regulations to their own individual circumstances. In addition, Residential Unit Owners should consult their own tax advisors regarding any overall limitation on the allowance of itemized deductions in their individual tax returns.

## II. Income Tax Treatment of Common Charges

Amounts required to pay the common expenses of the Condominium, (the "Common Charges") will be assessed and collected by the Board of Managers of the Condominium as provided in the By-Laws and paid by the Unit Owners. Under Section 528 of the Code, some Condominium Boards may be eligible to be exempt from tax on common charges collected from the Unit Owners, provided the requirements of Section 528 are met. The qualification of an organization under the provisions of Section 528 is determined annually at the close of each taxable year. It is possible, therefore, that if the Condominium does not qualify in one year, it may nevertheless, qualify in one or more future years.

Under present law, to qualify under Section 528 of the Code as a "condominium management association", the Condominium must meet all of the following conditions: (1) it must be organized and operated to provide for the acquisition, construction, management, maintenance and care of association property, (2) at least 60 percent of its gross income for each taxable year must consist solely of amounts received as membership dues, fees or assessments from Residential Unit Owners, (3) 90 percent or more of its expenditures for each taxable year must be made for the acquisition, construction, management, maintenance and care of association property, (4) no part of its net earnings can inure to the benefit of any private shareholder or individual (other than by acquiring,

constructing, or providing management, maintenance, and care of association property, and other than by rebate of excess membership dues, fees or assessments), and (5) the Condominium must annually elect to be treated as a condominium management association. The regulations also require that substantially all of the units be used by individuals as residences. Units or areas of the Condominium which are used for purposes auxiliary to residential use, such as the laundry room, storage rooms and areas used by maintenance personnel shall be considered used for residential purposes. Treasury Regulation 1.528-4(b) states that substantially all of the units of a condominium management association will be considered as used by individuals as residences if at least 85 percent of the total square footage of all units in the project is used for residential purposes.

Based on the information contained in Schedule A of the Plan, less than 85 percent of the floor area of the Building will be used as residences. Therefore, assuming that the Condominium commences operation in 2010 and there are no changes in the facts and/or the relevant provisions of current law and regulations, the Condominium will not be eligible to elect to be treated as a "homeowners association" under Section 528 of the Code for its first taxable year.

Absent the application of Code Section 528, the present state of federal law is unclear as to the status of the Condominium for income tax purposes. An entity classification regime was adopted in 1996 by the United States Treasury Department. However there is no authority as to whether such classification regime applies to Condominiums. The By-Laws of the Condominium provide that the Board will act as the agent of the Unit Owners. Accordingly, the Condominium Board may take the position that the Condominium is not a separate entity and therefore is not subject to the classification regime. In such case, the Unit Owners would, in the aggregate, include in their gross income and be taxed on all income earned by the Condominium (which income may include, among other things, interest or similar income earned from interim investments of the amounts assessed and collected from the Unit Owners), reduced by the expenses incurred in earning such income. For this purpose, the Common Charges paid by owners of Residential Units should not be considered income earned by the Condominium.

If, however, the Condominium is considered a separate entity, it is unclear whether the Condominium would be taxable as a corporation or treated as a partnership for Federal income tax purposes. The By-Laws provide that, to the extent permitted, the Condominium shall be deemed to constitute an "unincorporated association". If the Condominium is taxable as a corporation, it would be considered a separate taxpayer with respect to income (which may potentially include Common Charges, among other things) and deductions and return filing requirements and would be subject to Federal corporate income tax. If the Condominium is treated as a partnership, the partnership would not be subject to an entity level tax, the items of income (which may potentially include the Common Charges, among other things) and deductions of the partnership would generally be "passed through"

to the Unit Owners in accordance with the provisions of Subchapter K of the Code, and the partnership would be required to file information returns.

The precise tax status of the Condominium for New York State and New York City tax purposes is also unclear. The relevant New York State and New York City laws incorporate by reference federal entity classification provisions which, as discussed above, do not specifically address the treatment of condominiums. If the Condominium is properly treated as a separate entity that is an association taxable as a corporation for Federal income tax purposes, it appears likely that the Condominium would be subject to the New York State Corporation Franchise Tax and the New York City General Corporation Tax. In the event the Condominium does not constitute an association that is taxable as a corporation for Federal income tax purposes, it is still possible, although not certain, that the Condominium might be subject to the New York State Corporation Franchise Tax. Further, in such event, the Condominium likely would be subject to the New York City Unincorporated Business Tax, since it is not eligible for and may not elect treatment under Code Section 528 as a homeowners association.

In any event, the Condominium will be subject to tax on any income not received as assessment or other such payment from Unit Owners. Accordingly, if the Condominium Board realizes interest income from funds on deposit, such interest income will be taxable.

We express no views as to any Federal, New York State and/or New York City tax consequences or as to any aspects of the Plan other than those consequences and aspects explicitly discussed in this opinion, or as to any tax status of the Plan or of a Unit under the laws of any other U.S. or foreign jurisdiction.

Accordingly, without limitation, this opinion does not address such matters as: (i) the tax consequences which may result from ownership of a Residential Unit in connection with the Residential Unit Owner's profession, trade or business, (ii) the tax consequences to a Residential Unit Owner other than an individual; (iii) the ownership of a Residential Unit for purposes of investment or the production of income, or (iv) the tax treatment of a foreign Unit Owner by reason of his foreign status. In addition, this opinion also does not address the tax consequences which may arise if Units, storage spaces or Limited Common Elements are acquired and/or leased by the Condominium Board.

It is also to be noted that, under certain circumstances, an owner of any Residential Unit, by virtue of such ownership, may be deemed to become a resident of New York City for tax purposes. This opinion does not address the circumstances which would cause a Unit Owner to be treated as a New York City resident, or with the income, estate or other tax consequence that may arise

therefrom. This opinion does not address the specific tax portion of any Purchase and, therefore, each person contemplating the purchase of a Unit is strongly advised to consult his own tax advisor as to all such tax matters (as well as with respect to the tax matters discussed in this opinion).

In our opinion, Residential Unit Owners will be entitled to income tax deductions subject to the limitations referred to above. This opinion, however, is neither a warranty nor does it constitute legal advice to any of the purchasers under the Plan. It is based solely upon existing rules of law applied to the generalized facts and documents referred to above. No assurances are given that the tax laws upon which this firm bases this opinion will not change. We shall have no obligation to revise or reissue this opinion with respect to any change in law or any event, fact, circumstance or transaction which occurs after the date hereof. In no event will the Sponsor, the Sponsor's counsel, the Board of Managers of the Condominium or any other person be liable to any purchaser under the Plan if there are changes in the facts on which counsel relied in issuing this opinion or if there are changes in the applicable statutes, regulations, decisional law or Internal Revenue Service Rulings on which counsel relied which cause Unit Owners of Residential Units not to be entitled to income tax deductions.

In compliance with the requirements of the Internal Revenue Service in Circular 230, any advice with respect to U.S. Income Taxes contained in the Plan, including, without limitation, any advice set forth in the Plan, is not intended to and cannot be used for the purpose of (i) avoiding or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this opinion or in the Plan, and (iii) each prospective Unit Owner, the Sponsor and the Condominium should obtain advice from its own independent tax advisor based upon its particular circumstances.

We hereby authorize the use of this opinion, or a reproduction thereof, in the Plan.

Very truly yours,

Rosenberg & Estis, P.C.

## REAL ESTATE TAXES AND 421-a TAX EXEMPTION BENEFITS

Each Unit will be taxed as a separate tax lot for real estate tax purposes, and no Unit Owner will be responsible for payment of, nor will the Unit be subject to, any lien arising from the non-payment of real estate taxes on other Units. Generally, Units may not be separately assessed until the tax year following the tax year in which the Declaration of Condominium is recorded. Until the Units are separately assessed and billed, each Unit Owner shall pay such Unit Owner's *pro rata* share (in the proportion that such Unit Owner's Unit's Common Interest bears to the aggregate Common Interest of all Units) of all real estate taxes with respect to the Property to the Condominium Board as Common Charges.

Sponsor has applied for an exemption from real estate taxes with respect to the Building pursuant to Section 421-a of the New York State Real Property Tax Law. Under the Section 421-a program, the real estate tax estimate for the projected first year of Condominium operation is based upon the assessed valuation of the property, subject to the 80 percent exemption benefit which will be effective during such projected first year of Condominium operation. The opinions of Sponsor's Real Estate Tax Counsel dated August 2, 2010 set forth in Part I of the Plan for further discussion regarding real estate taxes for the Residential portion of the Property and the Section 421-a benefits to be obtained.

The real estate tax estimates for each Residential Unit were calculated on the assumption that the real estate taxes for each Unit for the first year of Condominium operation will be allocated in proportion to each Unit's percentage interest in the Common Elements. Upon determination of individual tax lots and individual Residential Unit assessments, the New York City tax authorities may allocate assessed valuation between the Residential Units in proportion to each Residential Unit's purchase price rather than its percentage interest in the Common Elements, and, if so, Residential Units having the same percentage interest may pay different real estate taxes. Sponsor anticipates, based upon the advice of its Real Estate Tax Counsel, that in arriving at the assessed valuation for each Residential Unit, the Residential Section will first be assessed as an entirety. This overall assessment will then be apportioned among the Residential Units. This apportionment is anticipated to be based upon the proportion of the Common Elements assigned to each Residential Unit. SPONSOR MAKES NO REPRESENTATION THAT THE ASSESSED VALUE OF THE PROPERTY, THE METHOD OF ALLOCATION, THE ESTIMATED ALLOCATIONS OR THE TAX RATE WILL BE AS SET FORTH ABOVE. Purchasers should note that the real estate taxes operation without 421-a benefits is included to provide prospective purchasers with information as to the projected amount of the Real Estate taxes if Section 421-a benefits were not in effect.

Prospective purchasers should note that 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 tax fiscal years in annual increments of twenty percent each fiscal year. 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.

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 amount of assessed valuation (transitional and actual) for each Unit and the real estate tax rate. In this regard, prospective purchasers should note that, assuming the partial 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 ten years of condominium ownership as an integral part of the Section 421-a program. The ten-year exemption from taxation consists of two years of full exemption, followed by two years of exemption from 80 percent of such taxation, then two years of exemption from 60 percent of such taxation, then two years of exemption from 40 percent and then two years of exemption from twenty percent of such taxation. Thereafter, there will be no further exemption by reason of the Section 421-a real estate tax benefits.

| Benefit Years | % of Exemption |
|---|---|
| 1 | 100% |
| 2 | 100% |
| 3 | 80% |
| 4 | 80% |
| 5 | 60% |
| 6 | 60% |
| 7 | 40% |
| 8 | 40% |
| 9 | 20% |
| 10 | 20% |
| 11 | 0% |

Based upon Sponsor's application, it is projected that the first year of the 421-a Benefits is the 2010-2011 fiscal year. Accordingly, the anticipated First Year of Condominium Operation, November 1, 2010 – October 31, 2011 will occur during the first year of the Section 421-a benefits. The 421-a Exemption benefit will expire in its entirety as of July 1, 2020.

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 Board of Managers for inspection and copying for the life of the benefits. Sponsor will file all applications and timely comply with all procedures required to maintain the tax benefits. Please refer to the opinion of Sponsor's Real Estate Tax Counsel dated August 2, 2010, set forth herein for further details regarding the real estate tax assessment for the Property and the availability of Section 421-a benefits are granted.

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 that the aggregate real estate taxes for the Residential Units upon completion of construction for such first year will be approximately $64,441. This estimate has been based upon: (a) estimates made by Tuchman, Korngold, Weiss, Lippman & Gelles LLP, that the approximate allowed assessed values of the Residential Units of the Building during 2010/2011 tax year, will be $311,090 and following the completion of construction during the 2011/2012 tax year will be $783,799; and (b) a projection that the tax rate in effect for the 2010/2011 and 2011/2012 tax years will be approximately $13.75 per $100 of assessed valuation. No representations are made herein with respect to the real estate taxes to be paid by the Commercial Unit Owner.

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 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 City of New York 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.

Until the Units are separately assessed, each Unit Owner will pay to the Condominium Board its share of the Property's real estate taxes for the period in question based upon its interest in the common elements. The share so allocated to the Residential Units and the Commercial Unit will then be pro-rated to each individual Residential Unit and to the Commercial Unit, respectively. Sponsor has been advised that as of the date hereof, the New York City Department of Finance is apportioning real estate taxes in condominiums on the basis of the allocations of the Common Elements of the Condominium. Sponsor has also been advised that previously taxes were apportioned on the basis of the ratio that the initial offering price for the Unit set forth in Schedule A above bears to the total initial offering prices of all Residential Units set forth in Schedule A. Sponsor makes no representations regarding the future practices of the Department of Finance. 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 previously 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 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. 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 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.

TUCHMAN, KORNGOLD, WEISS, LIPPMAN & GELLES, LLP
COUNSELORS AT LAW
6 EAST 45TH STREET, NEW YORK, N. Y. 10017
(212) 687-3747
FAX: (212) 599-4459

BERT TUCHMAN
PAUL J. KORNGOLD
ERIC S. WEISS
MICHAEL R. LIPPMAN

JENNIFER POLOVETSKY
BRETT J. GOTTLIEB

WALTER R. GELLES
COUNSEL

August 2, 2010

D.N.P. 336 Convent Avenue LLC
451 Broome Street
New York, New York.

Re: 263 Bowery
Block 427, Lot 10, Manhattan

Dear Sir or Madam:

This letter is in response to your request for an opinion and projection of the estimated real estate assessments and taxes upon the completion of construction and creation of a condominium as well as the eligibility of the 421-a real estate tax exemption benefits available to the condominium. THIS OPINION REFERS ONLY TO THE RESIDENTIAL PORTION OF THE CONDOMINIUM AND NOT TO THE NONRESIDENTIAL SPACE.

You have requested our opinion concerning the real property assessment to be levied upon the captioned premises as well as the taxes for the budget year for the first year of condominium operation which you have advised us will be the period November 1, 2010 through October 31, 2011. You have also asked us to provide our estimate for the real estate taxes for the first full budget year after completion of construction. You have advised us that the project will consist of the building of a new six story (plus penthouse) multiple dwelling containing non residential condominium space in the basement, cellar, ground and second floors and four residential units on the top floors.

In order to prepare this letter and the opinion set forth herein, you have supplied us with certain information upon which we have relied. You have supplied us with your estimated construction costs, estimated square footage and a description of the project and proposed floor plans prepared by Karl Fischer, Registered Architect.

We have also considered the recent tax assessment history of the property, the cost of the new project, the potential income for the new structure (if operated as a rental), comparable properties in the Borough of Manhattan which have been newly constructed or undergone renovation as well as market conditions in the general area.

Assessments in New York City are made on a fiscal year basis running from July 1 of any one year to the next succeeding June 30. The status of the building on January 5 of any one year is the basis of the assessment for the fiscal year beginning that July 1. The final assessment tax roll containing the final 2010/2011 assessed valuation was published on May 25, 2010. The final assessment roll showed the following values:

| Tax Class | Actual Assessed Value |
|---|---|
| 2A | $615,195 |

In predicting the future assessed value, we have given consideration to the following factors:

1. The current claimed standard of assessment used by the Real Property Division of the New York City Department of Finance is to assess at 45% of value.

2. The estimate of the cost of the construction will be a factor.

3. The potential capitalized net income of the property if operated as a rental.

4. Tax Assessments of comparable properties.

Real Property Tax Law Section 581 provides that cooperative and condominium apartments shall be assessed for tax purposes as if the building was a comparable rental property. Thus, the Department of Finance is prohibited from utilizing the sales prices of the individual condominium units in determining the assessed valuation. Therefore the prices that you set in your offering plan and any subsequent sales or resales are not relevant in determining the assessed value of the property or of the individual condominium units. Upon conversion to a condominium and after an application is submitted by you, the New York City Department of Finance shall assign individual tax lot numbers to each of the condominium units. The units will be designated as a tax class 2C property and will pay on the class 2 tax rate. The current 2009/10 class 2 tax rate has been set at $13.241 for each $100 of assessed valuation. The 2010/2011 tax rate will not be set until later this year.

Tax Class 2C is a protected residential tax class which limits the increases in assessed value that may be imposed on the residential condominium units. Pursuant to Real Property Tax Law Section 1805, the assessor shall not increase the assessment of any parcel in this tax class in any one year, as measured from the actual assessment on the previous year's assessment roll, by more than eight percent and shall not increase such assessment by more than thirty percent in any five-year period. Increases due to physical improvements (such as the construction of your building) are added in full to the next year's assessment and are not subject to the 8% and 30%

limitations. Therefore, the increase in the assessed value which we forecast below for the 2010/2011 and 2011/2012 tax years due to the new construction will not be subject to the 8% and 30% limitations.

On June 11, 2008, Governor Paterson signed legislation extending property tax abatements for homeowners in New York City cooperatives and condominiums through June 30, 2012 at the rate of 25% for buildings with average assessments of $15,000 or less per unit, and 17.5% where assessments are higher. The law does not apply to buildings which receive 421-a tax exemptions. As set forth later in this letter, it is anticipated that this building will receive 421-a tax exemption benefits and therefore unit owners may not take advantage of this tax benefit. It is unknown at this time if this law will be renewed as to be in effect when the 421-a tax benefits have expired. Therefore, in predicting the taxes on this building we have not given any consideration to this tax benefit.

Owners of residential condominium apartments in the City of New York may be eligible for New York State Tax Relief (STAR). STAR is the New York State School Tax Relief Program, which provides a tax reduction benefit for all New Yorkers who own their home and use it as their primary residence. The Department of Finance administers STAR for property owners in the five boroughs of New York City. There are two levels of benefits: Basic STAR for most homeowners and Enhanced STAR for qualified senior citizens. However, STAR benefits are not available to buildings which have 421-a tax exemption benefits. Once again, as set forth later in this letter, it is anticipated that this building will receive 421-a tax exemption benefits and therefore unit owners may not take advantage of this tax benefit. It is unknown at this time if this law will be in effect when the 421-a tax benefits have expired. Therefore, in predicting the taxes on this building we have not given any consideration to this tax benefit.

We caution you that there is not presently an official apportionment of the assessment for the 2010/2011 tax year and you should include in your offering plan a provision to unofficially apportion the tax liability among the units consistent with this letter until such time as an official apportionment of the assessed value is made and becomes effective.

It is therefore our opinion that for the 2010/2011 tax year which represent eight months of the initial budget year of the condominium, the actual assessed value of the entire property consisting of the residential and nonresidential units will be $615,195 and for the 2011/2012 tax year, which represent four months of the initial budget year the actual assessed value of the entire property will be $1,550,000. In the past we have been advised that in determining the assessed values for the individual residential units, the Department of Finance may possibly use (1) the residential common interest percentages or (2) utilize the ratio of the Schedule A sales prices of any individual unit to the total sales prices of all residential units to determine the

percentage of the total assessed value to be attributed to each residential unit or (3) utilizes the ratio of square footage contained in each unit to the total square footage. We have now been advised in determining the assessed values for the individual residential units, the New York City Department of Finance will follow the common interest percentages set forth in the condominium declaration. We offer no opinion as to which is the correct methodology to make this allocation. We have made our calculations below based upon your advice that 50.6% of the common interests have been assigned to the residential units.

Therefore assuming the class 2 tax rate increases to $13.75 for each $100 of assessed valuation, we make the following estimated projections of the real estate taxes prior to any tax exemptions or abatements for the budget year November 1, 2010 to October 31, 2011 and for the first post construction budget year.

November 1, 2010 to June 30, 2011 (8 Months)

| Assessed Value | Tax Rate | Tax (8 Months) |
|---|---|---|
| $311,090 | 13.75% | $28,517 |

July 1, 2011 to October 31, 2012 ( 4 Months)

| Assessed Value | Tax Rate | Tax (4 Months) |
|---|---|---|
| $783,799 | 13.75% | $35,924 |

| | |
|---|---|
| Initial Budget Year Estimated Tax Prior to 421-a Exemption | $64,441 |
| Post Construction Budget Year Estimated Tax Prior to 421-a Exemption | $107,772 |

You have also requested our opinion as to the eligibility of the above referenced property to receive a 421-a real estate tax exemption. The 421-a Tax Exemption program was enacted pursuant to Section 421-a of the Real Property Tax Law of the State of New York and Section 11-245 of the Administrative Code of The City of New York and has been implemented through regulations promulgated by the New York City Department of Housing Preservation and Development (HPD). The law is designed to encourage construction of new multiple dwellings

by offering an exemption from real estate taxes for a period of years. The exemption covers the increase in assessed valuation resulting from construction of a new building over the prior assessed valuation on the property and eliminates for a period of years any taxation on that increase in assessed valuation. The exemption does not eliminate all real estate taxes.

You have requested our opinion as to whether or not the proposed new multiple dwelling qualifies for the benefits of the 421-a tax exemption. You have advised us that (1) prior to the commencement of construction and on a date three years prior to commencement, the property met the underutilization requirements of the regulations, (2) all work will be performed in accordance with law and that all required filings have or will be will be made with the Department of Buildings and all agencies having the appropriate jurisdiction, (3) construction commenced in March of 2009 and you expect construction to be completed by the summer of 2010.

The 421-a law requires a reduction in benefits in the event that more than 12% of the project is deemed to be non-residential footage. Thus, this restriction will apply in this project since the building is composed of commercial and residential occupants. However, since this is a condominium, the law requires that the reduction in 421-a tax exemption benefits will first be deducted from the nonresidential condominium units and provided the assessed valuations are computed in accordance with the common interest percentages, the excess nonresidential space will not reduce the 421-a tax benefits for the residential units.

The 421-a rules and regulations define Commencement of Construction in part as follows:

> "Commence" shall mean:(a)(1) the later to occur of (i) the date upon which a new metal or concrete structure to be incorporated into the multiple dwelling that shall perform a load bearing function for such multiple dwelling is installed; or (ii) the date upon which a building or alteration permit for the multiple dwelling (based upon architectural, plumbing and structural plans approved by the Department of Buildings) was issued by such department ; or (2) if a project includes new residential construction and the concurrent conversion, alteration or improvement of a pre-existing building or structure, the later to occur of (i) the date upon which the actual construction of the conversion, alteration or improvement of the pre-existing building or structure begins; or (ii) the date upon which an alteration permit for the multiple dwelling (based upon architectural, plumbing and structural plans approved by the Department of Buildings) on which the actual construction of the conversion, alteration or improvement takes place, was issued by such department;"

As a part of the 421-a application, such certification must be provided to HPD by your architect. You have advised us that your architect will supply us with the required certification on the form prescribed by HPD.

The 421-a rules and regulations define Completion of Construction as follows:

> Completion of construction. "Completion of construction" shall mean the date upon which either a Temporary Certificate of Occupancy is issued for all residential areas in the multiple dwelling or a Permanent Certificate of Occupancy is issued for the entire building.

Although we have been advised by you that work is expected to be completed by the summer of 2010, as long as work is completed within 3 years of commencement, there will be no reduction in 421-a tax exemption benefits.

In order to be eligible for 421-a tax exemption benefits, there are certain preconditions which must be met. The major precondition is the "Site Requirement". In order to be eligible for 421-a tax exemption benefits, the land on which the project is located must have been "vacant, predominantly vacant, underutilized or improved with a non-conforming use on the operative date." "Operative date" is defined in the regulations to be the date 36 months prior to commencement of the project. Since we have been advised that the project commenced work in accordance with the regulatory definition in March 2009, the operative date will be March 2006. On the operative date, this property was occupied by a tax class 4 nonresidential building which had a certificate of occupancy allowing use group 16 on the ground floor and requiring the upper floors to remain permanently vacant. We have been supplied with an affidavit from your architect setting forth that this building was a nonconforming use on the operative date and therefore meets the eligibility rules under "Site Requirement".

421-a tax exemption benefits are available only to new multiple dwellings which cannot be used for Hotel or Single Room Occupancy purposes. We have been advised that this project will meet these requirements since it will not be used for Hotel or single room occupancy purposes.

There are certain construction requirements to be eligible for 421-a tax exemption benefits. Special requirements exist for building with at least 100 units. Since this building will contain less than 100 units, these restrictions do not apply. Local Law 107 of 2005 requires that all 421-a projects use Energy Star appliances, water heaters and boilers. Regulations are now in effect which mandate that you comply with these Energy Star requirements.

421-a tax exemption benefits are not available if the project receives exemption benefits under any other law. These units will not receive any other exemption and thus remain eligible for 421-a tax benefits.

The 421-a law was recently amended. If a building which seeks 421-a tax benefits is in the newly defined Geographic Exclusion Area which now includes your property, and the work commences after June 30, 2008, the new building will have a maximum 421-a tax benefit of no

more than $65,000 in exemption benefits per dwelling unit and will be required to have on-site affordable housing units. However, **there is an exception to this recent amendment.** In the event you obtain an adequate number of negotiable certificates from a low income housing developer who has entered into a written agreement with HPD to produce off-site affordable housing units and said agreement is dated prior to December 28, 2006, then these restrictions in the new 421-a law will not apply to you, since your architect has confirmed to us that you commenced construction prior to July 1, 2009. Furthermore, you have now acquired these certificates and therefore you will not be burdened by the restrictions of the new law.

There are various other minor technical requirements for obtaining 421-a tax exemption benefits. Without listing these requirements in minute detail, we believe that based upon information given to us by you, these other requirements will be met.

Utilizing the information supplied to us, it is our opinion that upon completion of the alteration, issuance of a residential certificate of occupancy for the residential units by the Department of Buildings evidencing a Class A multiple dwelling and approval by the various New York City departments having jurisdiction thereof, the residential portion of the building will qualify for 421-a tax exemption benefits. The 421-a tax exemption that is applicable to this project will last for a period of 10 years as set forth below:

| Year | Percent of Increased Assessed Valuation Which is Exempt |
|---|---|
| 1-2 | 100% |
| 3-4 | 80% |
| 5-6 | 60% |
| 7-8 | 40% |
| 9-10 | 20% |
| 11 | 0% |

In addition multiple dwellings which satisfy all of the requirements of the law and receive a Preliminary Certificate of Eligibility shall be exempt from real property taxes, other than assessments for local improvements, upon any increase in assessed valuation over the prior assessed valuation during the statutorily defined period of construction, or for a period of three years, whichever is less, provided that taxes shall be paid in each year for the remaining tax that shall be due. Based upon your scheduled completion date, tax year 2011/2012 shall be deemed the first of the ten declining 421-a exemption years.

Real Estate taxes shall be based initially on the assessed value on the property for the year prior to commencement of construction multiplied by the current tax rate. This tax is

sometimes known as the mini-tax. You have advised us the work commenced in accordance with the regulatory definition in March 2009 which is during the 2008/2009 tax year, therefore the mini-tax will be determined by multiplying the allocated residential portion of the 2007/2008 assessed value by the current tax rate. For 2007/2008, the taxable transition assessed value for the entire property was $335,967. Utilizing the residential common interest percentage of 50.6% would result in an allocated assessed value of $169,891. Assuming the class 2 residential tax rate is 13.75%, the initial mini-tax for the residential condominium units would be set at $23,360.

Based upon the information you have given to us and assuming the application is processed in a timely manner by HPD, we expect that the 421-a tax exemption benefits to be in effect before the tax bills are issued for the 2011/2012 tax year. In the event a unit owner acquires title to a unit prior to the 421-a benefits being put into effect, that unit owner may be entitled to receive a refund when the benefits are retroactively entered into the records of the New York City Department of Finance. The calculation set forth below assume the benefits are in effect commencing with the initial budget year.

421-a tax benefits are not automatic. An application must be made to the Department of Housing Preservation and Development. This application must contain supporting documentation such as copies of all city permits and approvals, and an accountant's certification. All information contained in a 421-a application must be true and complete. The application is subject to an audit after the certificate of eligibility has been issued. These benefits may be revoked if an application contains false information.

We had previously set forth above our estimate of the taxes for the budget year November 1, 2010 through October 31, 2011 and the post construction tax year November 1, 2011 through October 31, 2012. Utilizing the assumptions and estimates contained above, we estimate the initial taxes for the residential condominium units on this property after the 421-a tax exemption is granted will be $23,360 per year.

Our firm has an extensive practice in real estate tax review matters and in J-51 and 421-a tax exemption/ tax abatement applications, and we currently represent the owners of approximately 3,000 buildings in the City of New York, and file applications for correction of the tax assessments and tax exemptions/tax abatements on these properties. This firm and its predecessors have been engaged in such practice for a period of approximately 50 years. Additionally, the writer is the chairman of the Law Committee of the Associated Builders and Owners of Greater New York, a director of both the New York State Builders Association and the Associated Builders and Owners of Greater New York, a past member of the Tax Certiorari and Condemnation Committee of the Bar Association of the City of New York, and is a director

and former President of the Real Estate Tax Review Bar Association, a specialized Bar dealing with real estate tax assessment matters.

Based upon our previous experience with such proceedings, we have issued the within letter which the specific understanding that although we believe the residential condominium units will be eligible for 421-a real estate tax benefits, our opinion is not a guarantee that such benefits will be available. In no event will we, as Sponsor's real estate tax counsel, be liable if there are changes in the facts on which we have relied in issuing this opinion, or if there are changes in the applicable statutes, rules and regulations of the City of New York, decisional laws or administrative agency rulings, interpretations and policies on which we have relied which cause this opinion to be inaccurate. Interested parties should be aware that the estimate of the 2010/2011 and 2011/2012 real estate tax assessment and taxes cover a period far into the future. Neither we nor any person can guarantee what the real estate taxes will be at any future date. As stated above, changes in law or policies of government agencies may radically change the opinions expressed herein.

The opinion expressed herein is that of the undersigned, and does not purport to express the opinion of the New York City Department of Finance or any city or government agency. The Department's opinion may result in substantially different total taxes for both budget years as well as for tax years 2010/2011 and 2011/2012 than set forth herein. We consent to the inclusion of this letter in the offering plan.

Very truly yours,

TUCHMAN, KORNGOLD, WEISS, LIPPMAN & GELLES, LLP.

By: Paul J. Korngold

## WORKING CAPITAL FUND

The purchaser of each Residential Unit and Storage Unit shall be required to make a contribution at the closing of title to such Unit(s) 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 two (2) 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.

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 because the Building will be new at the date of the First Unit Closing.

In addition, no reserve fund has been established for the Condominium in its budget for the projected First Year of Operation of the Condominium (Schedule B) for use by the Board, which in general has principal responsibility for repairing and maintaining the Common Elements (such as the roofs, central fire alarm and security systems, and various mechanical and electrical systems). The Board may decide in the future to establish a reserve fund or pay for necessary repairs or capital items by special assessment or by increasing Common Charges, payable by the Unit Owners. Each Unit Owner would be individually liable for the amount of such special assessment again, or increase payable by the Board to the extent of such Unit Owner's proportionate Common Interest among all Unit Owners.

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

(1) employees' wages, vacation and severance pay, pension and welfare benefits 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 steam, 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 Unit 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. 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 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.**

## MANAGEMENT AGREEMENT AND CONTRACTS

### Management Agreement

It is presently contemplated that the Building will be self-managed. However, the budget includes an allowance of $800 for out-of-pocket expenses and fees associated with self-management. Such expenses would include the cost of bookkeeping, billing and the handling of payables and the cost of postage and other supplies associated therewith. If Sponsor elects to retain a managing agent at the time of the First Unit Closing, this Plan will be amended to disclose the identity of such managing agent and the terms of such management agreement. Please see the footnotes to Schedule B. In the event that the Board of Managers subsequently elects to retain a third party managing agent, it estimated that the cost of management services will be no less than $6,000 per annum.

## IDENTITY OF PARTIES

### Sponsor

Sponsor is D.N.P. 336 Convent Avenue LLC, a New York limited liability company with an office at 451 Broome Street, Suite 5E, New York, New York 10013. The principals of Sponsor are Eyal Devidas and Yaniv Cohen. Yaniv Cohen has more than ten (10) years of experience in building construction, but has never previously participated in an offering of

cooperative apartments or condominium units. Eyal Devidas previously participated in the condominium offering of units at 336 Convent Avenue, New York, NY. Such Plan was withdrawn.

Architect

Karl Fischer of PKSB Architects, P.C., having an address at 330 West 42nd Street, New York, New York 10036 designed the Building and prepared the Description of Property and Building Condition set forth in Part II of the Plan.

Mechanical Engineer

Opie Athwal of Athwal and Associates, Inc., Consulting Engineer, having an address at 171 Madison Avenue, Suite 308, New York, NY 10016, has been retained as mechanical engineer for the project and provided the estimates for the budget for the first year of condominium operation and the Schedule B-1 included in this Plan.

Construction Professionals.

Nexus Building Development Corp. is the construction manager engaged by Sponsor for the renovation of the Building. Yaniv Cohen, a principal of Sponsor, is the principal of Nexus Building Development Corp.

Attorneys for Sponsor

Sponsor has retained Rosenberg & Estis, P.C., having an office at 733 Third Avenue, New York, New York 10017, to represent it in connection with the preparation of the Plan and individual Unit closings. Lisa R. Radetsky, Esq. of Rosenberg & Estis, P.C. had principal responsibility for the preparation of the Plan, and the forms of Purchase Agreement, Unit Deed and Unit Power of Attorney, the Condominium Declaration and the By-laws, and has also rendered an opinion with respect to the availability of income tax deductions to Purchasers of Units. Sponsor's attorneys have also rendered opinions with respect to the possible availability of income tax deductions to purchasers of Residential Units and the allocations of Common Interests. Rosenberg & Estis, P.C. will serve as Escrow Agent and may represent Sponsor in connection with matters relating to Closings of Units.

Condominium Budget Expert

David Goldoff of Camelot Realty Group LLC, prepared and reviewed all amounts of income and expenses in "Schedule B - Projected Budget for First Year of Condominium Operation" in consultation with Sponsor. Said firm has rendered a Certification as to the adequacy of the First Year's Budget which may be found in Part II of the Plan. Mr. Goldoff and his firm have no financial interest in the Property or Sponsor, except for its fees for services rendered in connection with the preparation and review of the budget.

Title Company

Chicago Title Insurance Company, having an office at 711 Third Avenue, New York, New York, has reviewed the Plan and the Condominium Documents and has committed to insure that a valid condominium will be created pursuant to the Condominium Act. Chicago Title Insurance Company is prepared to issue fee and/or mortgage title insurance policies to those Purchasers who request them. If a Purchaser wishes to order title insurance from Chicago Title Insurance Company, he or she may contact Patricia Lopinski at (212) 880-1314 or by email as follows: lopinskip@CTT.com.

Related Parties

Sponsor and its principals have no affiliation with the Condominium Budget Expert, the Architect, the Mechanical Engineer, or any person or firm who will provide services to the Condominium subsequent to the First Closing. Neither the Condominium Budget Expert nor the Architect have any financial interest in the Property, the Units, the Condominium, or this offering, except for their fees for services rendered.

## REPORTS TO UNIT OWNERS

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

(1) a financial statement of the Condominium prepared by a certified public accountant within four months after the end of each fiscal year (such statement shall be certified while Sponsor is in control of the Condominium Board);

(2) prior notice of the annual Unit Owner's meeting; and

(3) a copy of the proposed annual budget of the Condominium within ten (10) days prior to the date set for adoption thereof by the Condominium Board (while Sponsor is in control of the Condominium Board, such budget shall be certified in compliance with the Attorney General Regulations).

## DOCUMENTS ON FILE

Pursuant to the provisions of Section 352-e of the New York General Business Law, copies of the Plan and all exhibits or documents referred to herein shall be available for inspection by prospective Purchasers, and by any person who shall have purchased a Unit offered by the Plan or shall have participated in the offering of such Unit, at Sponsors office and shall remain available for such inspection for a period of six (6) years from the date of 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 following the recording of the

Declaration, and an additional set, together with a copy of the recorded Declaration, if available, will be furnished to the Condominium Board at the time of the closing of the first Unit.

The Declaration and the By-laws will be recorded in advance of or concurrently with the First Closing. The recording of all deeds conveying individual Units will also be in the City Register's Office.

## SPONSOR'S STATEMENT OF BUILDING CONDITION

Sponsor hereby adopts the Description of Property and Specifications prepared Karl Fischer, Architect (the "Description of Property") set forth in Part II of the Plan as Exhibit D. Sponsor has no knowledge of any inaccuracies or any material omissions or defects or any need for major repairs to the Building other than as set forth in the Description of Property.

## GENERAL

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 Purchase Agreement, form of Unit Deed, form of 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 document executed by or with the written consent of Purchaser pursuant to the Plan, any rider or separate agreement changing or adding provisions to such document.

Sponsor adopts the Description of Property and Building Condition contained in Part II of such Plan and represents that it has no knowledge of any material defects or need for major repairs to the Property except as set forth in the Description of Property and Building Condition.

There are no lawsuits or other legal proceedings now pending, or any judgments outstanding, which could materially and adversely affect this offering, the purchasers of Units, the Property, the Condominium or the operation thereof, which are not covered by insurance.

No party other than the respective Purchasers shall have any right or benefit herein or hear from, including without limitation, the right to insist upon or enforce against Sponsor the performance of all or any of Sponsor's obligations hereunder and no such third party 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, without obtaining the consent of Purchasers or others, to substantially revise the terms and conditions upon which the Units are to be sold, including changes affecting the rights, obligations and liabilities of Sponsor, the Purchasers and/or prospective Purchasers under the Plan. However, Sponsor may not unilaterally cancel a Purchase Agreement which is in effect, except as therein provided, as in the

case of an uncured default, nor unilaterally change the purchase price or payment terms contained in such Purchase Agreement. All substantive or material revisions will be contained in a duly filed amendment to the Plan. If there is a substantial amendment to the Plan that materially adversely affects Purchasers, except as otherwise provided herein, Purchasers will have a right of rescission which may only be exercised within fifteen (15) days from the Presentation Date of said amendment. Sponsor shall promptly return any Contract Deposit to Purchasers who rescind, except that Sponsor shall retain the Contract Deposit (and any interest thereon) of any Purchaser who is in default under the Purchase Agreement beyond any applicable grace period.

In accordance with the provisions of the laws of the State of New York, neither Sponsor nor any selling agent engaged by Sponsor will discriminate against any person in the sale of Units offered by the Plan or in the leasing of any such Units because of such person's sex, sexual orientation, race, creed, color, national origin, marital status, age, disability or any other ground proscribed by law.

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

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.

The Property and the Building have not been the subject of a prior public offering made by Sponsor.

# PART II

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**EXHIBIT A**

# PURCHASE AGREEMENT
**(to be executed in quadruplicate)**

# BOWERY 263 CONDOMINIUM
# 263 BOWERY
# NEW YORK, NEW YORK

---

Purchaser(s) Name:_____

Address:_____

Telephone: Bus.:_____ Home:_____

Social Security No.:_____

Unit No.:_____

Unit Purchase Price.....$_____

Contract Deposit .....$_____

Balance due at Closing.....$_____

Amount of Mortgage $_____[1]
(for a term of not less than _____ years) ( ) variable ( ) fixed

Name(s) and manner in which title will be taken:_____

_____

[1] If Purchase Agreement is contingent on financing, see Subsections 4.3 through 4.6. If Purchase Agreement is not contingent upon financing, Subsections 4.3 through 4.6 will be deleted.

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# BOWERY 263 CONDOMINIUM
# 263 BOWERY
# NEW YORK, NEW YORK

PURCHASE AGREEMENT dated as of _____, 2010, by and between D.N.P. 336 CONVENT AVENUE LLC, a New York limited liability company, having an address at 451 Broome Street, Suite 5E, New York, New York 10013 (herein referred to as "Sponsor" or "Seller"), and the party named on the cover page hereto ("Purchaser").

W I T N E S S E T H :

1. The Plan. Purchaser acknowledges having received and read a copy of the Condominium Offering Plan for the Bowery 263 Condominium located at premises known as 263 Bowery, New York, New York", and all amendments thereto filed with the Department of Law of the State of New York (hereinafter collectively referred to as the "Plan" or the "Offering Plan") at least 72 hours prior to the execution of this Purchase Agreement (hereinafter referred to as the "Agreement" or the "Purchase Agreement") by Purchaser. 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 Plan shall govern.

2. Definitions. Terms used herein which are also used in the Plan shall have the same meanings herein as therein unless the context otherwise requires.

3. The Unit. Sponsor agrees to sell and convey, and Purchaser agrees to purchase, the unit ("Unit") designated on the cover page hereto, together with the applicable percentage of undivided interest in the Common Elements appurtenant thereto, upon and subject to the terms and conditions set forth herein.

4. Purchase Price.

4.1 The purchase price for the Unit ("Purchase Price") is $_____.

The Purchase Price is payable as follows:

(a) $_____(the "Contract Deposit"), due upon Purchaser's signing and submitting this Agreement, by check (subject to collection), receipt of which is hereby acknowledged; and

(b) $_____, constituting 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 be drawn on a New York bank or trust company which is a Member of the New York Clearinghouse System. All checks in payment of the Contract Deposit stated on the cover page of this Purchase Agreement shall be made payable to the direct order of "Rosenberg & Estis, P.C., Escrow Agent for "263 Bowery

Condominium" and all checks in payment of the Balance Due at Closing stated on the cover page of this Purchase Agreement shall be made payable to the direct order of "D.N.P. 336 Convent Avenue LLC" or as Sponsor may direct on notice given no less than two (2) business days prior to Closing. If any check is returned for insufficient funds or any other reason, Sponsor, at its option, may declare this Agreement void ab initio and may bring an action against Purchaser for the collection of the Contract Deposit as liquidated damages or may declare a default by Purchaser under this Agreement.

4.3 This Agreement is conditioned upon Purchaser obtaining a written mortgage loan commitment from a lending institution for a mortgage loan covering the Unit in the amount and type set forth on the cover page hereof.[2]

4.4 Within five (5) days after Sponsor's acceptance and delivery of the fully executed Purchase Agreement, Purchaser must furnish to the lending institution of Purchaser's choice the information and data which such lending institution deems necessary to process Purchaser's mortgage application and execute and deliver to such lending institution the completed mortgage application and such other documentation as the lending institution may require. Sponsor shall have the right, but not the obligation, to cancel the mortgage financing contingency if Purchaser fails to submit evidence to Sponsor that he has applied for such mortgage financing within such five (5) day time period. Purchaser shall have 45 days from the date Sponsor accepts and delivers the fully executed Purchase Agreement to obtain a written loan commitment for financing. In the event Purchaser fails to obtain a written loan commitment within such time period or in the event the loan commitment is subsequently withdrawn, Purchaser must notify Sponsor of same within five (5) days. Unless waived by Sponsor, Sponsor shall then have 60 days after receipt of such notice to secure a mortgage loan commitment for Purchaser from a lending institution of Sponsor's choice in the same amount and at the same or then prevailing interest rate. In the event no such financing is furnished, the Purchase Agreement may be declared null and void by either party by written notice to the other postmarked or delivered within five (5) days subsequent to such 60 day period or notification to Purchaser that such financing will not be furnished, whichever is sooner. In such event, the Contract Deposit shall be returned to Purchaser with interest, if any. If such notice is not sent within such five (5) day period, this financing contingency clause shall be deemed waived. No other financing contingency is permitted by this Purchase Agreement. Notwithstanding anything to the contrary contained herein, Sponsor shall have no obligation to secure a mortgage loan for Purchaser from another bank.

4.5 If Purchaser's loan commitment expires and such expiration has occurred due to Purchaser's refusal to close title or Purchaser's delay in closing title, or in the event that the terms of the loan commitment are changed or the loan commitment is revoked as a result of Purchaser's acts or omissions, or Purchaser does not request a renewal or extension of the loan commitment in writing on a timely basis, the Purchase

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[2] Sections 4.3 through 4.6 to be deleted if Purchase Agreement is not contingent upon financing.

Agreement shall remain in full force and effect and Purchaser must pay the balance of the Purchase Price at closing or be in default.

4.6 Purchaser's failure to provide information to Purchaser's lending institution promptly upon request therefor or to accept a commitment issued to Purchaser on the terms set forth herein, shall constitute an event of default for which Sponsor shall have the right to cancel this Agreement as provided in Section 13 hereof.

5. Closing of Title.

5.1 The closing of title shall take place on the date and at the time and place Sponsor shall designate to Purchaser on no less than 30 days' prior written notice to Purchaser. This notice period may be waived by Purchaser. Such date shall be no earlier than 30 days after the date on which written notice is given to Purchaser that the Plan has been declared effective (unless Purchaser and Sponsor shall agree on an earlier Closing Date). Sponsor shall have the right, from time to time, to adjourn the Closing Date on written notice to Purchaser. If adjourned, Sponsor shall fix a new date and time for the closing of title and shall give Purchaser not less than five (5) days' written notice of the new scheduled Closing Date. Purchaser shall be entitled to one reasonable adjournment of up to fifteen (15) days, on five (5) days' written notice by Purchaser to Sponsor. In the event this Agreement is executed after the First Unit Closing, the closing of title shall occur 30 days after the date of this Agreement.

5.2 The closing of title shall occur only after or concurrently with the compliance with the prerequisites as set forth under "Sponsor's Conveyance of Title to Units" in Part I of the Plan.

5.3 The term "Closing Date" or "closing of title" or words of similar import, whenever used herein, shall mean the date designated by Sponsor on which the deed to the Unit is delivered to Purchaser or any adjourned date fixed by Sponsor pursuant to subsection 5.1 hereof.

6. Delivery of the Deed and Power of Attorney to the Condominium Board.

6.1 At the closing of title, Sponsor shall deliver to Purchaser a bargain and sale deed with covenants against grantor's acts conveying title to the Unit to Purchaser. The deed shall be prepared by Sponsor substantially in the form set forth as Exhibit C in Part II of the Plan and shall be executed and acknowledged by Sponsor in form for recording.

6.2 Simultaneously with the delivery of the deed, Purchaser (i) shall cause the proceeds of any mortgage loan to be transferred to Sponsor on account of the total Purchase Price (as set forth on the cover page of this Agreement), (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 Sponsor, (iii) shall deliver the Balance Due at Closing (as set forth on the cover page of this Agreement), and (iv) shall pay into the Working Capital Fund an amount equal to two (2) month's Common Charges attributable to the Unit.

6.3 At the closing of title, Purchaser shall pay all New York State and New York City real property transfer taxes, including the filing fee for the filing of the New York City Real Property Transfer Tax Return and Sponsor and Purchaser shall duly execute and swear to a New York City Real Property Transfer Tax Return (including the required Smoke Detector Affidavit) and a New York State Combined Real Estate Transfer Tax Return and Credit Line Mortgage Certificate prepared by Sponsor.

6.4 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 substantially in the form set forth as Exhibit B in Part II of the Plan.

6.5 The deed and said power of attorney to the Condominium Board shall be delivered to the representative of the title company insuring Purchaser's title (or if no such representative is present, then to Sponsor's attorney) for recording in the New York County office of the Register of the City of New York (the "City Register's Office"). Purchaser shall pay all recording fees for the deed and the power of attorney.

7. Marketable Title. At the closing of title, Sponsor shall convey to Purchaser good and marketable title in fee simple to the Unit, free and clear of all encumbrances other than those set forth in Schedule A annexed hereto and made a part hereof and mortgages, if any, covering the Unit, which Purchaser assumes. Any encumbrance 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 to the proper party together with the recording or filing fees, or (b) Purchaser's title insurance company will 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. Closing Adjustments.

8.1 The following adjustment shall be made as of the Closing Date with respect to the Unit:

(a) real estate taxes and assessments, if any, (including water charges and sewer rates if separately assessed), from midnight preceding the date of the closing through the end of the tax period within which the Closing Date occurs, which shall be either a quarter of a year or one-half of a year provided, however, that Sponsor shall be reimbursed at closing by Purchaser for the cost of any real estate taxes which Sponsor would not otherwise pay but for an unauthorized delay in closing of title by Purchaser;

(b) Common Charges for the month in which title closes from midnight preceding the date of the closing provided, however, that Sponsor shall be reimbursed by Purchaser for the cost of any Common Charges which Sponsor would not otherwise pay but for an unauthorized delay in closing of title by Purchaser;

(c) accrued rent and any other charges pursuant to a lease, including the security deposit, if any, covering the Unit; and

(d) such other items as are customarily included in closing adjustments in the City of New York.

8.2 If the Unit has been assessed separately but the closing of title occurs before the real estate tax rate ("Tax Rate") is fixed, adjustment of taxes shall be based upon the latest Tax Rate applied to the most recent 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 the Unit has not been assessed separately as of the Closing Date for the then current tax period, the adjustment under subsection 8.1(a) hereof shall be based upon the assessment for the Property and the percentage interest in the Common Elements. 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.

8.3 Real estate taxes, assessments, if any, Common Charges, rent and security deposits, if applicable, shall be adjusted between Sponsor and Purchaser as of midnight preceding the Closing Date, provided, however, if the closing of title is delayed by Purchaser, adjustments shall be as of midnight preceding the date originally scheduled as the closing date, as such date may be adjourned by or with the consent of Sponsor.

8.4 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 his 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 percent 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 his Unit on the rescheduled Closing Date.

8.5 Any errors or omissions with respect to apportionments at closing shall be corrected and the appropriate payment shall be made promptly after discovery. The provisions of this subsection shall survive the Closing Date.

9. Closing Costs. Purchaser shall pay the following costs and expenses at the time of closing of title:

(a) if Purchaser elects to obtain fee title insurance, Purchaser will pay a premium therefor at rates to be determined by its title company;

(b) the fee to City Register for recording the Condominium Unit Deed to City Register;

(c) the fee to City Register for recording the power of attorney for the Condominium Board;

(d) New York State Real Estate Transfer Tax (including the "Mansion Tax", if applicable) and New York City Real Property Transfer Tax;

(e) the fee for filing the New York City Real Property Transfer Tax Return;

(f) the contribution to the Working Capital Fund in the amount of two months' Common Charges per Unit payable to the Condominium Board;

(g) the fees of Sponsor's attorneys as set forth in the Section of the Plan entitled "Closing Costs and Adjustments"; and

(h) if Purchaser obtains a mortgage loan, Purchaser will pay: (i) Sponsor a sum equal to the partial mortgage tax credit available pursuant to Section 339-ee(2) of the New York Real Property Law with respect to the mortgages encumbering the Unit and its appurtenant interest in the Common Elements, if available; (ii) mortgage recording tax on an amount equal to the difference between Section 339-ee(2) credit and the mortgage recording tax payable with respect to the mortgage; (iii) mortgage title insurance policy costs, and (iv) recording fee of approximately $250 for recording the mortgage.[3]

In addition, if Purchaser obtains a mortgage loan, Purchaser will be responsible for the payment of all closing costs and expenses in connection therewith in the amounts determined by such lender. These costs customarily include, among others: (i) commitment fee, (ii) origination fee, (iii) application fee, (iv) credit fee, (v) Lender's attorney's and appraisal fees, and (vi) other closing costs and expenses, if any, charged by the lending institution.

10. Monies to be Held in Trust; Payment of Purchase Price; Notice of Closing.

10.1 The Contract Deposit required pursuant to this Agreement is ten (10%) percent of the total purchase price for the Unit. All monies received by Sponsor through its agents or employees pursuant to this Purchase Agreement will be deposited with, in an interest-bearing account entitled "Rosenberg & Estis, P.C., Escrow Account" or similar name, with Valley National Bank at its branch located 275 Madison Avenue, New York, New York 10018 in accordance with Section 71-a(3) of the Lien Law. The Escrow Agent will hold and dispose of said monies in accordance with the terms of the Plan and in accordance with the escrow and trust provisions of Sections 352(h) and 352-e2(b) of the New York General Business Law and the regulations promulgated by the Attorney General. The monies received under each Purchase Agreement may not be withdrawn from the escrow account until (a) Sponsor and an authorized signatory of the law firm of

[3] Recording charges, fees and taxes are based on the rates in effect on the date of the Plan and are subject to change without notice, provided however, Sponsor shall amend the Plan in the event that there are any material changes in such fees and taxes.

agree in writing to withdraw Rosenberg & Estis, P.C., such monies, and (b) either (i) title to the Unit is transferred to Purchaser, in which event the Escrow Agent shall deliver said monies to Sponsor at closing and shall deliver to Purchaser, within a reasonable time thereafter, the interest earned on such monies, or (ii) the Purchase Agreement is cancelled, in which case such monies and the interest earned thereon, if any, shall be paid to the party entitled to receive the same as set forth in the Purchase Agreement. Except as provided by law, Contract Deposits, with accumulated interest, if any, shall remain the property of Purchaser until paid to Sponsor as provided herein.

10.2 The Contract Deposit will be retained in escrow as set forth above until: (i) Sponsor performs under the terms of the Purchase Agreement, (ii) Purchaser rescinds or defaults in performance, thereby excusing performance by Sponsor, (iii) release or discharge of Sponsor's liability to refund such Contract Deposit, (iv) transfer of title to the Unit to Purchaser, or (v) withdrawal by mutual consent of Sponsor and Purchaser.

10.3 Anything contained in this Purchase Agreement to the contrary notwithstanding, in the event of an uncured default by Purchaser in his obligations under the Purchase Agreement, no more than ten (10%) percent of the Purchase Price plus any interest earned thereon, may be retained as liquidated damages. Alternatively, and not by way of an election of remedies, Sponsor may seek the remedy of specific performance in connection with Purchase Agreements as to which there has been a default by Purchaser.

10.4 The balance of the Purchase Price will not be payable until closing of title to the Unit.

10.5 Following the declaration of effectiveness of the Plan, Purchaser will be given at least 30 days' prior written notice of the Closing Date for his Unit. The notice to Purchaser shall also specify when Common Charges will be due and payable.

11. Binding Effect of Declaration, By-Laws and Rules and Regulations. Purchaser hereby accepts and approves the Plan (including the Declaration, By-Laws and Rules and Regulations contained therein) and agrees to abide and be bound by the terms and conditions thereof.

12. Mortgage to be Released or Subordinated. No encumbrance shall arise against the Property as a result of this Agreement or any monies deposited hereunder. In furtherance and not in limitation of the provisions of the preceding sentence, Purchaser agrees that the provisions of this Agreement are and shall be subject and subordinate to the lien of any mortgages heretofore or hereafter made and any payments or expenses already made or incurred or which hereafter may be made or incurred, pursuant to the terms thereof, or incidental thereto, or to protect the security thereof, to the full extent thereof without the execution of any further legal documents by Purchaser. Sponsor shall, at its option, either satisfy such mortgages or obtain a release of the Unit and its undivided interest in the Common Elements from the lien of such mortgages on or prior to the Closing Date. The existence of any mortgage or mortgages encumbering the Property, or portions thereof, other than the Unit and its undivided interest in the Common Elements, shall not constitute an objection to title or excuse Purchaser from

completing payment of the Purchase Price or performing all of his other obligations hereunder or be the basis for any claim against, or liability of, Sponsor, provided that any such mortgage is subordinated to the Declaration or the Unit is released from the lien of such mortgage.

13. Default by Purchaser. The following shall constitute a default hereunder:

(a) Purchaser's failure to pay any portion of the Purchase Price or the contribution to the Working Capital Fund when due; or

(b) Purchaser's failure to close title on the date, hour and place specified by Sponsor pursuant to Section 5 hereof; or

(c) If Purchaser is or becomes the tenant of record of the Unit, Purchaser's failure to pay rent or to otherwise comply with Purchaser's lease or tenancy obligations; or

(d) If Purchaser is or becomes the tenant of record of the Unit and Purchaser vacates or abandons the Unit; or

(e) Purchaser's assignment of any of Purchaser's property for the benefit of creditors, or Purchaser's filing a voluntary petition in bankruptcy; or

(f) 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

(g) Purchaser's failure to perform any of Purchaser's other obligations hereunder (including, without limitation, the obligation to furnish the Selling Agent and/or any lender promptly with such information as the Selling Agent and/or such lender may require, and the obligation to accept a commitment letter on the terms set forth in this Agreement)

Any such failure shall constitute a default by Purchaser. Sponsor shall notify Purchaser in writing of such default and advise Purchaser that he has 30 days after Sponsor gives written notice to the Purchaser to cure such default.

**TIME IS OF THE ESSENCE FOR PURCHASER TO CURE ANY DEFAULT UNDER THIS AGREEMENT ON OR BEFORE THE 30TH DAY OF SUCH 30 DAY PERIOD.**

If such default is not cured within 30 days of such written notice, Sponsor has no obligation to extend the time to cure and may (but shall not be obligated to) elect to cancel the Purchase Agreement. In such event, the amounts specified in subsection 10.4 of this Agreement shall be paid over to Sponsor as and for liquidated damages and thereafter the Purchase Agreement shall become null and void. In the event that Sponsor shall elect to cancel this Agreement, Sponsor shall certify to its attorneys, Rosenberg & Estis, P.C., that title has not closed because of Purchaser's default, that a notice to cure

the default was delivered to Purchaser and Purchaser has failed to cure the default within 30 days after Sponsor gives written notice to the Purchaser and that Sponsor has elected to cancel this Purchase Agreement by reason thereof, and shall thereupon notify the holder of sums paid by Purchaser hereunder, as set forth in Section 10 hereof, to pay over to Sponsor as liquidated damages the Contract Deposit, and any interest earned thereon, and upon such payment being made each of the parties hereto shall be relieved of any further liabilities or obligations hereunder. If this Purchase Agreement shall be cancelled by Sponsor pursuant to the provisions of this Section 13, Sponsor 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. Rosenberg & Estis, P.C. may rely upon the truth and accuracy of the facts contained in Sponsor's certification and the authority of the person or persons executing the same and shall have no liability as a result of such reliance.

14. Agreement Subject to Plan Being Effective; Sponsor's Right to Cancel.

14.1 This Purchase Agreement is contingent upon Sponsor declaring the Plan effective pursuant to the terms and requirements of the Plan and shall be abandoned and deemed abandoned if it has not been declared effective within the time prescribed by the Plan. The Plan may be abandoned or withdrawn by Sponsor at any time prior to its being declared effective and before 80 percent of the Units have been purchased. Once the Plan has been declared effective, Sponsor may not abandon the Plan for any reason other than (i) a defect in title which cannot be cured without litigation or cannot be cured for less than 0.5 percent of the total offering plan, or (ii) work orders of a mortgagee or violations that cannot be cured for less than 0.5 percent of the total offering plan, or (iii) substantial damage or destruction of the Building or any portion thereof by fire or other casualty which cannot be cured for less than 0.5 percent of the total offering plan (as estimated by the insurance adjuster retained by Sponsor), or (iv) the taking of any material portion of the Property by condemnation or eminent domain. Sponsor shall have no obligation to incur any expenses or engage in litigation to cure title defects.

14.2 If the Plan is abandoned or does not become effective, this Purchase Agreement shall be deemed cancelled. If, after the Plan is declared effective, title to the Unit shall not close within the time set forth in Section 5 hereof, or in the Plan, for any reason other than Purchaser's default, then Purchaser shall have the option to cancel the Purchase Agreement and to have the Contract Deposit refunded pursuant to Section 5 hereof. Upon such repayment, neither party shall have any claim against the other and both shall be released from all obligations hereunder.

14.3 Sponsor may cancel this Purchase Agreement by forwarding its check in the full amount paid by Purchaser, together with a notice in writing, addressed to Purchaser at his address herein above set forth in the event of the occurrence of any of the following: (a) that any governmental bureau, department or subdivision thereto shall impose restrictions on the manufacture, sale, distribution and/or use of materials necessary in the construction of residential housing and such restrictions shall prevent Sponsor from obtaining such materials from its regular suppliers or from using same in the construction and/or completion of the dwellings; or (b) that Sponsor is unable to obtain materials from its usual sources due to strikes, lockouts, war, military operations

and requirements, national emergencies, acts of God or if the installation of public utilities is restricted or curtailed.

15. Equipment and Furnishings. Sponsor will provide Purchaser only with the fixtures, equipment, hardware, appliances and furnishings referred to in the Plan, which are included in the Purchase Price of the Unit or, at the option of Sponsor, with suitable substitutions of equal quality. Furnishings, equipment, appliances and decorations in any model unit or sales office that are not referred to in the Plan are excluded from this sale.

16. Acceptance of Condition of Unit; Risk of Loss.

16.1 Purchaser shall accept title (without abatement in or credit against the Purchase Price or provision for escrow) notwithstanding that construction of (a) minor details of the Unit, or the Building, or (b) other Units, or (c) portions of the Common Elements have not been completed. Purchaser will examine his Unit, if applicable, with a representative of the Sponsor during normal business hours prior to the Closing Date.

16.2 Prior to the closing of title to a Unit, no Purchaser who is not a tenant-in-occupancy on the date the Plan is accepted for filing shall be permitted to enter the Unit without the prior consent of Sponsor or the Selling Agent. Purchaser shall have the right to enter and inspect such Unit prior to the closing of title but shall be obligated to make an inspection appointment with Sponsor or the Selling Agent. Under no circumstances shall Purchaser perform or cause to be performed any work in such Unit prior to the closing of title thereto.

16.3 Purchaser represents to Sponsor that he has examined the Unit, if any, and agrees that his execution of this Purchase Agreement shall constitute acceptance of the Unit and the Building and all fixtures, machinery, equipment, furnishings, appliances, installations and other personal property contained therein "AS IS", in their present condition on the date of this Purchase Agreement, subject to reasonable use, wear, tear and natural deterioration between the date of this Purchase Agreement and the Closing Date and subject to any obligations of Sponsor under the terms of the Plan. The failure of Sponsor to complete any "punch list" type work shall not be a basis for Purchaser delaying the Closing Date provided that Sponsor agrees to complete such work promptly after Closing.

16.4 The risk of loss from fire or other casualty with respect to the Unit shall remain with Sponsor until the closing of title for the particular Unit. Notwithstanding the above, in the event that (i) Purchaser enters into actual possession of a Unit prior to the closing of title, or (ii) another person enters into actual possession of a Unit and prior to the closing of title at the direction of Purchaser, then Purchaser shall bear the risk of loss or other casualty with respect to that Unit.

17. Possession of Unit Prior to Closing. It is expressly understood and agreed that Purchaser shall in no event take possession of the Unit, prior to the time of delivery of the deed and full compliance by Purchaser with the terms of this Agreement, and should Purchaser violate this provision, Purchaser consents that Seller shall have the right to

remove him from the Unit as a squatter and intruder by summary proceedings. Upon Purchaser's unauthorized possession, Purchaser shall be deemed in default hereunder at the option of Seller, and if Seller so elects, Seller may cancel this Agreement and the amount deposited hereunder shall belong to 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.

18. No Representations. Purchaser acknowledges that he has not relied upon any architect's plans, sales plans, selling brochures, advertisements, representations, warranties, statements or estimates of any nature whatsoever, whether written or oral, made by Sponsor, Selling Agent or otherwise, including, but not limited to, any relating to the description or physical condition of the Property, Building, or the size or dimensions of the Unit or the rooms therein contained or any other physical characteristics thereof, the services to be provided to 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, or any other data, except as specifically represented herein and/or in the Plan, Purchaser having relied on his own examination and investigation thereof. No person has been authorized to make any representations on behalf of Sponsor except as specifically set forth herein or in the Plan. No oral representations or statements shall be considered a part of this Agreement. Purchaser agrees (a) to purchase the Unit, without offset or any claims against, or liability of, Sponsor, whether or not any layout or dimension of the Unit or any part thereof, or of the Common Elements, as shown on the Floor Plans, is accurate or correct, provided the layouts and dimensions conform substantially to such Floor Plan and (b) that Purchaser shall not be relieved of any of his obligations hereunder by reason of any minor inaccuracy or error, or due to minor defects in workmanship. The provisions of this Section 18 shall survive the closing of title.

19. Broker. Purchaser represents to Sponsor that Douglas Elliman is the only broker or sales agent with whom Purchaser has dealt in connection with this transaction and Sponsor agrees to pay the commission earned by said broker, if any, pursuant to separate agreement. Purchaser agrees that, should any claim be made against Sponsor for commissions by any broker other than the aforementioned broker, on account of any acts of Purchaser or Purchaser's representatives, Purchaser will indemnify and hold free and harmless Sponsor from and against any and all liabilities and expenses in connection therewith, including reasonable legal fees. The provisions of this Section 19 shall survive the delivery of the deed.

20. Agreement May Not Be Assigned. Purchaser shall not have the right to assign this Agreement without the prior written consent of Sponsor which may be withheld in Seller's sole and absolute discretion.

21. Binding Effect. This Agreement shall not be binding on Purchaser or Sponsor until a fully executed copy hereof has been furnished to Purchaser. If this Agreement is not accepted within 30 days from the date hereof by furnishing to Purchaser a fully executed copy, this Agreement shall be deemed to have been rejected and cancelled and

the deposit paid on the execution hereof, with interest accrued thereon, if any, shall be returned promptly to Purchaser.

22. Notices. Any notice, request or other communication hereunder or under the Plan shall be in writing and sent, postage prepaid, by registered or certified mail, to Purchaser at the address given at the beginning of this Agreement, and to Sponsor at the address given at the beginning of this Agreement, with a copy to Rosenberg & Estis, P.C., 733 Third Avenue, New York, New York 10017, Attention: Lisa R. Radetsky, Esq., or to such other address as either party may hereafter designate to the other in writing. Except as otherwise expressly provided herein, all such notices and communications shall be deemed to have been received on the date of personal delivery or on the fifth day after mailing.

23. 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.

24. Liability of Sponsor. Sponsor shall not have any liability to Purchaser with respect to any of Sponsor's obligations under this Agreement or the Plan or otherwise in excess of the net proceeds paid to Sponsor either as a Contract Deposit by Purchaser hereunder if the transaction does not close or paid to Sponsor on the sale of the Unit to Purchaser after payment of, or reserve for, any liabilities of Sponsor arising out of the consummation of the transactions contemplated in the Plan, subject, however, to the provisions of the New York State General Obligations Law, the General Business Law and 13 NYCRR-Part 20.

25. Right of Recision. Purchasers who have not had an opportunity to review the Plan and any filed amendments for at least three (3) days prior to their executing a Purchase Agreement shall be given seven (7) days, after delivering an executed Purchase Agreement, together with the required Contract Deposit, to rescind the Purchase Agreement and have the full Contract Deposit refunded promptly. Such recision must be in writing, addressed and sent to Sponsor in care of and at the address of the Selling Agent, and be postmarked or hand delivered by midnight of the seventh day subsequent to Purchaser's executing and delivering such Purchase Agreement. Purchasers who execute a Purchase Agreement after having had an opportunity to review the Plan and any filed amendments for not less than three (3) days prior to their executing a Purchase Agreement shall not be permitted the aforementioned time period to rescind for any reason.

26. 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.

27. Prohibition Against Advertising. Prior to the closing of title to the Unit, Purchaser shall not list the Unit for resale or rental with any broker or to advertise or

offer, promote, or publicize the availability of the Unit for sale or lease, without Sponsor's prior express written consent.

28. 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.

29. Strict Compliance. Any failure by Sponsor to insist upon the strict performance by Purchaser of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions hereof, and Sponsor, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Purchaser of any and all of the provisions of this Agreement to be performed by Purchaser.

30. Governing Law. The provisions of this Agreement shall be governed by the laws of the State of New York.

31. 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. 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.

32. Entire Agreement. This Agreement supercedes any and all understandings and agreements between the parties and constitutes the entire agreement between them.

33. 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 otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of this Agreement.

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

35. Successors and Assigns. Subject to the provisions of Section 20 hereof, the provisions of this Agreement shall bind and inure to the benefit of Purchaser and Purchaser's heirs, legal representatives, successors and permitted assigns and shall bind and inure to the benefit of Sponsor and its successors and assigns.

36. 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.

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

SPONSOR

D.N.P. 336 CONVENT AVENUE LLC

By:_____
Name:
Title:

PURCHASER

_____

_____

## SCHEDULE A

### Encumbrances

1. Zoning and building regulations, resolutions, restrictions and ordinances of municipal authorities having jurisdiction and any amendments thereto, now or hereafter adopted, provided same will not be violated by the contemplated structures and use.

2. State of facts shown in an updated and accurate survey of the land provided such survey does not render title unmarketable.

3. The Declaration, the By-Laws (and the Rules and Regulations made thereunder), the power of attorney from Purchaser to the Condominium Board and maps and the Floor Plans, all as may be amended from time to time, to be recorded or filed in the City Register's Office.

4. Consents by Sponsor or any former owner of the Property 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 and repair of all utility lines, cable lines, wires, terminal boxes, mains, pipes, cables, conduits, poles and other equipment and facilities on, under and across the Property.

6. Revocability of the right to maintain street vaults and other areas, under the sidewalks and streets.

7. All easements created by the Declaration.

8. Encroachments of stoops, areas, cellar steps or doors, trim, copings, retaining walls, bay windows, ledges, window sills, balconies, sidewalk elevators, fences, fire escapes, vaults, chutes, fuel oil lines, drainage pipes, sewerage pipes, air conditioning units, canopies, cornices, foundations, footings and similar projections, retaining walls, if any, on, over, or under the Property or the streets or sidewalks abutting the Property and the rights of governmental authorities, and adjoining property owners to require the removal of any such projections, and variations between record lines of the Property and fences, walls, retaining walls and the like, if any.

9. Leases and service, maintenance and license agreements, if any, in effect on the date of the First Unit Closing.

10. Easements in favor of adjoining Units and in favor of the Common Elements for the continuance of all encroachments of such adjoining Units, Limited Common Elements, or Common Elements on the Unit, existing as a result of construction of the Building, or construction of the Units, or which may have come or may

come into existence as a result of settling or shifting of the Building, or as a result of repair or restoration of the Building or any portion thereof, or of any adjoining Unit or of the Common Elements made by or with the consent of the Board of Managers after damage or destruction by fire or other casualty or after a taking in condemnation or eminent domain proceedings, or by reason of any alteration or repair to the Common Elements, made by or with the consent of the Board of Managers, so that any such encroachments may remain so long as the Building shall stand. Each Unit shall be subject to the aforesaid easements in favor of all other Units. In addition, each Unit shall have, and shall be subject to, easements of subjacent support and necessity in favor of such Unit or in favor of other Units, the Limited Common Elements and the Common Elements.

11. All covenants, restrictions, reservations, agreements and easements of record which are still in force and effect on the date of the First Unit Closing, provided that they are not violated by and do not prevent the use of any Unit at the Property for dwelling purposes, nor prevent the existence of the promised structure.

12. The lien of any unpaid Common Charge, real estate tax, water charge or sewer rent, which shall be adjusted at the closing of title.

13. The lien of any unpaid assessment payable in installments (other than assessments levied by the Condominium Board), except that Sponsor shall pay all such assessments due prior to the Closing Date and Purchaser shall pay all assessments due from and after such date.

14. Any other declaration or other instrument affecting the Property which Sponsor deems necessary or appropriate to comply with any law, ordinance, regulations, 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. Sponsor shall file an amendment to the Plan to reflect any such other declaration or other instrument affecting the Property which is not already disclosed herein.

15. Standard printed exceptions contained in the form of title insurance policy then issued by the title insurance company insuring Purchaser's title to his or her Unit and appurtenant interests.

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

17. Any other encumbrance against the Property other than a mortgage or other lien for the payment of money, which does not prevent the use of the Unit for dwelling purposes, or which does not render title unmarketable, subject to the Permitted

Encumbrances, or with respect to which a title insurance company is willing to insure against collection out of the Unit.

18. The terms, provisions and conditions of the Plan.

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**EXHIBIT B**

**UNIT OWNER'S POWER OF ATTORNEY**

_____

_____

**TO**

**BOWERY 263 CONDOMINIUM**

_____

DATED: _____

| | |
|---|---|
| Section: | |
| Block: | 427 |
| Lots: | |
| County: | New York |
| Street Address: | 263 Bowery<br>New York, New York |

Recorded at Request of
and Return by Mail to:

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# POWER OF ATTORNEY

Terms used in this Power of Attorney which are used (a) in the declaration (the "Declaration") submitted by D.N.P. 336 Convent Avenue LLC ("Declarant") establishing a plan for condominium ownership of the premises known as Bowery 263 Condominium and by the street a number 263 Bowery, New York, New York, under Article 9-B of the Real Property Law of the State of New York, dated_____, and recorded in the New York County Office of the Register of The City of New York (the "City Register's Office") on _____ as CRFN No._____, or (b) in the by-laws of 263 Bowery Condominium (the "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, _____, the owner(s) of the Condominium Unit (the "Unit") in Bowery 263 Condominium which is designated and described as Residential Unit No. _____ in the Declaration and also designated as Tax Lot ___, in Block 427 of the County of New York on the Tax Map of the Real Property Assessment Department of The City of New York and on the Floor Plans, does 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 pf substitution, in their own names, as members of the Condominium Board or in the name of their designee (corporate or otherwise), on behalf of all Unit Owners, in accordance with such 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 Unit Owners, to acquire or lease any Unit, together with its Appurtenant Interests, from any Unit Owners desiring to sell, convey, transfer, assign, surrender or lease the same, (b) to acquire any Unit, together with its Appurtenant Interests, from any Owner who elects to surrender the same pursuant to the By-Laws, and (c) following due authorization by a Majority of Unit Owners, to acquire any Unit, together with its Appurtenant Interests, which become 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 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 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) upon determination by the Condominium Board, 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 Common Elements which the Condominium Board deems necessary or appropriate to comply with any ordinance, regulation, zoning resolution ore requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or nay other public authority, applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Common Elements (b) any consent, covenant, restriction, easement or declaration, or any

amendment thereto, affecting the Common Elements which the Condominium Board deems necessary and 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 hereby nominate, constitute and appoint the Declarant, true and lawful attorney-in-fact for the undersigned, coupled with an interest, with power of substitution, on behalf of all Unit Owners, in accordance with such Unit Owners' respective interests in the Common Elements, subject to the provisions of the By-Laws then in effect, to execute an amendment to the Declaration, By-Laws and the Rules and Regulations of the Condominium or any permits, applications or documents required to undertake, perform or complete work to the Unsold Units or Common Elements by Declarant or obtain an amended certificate of occupancy therefor, or any of said documents when such amendment (i) shall be required to reflect any changes in Unsold, Professional Units and/or the reapportionment of the Common Interests of the aforesaid Units resulting therefrom made by Declarant in accordance with the Declaration or (ii) shall be required by an (x) Institutional Lender designated by Declarant to make a mortgage loan secured by a mortgage on any Unit, (y) any governmental agency having regulatory jurisdiction over the Condominium, or (z) any title insurance company selected by Declarant to insure title to any Unit, provided, however, that any amendment made pursuant to the terms of this paragraph shall not (i) change the Common Interest of the Undersigned's Unit, (ii) require a material or physical modification of the undersigned's Unit, or (iii) adversely affect the priority or validity of the lien of any purchase money 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 the subdivision (iii) of this paragraph) shall consent thereto by joining in the execution of such amendment.

This Power of Attorney shall be irrevocable.

**IN WITNESS WHEREOF**, the undersigned has executed this Unit Owner's Power of Attorney as of the ____ day of_____, 2010.

**UNIT OWNER:**

_____

_____

STATE OF NEW YORK )
) ss:
COUNTY OF NEW YORK )

On the ___ day of _____in the year 2010 before me, the undersigned, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK )
) ss:
COUNTY OF NEW YORK )

On the ___ day of _____in the year 2010 before me, the undersigned, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

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# EXHIBIT C

## BOWERY 263 CONDOMINIUM

## UNIT DEED

## D.N.P. 336 CONVENT AVENUE LLC

## TO

---

Section:
Block: 427
Lot:
New York County

**Record and Return to:**

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# RESIDENTIAL UNIT DEED

THIS INDENTURE, made the ____day of _____, 2010, between **D.N.P. 336 CONVENT AVENUE LLC**, a New York limited liability company, having an address at 451 Broome Street, Suite 5E, New York, New York 10013 (the "Grantor") and_____, having an address at_____ (the "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 Grantee, the heirs or successors and assigns of the Grantee forever:

The Condominium Unit ___ (the "**Unit**") in the premises known as Bowery 263 Condominium and by the street number 263 Bowery, Borough of Manhattan, County, City and State of New York, said Unit being designated and described as Residential Unit No. ___ in the Declaration ("**Declaration**") establishing a plan for condominium ownership of said premises under Article 9-B of the Real Property Law of the State of New York (the "**Condominium Act**"), dated _____, 2010 and recorded in the New York County Office of the Register of The City of New York (the "**City Register's Office**") on _____, 2010 as CRFN_____, and also designated as Tax Lot ____ in Block 427 of the County of New York on the Tax Map of the Real Property Assessment Department of The City of New York and on the Floor Plans of said building, certified by Karl Fischer, Architect, on _____, and filed in the Real Property Assessment Department of the City of New York on _____ as Condominium Plan No. ____ also filed in the City Register's Office on _____, as CRFN_____..

Together with an undivided_____ % percentage interest in the Common Elements.

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, all of which shall constitute covenants running with the Land and shall bind any person having at any time any interest or estate in (any or) the Unit, as though recited and stipulated at length herein.

Subject also to such other liens, agreements, covenants, easements, restrictions and other matters as pertain to the Unit and/or to the Property as more particularly described in Schedule A attached hereto and made a part hereof.

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

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

Except as otherwise specifically permitted by the Condominium Board or provided in the Declaration of the By-Laws, the Residential Unit is intended for residential use only.

The Grantor covenants that the Grantor has not done or suffered anything whereby the Unit has (have) been encumbered in any way whatever, except as aforesaid.

The Grantor, in compliance with Section 13 of the Lien Law of the State of New York, covenants that the Grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund for the purpose of paying the cost of the 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.

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

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

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

Grantor: **D.N.P. 336 CONVENT AVENUE LLC**

By: _____
Name:
Title:

Grantee:

By: _____
Name:
Title:

STATE OF NEW YORK )
) ss.:
COUNTY OF NEW YORK )

On the _____ day of _____ in the year 2010 before me, the undersigned, personally appeared Eyal Devidas, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK )
) ss.:
COUNTY OF NEW YORK )

On the _____ day of _____in the year 2010 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

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## SCHEDULE A

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York known and designated as Lot 10 in Block 427, Section 2 on the Tax Map of the City of New York for the Borough of Manhattan, as said Map was on May 1, 1998.

Said lot being bounded and described as follows:

BEGINNING at a point on the easterly side of Bowery where the same is intersected by the division line between the northerly face of the northerly independent wall of the three-story masonry building on the hereby described premises (No. 263 Bowery) and the southerly face of the southerly independent wall of the two-story masonry building on the premises adjoining on the hereby described premises on the north (No. 265 Bowery), said point being distant 181 feet 9 inches southerly, as measured along the easterly side of Bowery, from the corner formed by the intersection of the southerly side of East Houston Street with the said easterly side of Bowery:

RUNNING THENCE from said point of beginning easterly along the division line between the above mentioned walls, along a line forming an angle of 84 degrees 57 minutes 38 seconds on the southerly side with the easterly side of Bowery, a distance of 101 feet 6 5/8 inches;

THENCE Southerly along a line forming an interior angle of 96 degrees 29 minutes 09 seconds, a distance of 23 feet 3 3/4 inches;

THENCE continuing southerly along a line forming an interior angle of 178 degrees 05 minutes 49 seconds, a distance of 0 feet 7 7/8 inches;

THENCE Westerly along a line forming an interior angle of 84 degrees 40 minutes 34 inches, said line being along the division line between the southerly face of the southerly independent wall of the three-story masonry building, on the hereby described premises (No. 263 Bowery) and the northerly face of the northerly independent wall of the one and three-story masonry building on the premises adjoining the hereby described premises on the south (No. 261 Bowery) a distance of 102 feet 1 3/4 inches to the easterly side of Bowery;

THENCE Northerly along the easterly side of Bowery which forms an interior angle of 95 degree 00 minutes 14 seconds with the last described course, a distance of 24 feet 3 3/4 inches to the point and place of BEGINNING.

TOGETHER with the benefits of the Agreement of Negative Easement recorded in Reel 2899 Page 2050.

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## SCHEDULE B

### Encumbrances

1. Zoning and building regulations, resolutions, restrictions and ordinances of municipal authorities having jurisdiction and any amendments thereto, now or hereafter adopted, provided same will not be violated by the contemplated structures and use.

2. Deed dated 6/30/1998, recorded 8/14/1998, in Reel 2670, Page 2480.

3. Agreement of Negative Easement dated 8/5/1998, recorded 6/23/1999, in Reel 2899, Page 2050.

4. State of facts shown in an updated and accurate survey of the land provided such survey does not render title unmarketable.

5. The Declaration, the By-Laws (and the Rules and Regulations made thereunder), the power of attorney from Purchaser to the Condominium Board and maps and the Floor Plans, all as may be amended from time to time, to be recorded or filed in the City Register's Office.

6. Any easement or right of use in favor of any utility company for construction, use, maintenance and repair of all utility lines, cable lines, wires, terminal boxes, mains, pipes, cables, conduits, poles and other equipment and facilities on, under and across the Property.

7. Revocability of the right to maintain street vaults and other areas, under the sidewalks and streets.

8. All easements created by the Declaration.

9. Encroachments of stoops, areas, cellar steps or doors, trim, copings, retaining walls, bay windows, ledges, window sills, balconies, sidewalk elevators, fences, fire escapes, vaults, chutes, fuel oil lines, drainage pipes, sewerage pipes, air conditioning units, canopies, cornices, foundations, footings and similar projections, retaining walls, if any, on, over, or under the Property or the streets or sidewalks abutting the Property and the rights of governmental authorities, and adjoining property owners to require the removal of any such projections, and variations between record lines of the Property and fences, walls, retaining walls and the like, if any.

10. Leases and service, maintenance and license agreements, if any, in effect on the date of the First Unit Closing.

11. Easements in favor of adjoining Units and in favor of the Common Elements for the continuance of all encroachments of such adjoining Units, Limited Common Elements, or Common Elements on the Unit, existing as a result of construction of the Building, or construction of the Units, or which may have come or may come into existence as a result of settling or shifting of the Building, or as a result of repair or restoration of the Building or any portion thereof, or of any adjoining Unit or of the Common Elements made by or with the consent of the Board of Managers

after damage or destruction by fire or other casualty or after a taking in condemnation or eminent domain proceedings, or by reason of any alteration or repair to the Common Elements, made by or with the consent of the Board of Managers, so that any such encroachments may remain so long as the Building shall stand. Each Unit shall be subject to the aforesaid easements in favor of all other Units. In addition, each Unit shall have, and shall be subject to, easements of subjacent support and necessity in favor of such Unit or in favor of other Units, the Limited Common Elements and the Common Elements.

12. Beams and beam rights and party walls and party wall agreements, if any.

13. Any variations between tax lot lines and lines of record title.

14. All covenants, restrictions, reservations, agreements and easements of record which are still in force and effect on the date of the First Unit Closing, provided that they are not violated by and do not prevent the use of any Unit at the Property for dwelling purposes, nor prevent the existence of the promised structure.

15. The lien of any unpaid Common Charge, real estate tax, water charge or sewer rent, which shall be adjusted at the closing of title.

16. The lien of any unpaid assessment payable in installments (other than assessments levied by the Condominium Board), except that Sponsor shall pay all such assessments due prior to the Closing Date and Purchaser shall pay all assessments due from and after such date.

17. Any other declaration or other instrument affecting the Property which Sponsor deems necessary or appropriate to comply with any law, ordinance, regulations, 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. Sponsor shall file an amendment to the Plan to reflect any such other declaration or other instrument affecting the Property which is not already disclosed herein.

18. Standard printed exceptions contained in the form of title insurance policy then issued by the title insurance company insuring Purchaser's title to his or her Unit and appurtenant interests.

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

20. Any other encumbrance against the Property other than a mortgage or other lien for the payment of money, which does not prevent the use of the Unit for dwelling purposes, or which does not render title unmarketable, subject to the Permitted Encumbrances, or with respect to which a title insurance company is willing to insure against collection out of the Unit.

21. The terms, provisions and conditions of the Plan.

# EXHIBIT D

# ARCHITECT'S REPORT ON DESCRIPTION OF PROPERTY AND BUILDING CONDITION

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263 Bowery
CONDOMINIUM APARTMENT BUILDING
New York, NY 10002
September 22, 2010

General: The property described herein will contain a 7 story mixed-use residential and commercial building with a recreational space located on the roof.

A. Location of Property:

1. Address: 263 Bowery
New York, NY 10002

2. Block No.: 427
Lot No.: 10

3. Zoning District: C6-1, R7 equivalent

Zoning Map: 12C

4. Permissible Uses: Use groups permitted in R7 districts:
Residential: U.G. 1 and 2
Community facility: U.G. 3 and 4
Retail and Commercial U.G. 6

5. Quality Housing Regulations:
Quality Housing regulations are applicable to residential developments. Quality Housing regulations are defined in Article 2, Chapter 8 of the New York City Zoning Resolution. According to NYC Zoning Resolution, Quality Housing Program is 'established to foster the provision of multi-family housing that: (a) is compatible with existing neighborhood scale and character; (b) provides on-site recreation space to meet the needs of its occupants; and (c) is designed to promote the security and safety of the residents.'

6. Landmark Status: N/A

7. Energy Conservation Construction Code Regulation:
To the best of my knowledge, belief and professional judgment, these plans and specification are in compliance with Chapter 1 of the 2007 New York State Energy Conservation Construction Code.

B. Status of Construction

1. Construction schedule:

The Building is currently in the middle stages of construction pursuant to permit 104538528-01-AL, renewed September 26, 2009. The projected date of substantial completion is on or about October 10, 2010, 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 Sponsor has no control.

2. Class of Construction:

The Building will be classified as Class IC (Non-Combustible) and will conform to all applicable regulations of the Building Code of the City of New York ("Building Code"). The building plans have been filed with the New York City Department of Buildings, job 104538528, BIN#1078068, and approved on January 27, 2009.

3. 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. The Sponsor makes no representation as to the exact time of the delivery of the Certificate of Occupancy. The Sponsor shall obtain a Temporary Certificate of Occupancy prior to the closing of any unit. The Sponsor states that he will obtain a Permanent Certificate of Occupancy within 2 years of the first unit closing.

C. Site

1. Site Area:

The total site area is approximately 2,460 square feet.

2. Building:

There will be one building. The building is a 7 stories plus a basement and a cellar; containing residential and commercial uses.

The cellar will have commercial storage areas, residential storage areas, mechanical and meter rooms. The basement will contain a commercial unit and the residential lobby. Floors 1 and 2 will contain commercial units; Floors 3 thru 7 will contain residential units. There will be recreation space on the roof.

The Commercial Unit will consist of space located on the first and second floors and in the basement. Subject to certain limitations described in the Declaration and the Plan, the Commercial Unit may be used by the Commercial Unit Owner for any lawful purpose. The Commercial Unit will continue to be owned by Sponsor and is not currently being offered for sale under this Plan. As of the date hereof, Sponsor has not yet entered into a lease agreement for the Commercial Unit. Fire egress from the Commercial Unit is through the stairwell used by the Residential Unit Owners and accordingly the tenants of the Commercial Unit will have access to such stairwell in the event of an emergency.

The commercial space gross square footage to be as follows:

Basement – 1769 SF & Storage (in cellar): 633 SF
1st floor – 2059 SF
2nd floor – 1686 SF & Terrace: 354 SF

3. Streets:

The building site has a 24'-3 ¾" frontage on Bowery, accommodating the main residential entrance and entrance to a commercial space.

i) The street adjacent to the site is paved with asphalt topping and is in good condition.

ii) The existing curbs are in concrete and will be repaired as needed.

iii) The street is presently pitched to drain via catch basins into the New York City storm water drainage system.

iv) The street lighting is provided by the City of New York.

v) The building conforms to local fire district and municipal codes.

4. Sidewalk:

i) The existing sidewalk on Bowery will be repaired and re-built, as needed, and will be delivered in good condition.

ii) The existing concrete curbs will be repaired as needed.

iii) The sidewalks pitch to the street.

D. Utilities

(1) Water supply and combined sewer servicing the building units will be provided by the City of New York.
(2) Water will be master metered. Electricity service will be provided by Consolidated Edison.
(3) Electricity will be supplied and individually metered for each residential unit.
(4) Gas will be supplied by Consolidated Edison energy and metered by two gas meters: one for space and domestic water heating, and the other for cooking.
(5) Telephone service will be provided by Verizon communications.
(6) The Common Elements essentially consist of all parts of the Property other than the Units themselves, are owned by all of the Unit Owners as tenants in common, each having an undivided interest therein. Accordingly, the Unit Owners will be responsible to pay for all costs related to the Common Areas.

E. Sub-soil Conditions

1. Building to have a concrete mat type foundation bearing on the subsurface soil. The mat is constructed of concrete with reinforced steel bars. The footings are supported by one and one/half ton per square foot capacity soil.

2. A portion of the existing cellar side and rear brick walls between the concrete piers that support the structure were to remain and integrated into the building foundation. The

existing and new walls are supported by the foundation mat. The new cellar walls are constructed of reinforced concrete.

3. The property is located on FEMA MAP #3604970201. The property is not located in a flood zone. The ground water was found to be between 23 and 25 feet below the sidewalk level during the subsurface investigation performed by Tectonics per the report dated February 23, 2009.

4. The ground water level can fluctuate, but given the observed depth there does not appear to be any danger from flooding due to ground water.

F. Landscape & Enclosure

| | | | |
|---|---|---|---|
| 1. | Grass cover | - | None |
| 2. | Plantings | - | Per quality housing, planting is required between building wall and street line; as 263 Bowery is located on the street line this provision is not applicable. |
| 3. | Trees | - | Along Bowery one tree is required by the New York City Zoning Ordinance for Quality Housing. Trees will be of a species approved by the Park and Recreational Department of Transportation. |
| 4. | Fencing | - | Privacy screens shall be constructed of cedar and metal frame, +/- 4'-0" high above finish pavers to divide the residential roof terraces. |
| 5. | Gates | - | none |
| 6. | Retaining Wall | - | none |
| 7. | Display Pools & Fountains | - | None |
| 8. | Open Recreation Space & sitting areas | - | Units 1 shall have access to a private roof terrace. Unit 2 and Unit 3 shall have access to balconies. Unit PH shall have access to three roof terraces and one balcony.<br><br>All residential units shall have access to the common outdoor recreation space on the roof. |

G. Building Size

1. The height of the main roof of the building will be of approximate 74'-9" above the average street elevation on Bowery.

2. Crawl spaces: None.

3. There are 7 floors plus a basement, cellar and roof. The following floor to floor dimensions are approximate:

| | |
|---|---|
| Cellar level to Basement floor: | 10'-7" |
| Basement floor to First floor: | 11'-4" |
| First floor to Second floor: | 9'-4" |
| Second floor to Third floor: | 9'-4" |
| Third floor to Fourth floor: | 9'-4" |
| Fourth floor to Fifth floor: | 9'-4" |
| Fifth floor to Sixth floor: | 9'-4" |

4. Roof structure height from main roof to top of stair bulkhead slab is approximately 10'-0"

5. Parapet: Height from top of roof finish to top of parapet coping will be a minimum of 3'-6"

6. The sponsor shall not construct any additional units or phases after completion of the structure, as per DOB approved plans.

H. Occupancy

1. There will be 4 Class-A residential units in the project. All units shall be compliant with Local Law 58.

2. The number of units is in compliance with the requirements of the New York City Zoning Resolution ZR 23-22.

I. Structural System

1. General:

i) The building is classified as an alteration of the original structure; it is a predominantly new construction, incorporating elements of the original structure; it is a 7-story building plus basement and cellar. The structural system consists of steel columns supporting steel beams which in turn support concrete and metal deck floors.

ii) The new foundation walls will consist of reinforced concrete supported on a reinforced concrete mat bearing on one and one/half ton per square foot capacity soil. The lateral resisting system of the building is a moment resisting frame and light gage steel braced wall panels. Local Law 11/1998 is applicable as it applies to buildings greater than 6 stories.

2. Building Envelope:

i) Walls:

a) The exterior wall construction is a non-drainable EIFS systems on 2 layer 5/8" exterior gypsum board on 6" heavy gauge studs with R-15 batt insulation between studs with integral vapor barrier on the winter warm side (toward interior of building) sealed with foil tape at studs and all seams, covered by 2 layer ¾" gypsum board. The batt insulation is R-15 and is in compliance with the Energy Conservation Code. The street wall facade material will be stone (instead of EIFS) with the same backup support and insulation system. There will be steel ledge to support the stone façade and the stone façade will be tied to the wall with metal clips.

b) Walls abutting existing adjacent buildings shall consist of 6" CMU walls furred out on the interior with 3-1/2" or 6" metal studs with R-15 batt insulation between studs with integral vapor barrier on the winter warm side (toward interior of building) sealed with foil tape at studs and all seams, covered by a layer of gypsum board.

c) Lot line walls and walls abutting adjacent building have 2-hour rated wall assemblies as per UL Design No.U425 exterior wall.

ii) Windows:

a) The windows at all floors will be of new aluminum frame thermal glass with a standard one year manufacturer's warranty on labor and materials. Pursuant to Quality Housing Regulations, windows shall have double glazing. Windows shall provide light and air pursuant to the Building code. Windows will be fixed, casement or sliding windows without screens. The warranty period will start from the end date of completion of the window installation. Window guards will be installed. Window sills and sashes will be aluminum.

b) Lot-line windows shall be provided along the east and west property line; lot line windows shall not be counted toward legal light and air. Legal light and air are provided by the front and rear windows of each unit. Each Lot-line window shall comply with the maximum allowable area, as defined by the Building Code of New York City, has an automatic sprinkler head, and shall be subject to all requirements as defined by the Owner's "Lot-line Window Declaration". All residential units have lot line windows.

c) Lot line windows are subject to adjacent construction. As defined by the Owners "Lot Line Window Declaration", in the event of adjacent construction, effected windows are to be closed by building owner with solid construction meeting the fire resistance rating requirements of the wall.

d) Windows will be custom made aluminum windows by The Legacy Construction Group or equal.

iii) Landmarks status: None

Parapets and Copings:

i) The roofs and terrace parapets will be 8" solid masonry units reinforced with #5 epoxy coated rebar at 16" O.C. embedded into the concrete slab or tempered glass anchored into the parapet wall. The parapet coping shall be 18 gauge aluminum coping piece. The exterior face of the parapet walls will be stucco or stone. The interior face of the parapet walls will be stucco.

2. Flashing:

i) Exposed exterior flashing for the building shall be stainless steel or aluminum.

4. Chimney and Caps:

i) Chimney: Stainless steel metalbestos piping.

5. Balconies and Terraces:

i) Deck Finish: 2'-0" x 2'-0" cast concrete pavers on all terraces. Broom-finish concrete at balconies.

ii) Railings: vertical aluminum bar railings at 4"spacing at balconies. All metal used in railings is cleaned, primed and painted for corrosion resistance. Parapets or glass railings at terraces. Balconies and terraces are pitched to drains or scuppers, ultimately leading water to the buildings drainage system.

iii) Copings: 18 gauge aluminum copings at all parapets

iv) Doors to balconies and terraces: Aluminum and glass doors with thermal glass.

6. Exterior Entrance

i) Exterior Doors and frames: The entrance to the Residential Lobby on Bowery will be aluminum and glass doors with thermal tempered glass. Electric lock located in the shoe of the door, opened by a proximity key device.

ii) Vestibules Doors and Frames: none

iii) Exterior Stairs: none

iv) Mail Boxes: Mail boxes are located in the residential lobby at the entry floor and will be front loading brushed aluminum finished metal or equivalent and U.S. Government approved.

v) Lighting: Wall-mounted exterior lighting will be provided at the building exterior entrance and private terraces and at the roof levels. Recessed lighting will be provided in the lobby and public corridors.

7. Service Entrances: none

8. Roof and Roof Structures

i) Roof Type:

a) Roofing Material: The roofing systems will be a built-up roofing system, consisting of three plies bitumen membrane over 5/8" protection board, over tampered insulation.

b) Roof Insulation: Insulation will be a tapered polyisocyanurate overlaid with a 5/8" high density fiberboard. All layers will be installed over a concrete deck, with a minimum "R" value of 18.77 as required to meet the NYS Energy Codes.

c) Surface: The surface will consist of Hanover 3 ply bitumen membrane.

d) Bond or Warranty: The roofing system shall have a ten-year manufacturers warranty.

e) Flashing Material: There will be stainless steel or aluminum counter flashing and membrane base flashing as required and will be compatible with the roofing manufacturer's recommendations.

ii) Roof Drains:

a) Material and Type: Cast iron drains with flat type grates on terraces.

b) Scuppers and Leaders: Galvanized steel scupper and leaders at roof bulkheads.

ii) Skylights: There are two stairways exiting to the roof through the bulkhead. Of these, one is fitted with a skylight of 20 SF of plain glass in a steel frame with wire screen over and under, and 1 SF of operable louvers. The other stairway exiting to the roof has a window: Pursuant to the Multiple Dwelling law, in lieu of a skylight with ventilators, an interior public stairway shall be provided with a window, a minimum of twenty square feet in area with fixed louvers, having a minimum open area of 144 square inches, installed in or adjacent to the window.

iii) Fire Escapes: None

iv) Elevator and Stair Bulkhead:

a) The bulkhead consists of combined stair and elevator bulkheads. The exterior walls will be finished with stucco over a cold formed metal frame backup system.

b) The height of the elevator measures 15'-0" from the top main building roof slab to the top of the elevator bulkhead roof slab. The height of the stair bulkhead from the top of the main building roof slab is 9'-8".

vi) Metal Work at Roof Levels

a) Exterior Metal Stairs: None

b) Vertical Ladders: An exterior vertical ladder shall be provided to gain access to the upper roof level of the stair and elevator bulkhead.

c) Railings: Aluminum pipe railings at balconies; at terraces and the roof level there will be tempered glass railings or parapets shall replace railings. Railings/parapets are provided to a height of 3'-6" above finished levels in all locations.

d) Dunnage: none

d) Hatches to Roof: None

9. Yards: none

10. Interior Public Stairs:

i) Number of Stairs: There are two stair cores in the building, in a scissor stair configuration, which will extend from the Cellar Level to the Roof level. Fire stairs provide egress from the cellar, upper floors and roofs. There is one additional stair extending from the cellar to the basement level (street level) providing egress from the basement.

ii) Enclosure: The stairs will be enclosed with a min. 2-hour rated 6" metal studs and fire-rated gypsum board wall construction. All stair walls will be painted.

iii) Stair Construction: All the stairs will be steel stairs with concrete.

iv) Stringers: All stringers will be closed.

v) Treads & Risers: non-slip concrete treads and platforms.

vi) Hand Rails: There shall be a steel pipe handrail in each stair in conformance to the NYC Building Code.

viii) Balustrade: Steel bars or pipe rail as required.

11. Interior Duplex Unit Stairs and ladders: Unit D is a duplex unit with stairs between levels of non-combustible construction. These stairs are of steel construction with wood treads with full height (floor to floor) metal tube balusters spaced not more than 4" apart along the edge of the stair at the lower floor. The balustrade around the stair opening at the upper floor to be tempered glass supported by a steel frame, height 3'-6" above finished floor.

12. Interior Doors and Frames

i) Unit Entrances: The Residential units shall be accessed from the passenger elevators and shall have a hollow metal frame to meet the New York City Building Code requirement. The apartment interior doors shall be hollow metal doors with hollow metal frames.

ii) Stair Doors and Frames: All doors and frames shall be new and 1½ hour fire-rated hollow-metal and will meet the NYC Building Code requirements.

iii) Roof Doors, Lower Level Doors and Frames: These doors and frames shall be hollow-metal and will meet the NYC Building Code requirements.

13. Elevators

i) There shall be one new passenger elevators servicing the Commercial and Residential units from the ground floor to the 7th floor. The elevator will also stop at the cellar and roof.

ii) The hydraulic passenger elevator has a capacity of 2500 pounds.

ii) Elevators speed: Residential passenger elevators – 149 feet/min up,150 feet/min down.

iii) Elevator and elevator cab to be manufactured by CANTON ELEVATOR INCORPORATED. The model and type is "PARAGON" 1:2 INDIRECT ROPED CANTILEVERED HYDRAULIC ELEVATOR.

iv) The type of operation will be simplex

vi) The elevator doors will be single speed side opening.

vii) The elevator machine room will be located at the cellar level.

14. Elevator Cab:

a) Elevator cab will be manufactured by CANTON ELEVATOR, model: "PARAGON" --and shall be in conformance with applicable code provisions.

i) The walls for elevator cab will be covered with stainless steel and laminate panels for safety.

ii) The ceiling for elevator cabs will be a stainless steel framed panel.

iii) The lighting of the cab will be recessed florescent lighting.

iv) Alarm, safety system:

a) The elevators will be linked to the building fire alarm system as required by the New York City Building Code.

b) Security cameras and emergency hands free auto-dial telephone will be provided in each cab.

c) Elevator cabs will be provided with recall feature as part of the total elevator control system design. There are no emergency generators being provided.

J. Auxiliary Facilities

1. Laundry Room: None

i) Washer and dryer are provided within each residential unit, as are electrical, water, and waste connections. Washer – Bosch WAS 20160 UC 220V (or equal) Dryer – Bosch WTE 86300 US 220V (or equal); these are a stackable washer/dryer. Dryer is ventless electrical.

2. Refuse Disposal

i) Incinerators: None.

iii) Trash Chutes: none

iv) Compactors: none

v) Storage Location: The refuse storage room is located in the cellar. Recycling of designated materials will be per local law requirements. Recyclables (if required) will be stored in the refuse rooms.

v) Bags and recyclables from the residential refuse room shall be transported to street level by the building superintendent, and then removed by the New York City Department of Sanitation.

3. Storage:

i) Storage will be provided on a rental basis for the commercial space at the cellar level.

ii) A residential storage unit is provided for each residential unit as set forth in Section "V" of this report "Unit Description".

4. Mechanical Rooms:

i) The water and gas services rooms, electrical switchboard room, as well as other accessory mechanical spaces are located in the Cellar level. The boiler room is located in the cellar.

K. Recreational Facilities

1. A common recreational space is located on the roof. Pursuant to Quality Housing regulations, the space has no dimension less than 15' wide and is greater than 316 square feet.

L. Plumbing and drainage

(1) Water Supply:

(i) A 6" combined water service serves the domestic water and fire service: 3" domestic water service and 6" fire service supplies

(ii) NYC approved water meter and backflow preventer on street side of the duplex domestic water booster pumps located in cellar services room.

(iii) Booster water pumps shall provide water pressure to equipment and to the fixtures for the residential units. Booster pump set: Grundfos, Model CR 10-4, (2) pumps at 3 HP( 208 Volt, 3 Phase) each. Each pump: 50 GPM@50 PSI.

(iv) The domestic hot water temperature for all fixtures will be stored at 140 deg. F. and controlled by a mixing valve at the hot water heater. Domestic water heating will be provided by two 92) Teledyne LAARS, Model: PW-175, water heaters and a 80 gallon storage tank.

(v) Flow conservation devices will be provided on all water supplies to all showers.

(vi) Backflow preventers and vacuum breakers will be provided as required to protect the domestic water supply.

(vii) Air chambers are provided at the top of all risers and throughout the piping systems to prevent water hammer.

(viii) The cold, hot and hot water circulation piping 4" and less is copper Type 'L' with 95-5 solder joints. Piping 2-1/2" and larger is copper Type 'L' with silver brazed joints.

(ix) The 6" combined water service shall be of a cement-lined, cast iron material.

(x) All water risers will be provided with control valves.

(xi) The water pressure in the cold, hot and hot water systems to fixtures will be limited to 80 psi by means of pressure reducing valves located at the horizontal distribution floors.

(xii) All hot and cold water piping shall be fully insulated. 1" John-Manville "Micro-Lok" low pressure pipe insulation (or equal) shall be utilized. Insulation shall be a minimum 4 lbs. per cubic feet density and shall have a maximum K factor of 0.24 at 75° mean temperature, frame spread 25, smoke developed 50.

(xiii) Domestic hot water heating system shall adequately satisfy the peak load requirements for space.

(2) Fire Protection System:

(i) The 6" combined water service serves the fire pump. Service to the fire pump is 6". The fire pump is provided with a jockey pump to maintain pressure in the system.

The riser will serve sprinkler systems throughout each floor, and each hose valve on each floor. The pipe material is black steel pipe.

(ii) Each hose valve station on each floor landing located in the residential portion of the building will be provided with 2½" angle valve with a 1½" reducing coupling and a fire hose rack and 125 feet of 1½" fire hose. In the residential lobby area, a NYC Fire Department hose cabinet will be provided with 125 feet hose and nozzles. In addition, a key cabinet for the Fire Department use to open the hose cabinet will also be provided adjacent to the hose cabinet.

(iii) Sprinklers will be provided throughout the building as required by code except for residential bathrooms and clothes closets. The entire building will be protected with a wet sprinkler system. The sprinkler system is supplied from the combined standpipe/sprinkler riser in one of the stairs.

(iv) Upright, pendent, sidewall and concealed type sprinklers will be provided throughout. In all unfinished areas without ceilings, chrome plated type sprinklers will be provided as required. In all finished areas with hung ceilings, the sprinklers will be concealed type with plates. Approved extended coverage sidewall type sprinklers will also be provided. The sprinkler system will be designed for light and ordinary hazard occupancy.

(v) The secondary source of water supply is from the fire sprinkler system flush type Siamese facing Bowery.

(3) Water Storage Tank: None provided

(4) Water Pressure:

Domestic water pressure is maintained by a duplex booster water pump system to be located in the pump room on the Ground floor.

(5) Sanitary Sewage System:

(i) A complete sanitary drainage system will convey all soil and waste from plumbing fixtures, drains and equipment. The sanitary system is designed for gravity flow through vented branches, stacks and building drains.

(ii) Sanitary piping above ground shall be cast iron piping with no-hub fitting. Piping below grade is cast iron service weight pipe with bell and Spigot fittings and neoprene gasket joints.

(iii) Duplex sewage ejector pumps are located on the lowest level to pump all waste from plumbing fixtures and drains located below grade. Sewage ejector pump by Federal Pump, Model number VSA-4F-2-4, 125 GPM @ 26 ft HD, 3 Phase

with 3' X 3' X 6'-0" deep sump pit with style PF-1 steel cover and type SBS controller. (NYC MEA# 741-50SA)

(iv) The sanitary drainage flows to the city public sewer system at Bowery.

(6) Permits Required:

Permits and approvals to be delivered on closing by the developer for:

- Plumbing, sewer, water and gas.
- Sprinkler
- Standpipe
- Elevator

(7) Storm Drainage System:

(i) A complete storm water drainage system designed for gravity flow will convey storm water drainage from the building roof, roof terraces and balconies, and will flow to the city public sewer system at Bowery.

(ii) There shall be at least one (1) drain for each paved drainage area and at least two (2) drains for each roof area.

(iii) The piping material above the floor will be cast iron with no-hub joints. Piping below grade is cast iron service weight pipe with bell and spigot fittings and neoprene gasket joints. Sump pumps and sewage ejector discharge piping will be black iron pipe.

(iv) A duplex sump pump will be located at the lowest level to collect area drains at and below grade. Elevator sump pump by Federal, Model #2P-1/2-4 shall be located at elevator shafts.

M. Heating

(1) Primary heating for the building will be provided by PTACS with hot water coil under the windows. The heating system shall be capable of maintaining 68°F interior temperature when exterior temperate is -10°F. Bathrooms with exterior surfaces shall be warmed with electric cabinet heaters. The heating system is adequately sized to satisfy the heating requirements of the space.

Space Heating Boilers: Slant/Finn, Model: GGT-900E. Total heating capacity: 720,000 BTUH.

(1) The heating system is designed to comply with NYS Energy Code.

(2) Thermostats located on the PTACS will regulate PTAC operation.

(3) Fuel shall be natural gas supplied from underground main.

(4) No on-site oil storage shall be present.

N. Gas Supply

Gas is utilized for cooking and heating.

(1) Type - natural gas

(2) Meter: Residential portion will use independent meter for cooking and for space heating .

(3) Piping - is black iron Schedule 40.

O. Air Conditioning.

(1) Air conditioning for the building will be provided through individual through the wall PTAC (packaged terminal air conditioning) units.

(2) Air conditioning for residential spaces will be provided through Ice Air PTAC units models: 5RSK09, 5RSK13 and 5RSK16 or Equals.

The system is designed to comply with NYS Energy Code. Cooling system is adequately sized based on outdoor design temperature of 89°F and 78°F indoor design.

P. Ventilation.

All bathrooms will be mechanically exhausted to the exterior. All kitchens will be naturally ventilated via operable windows.

Q. Electrical.

Electrical service to the Residential units will be provided by Con Edison Co. to distribution and metering equipment the cellar main electric room.

a) 600 amps for Residential units' electrical requirements.

b) Typical apartment unit w/meters: 120/208V, 1 phase, 3 wire
200A, 120/208V, 3 ph, 4W, 42 pole panel

c) 600A, 3P, 4 wire service for House common space usage. Such as elevators, light, pumps, heat and power, sprinkler system, exhaust ventilation.

d) 800 A, 3P, 4 wire service switch for retail spaces..

(1) The service to each residential unit will be single phase, 3 wire, 120/208V 60Hz AC. Electric service will be supplied to each residential unit via a meter bank located in the cellar.

(2) Each residential unit will be supplied with a 42 position three phase 120/208v 3 wire 150 Amp power panel on floors 3, 4, and 5 and a 200 Amp panel in the combined 6th and 7th floor unit, located within the dwelling unit. Service size and panel is sufficient to handle all

the appliances installed (i.e. air conditioning, dishwasher, electric dryer and washing machine, and refrigerator), lighting, typical residential plug in appliances and convenience electrical items found in residences.

(3) All residential units shall be designed with the proper number of wall receptacles, switches, and appliance receptacles, etc. as required by the National Electrical Code, 2002 Edition, and NYC Amendments.

(ii) Switched lighting fixtures are provided in bathrooms, foyers and kitchens. Switched receptacles are provided in bedrooms and living rooms.

(iii) Multiple 20 amp, 120V circuits shall be provided to handle lighting and general purpose receptacles.

(iv) Multiple 20 amp, 120V circuits shall be provided in the kitchen area for 120V kitchen appliances.

(v) 20 Amp, 208V single phase shall be provided for each PTAC unit.

(vi) 30 Amp, 208V single phase circuit shall be provided for washer and electric dryer.

Receptacles shall be provided in all rooms (average four (4) per room) all bedroom receptacles shall be protected by an arc fault circuit interrupter and all bathroom receptacles shall be protected by a ground fault circuit interrupter.

(2) Audio Intercom and Buzzer Service
The building shall be provided with a video intercom system with remote door lock release, by Aiphone (or equal). Residential Access will be provided by Proximity Type Card Readers at Lobby Door and Elevator.

(3) TV Reception Facilities and Telephone Services:

(i) Cable television service will be available to each tenant on an individual subscription basis (separate charge). High speed Internet access will also be made available, however unit owners must obtain there own internet service provider.

(ii) Location of outlets: Living room and in each bedroom to meet NYC Building Code.

(iii) The building will be pre-wired for telephone services. A jack will be located in the living room, bedroom and kitchen of each unit.

(4) Public Area Lighting

(i) All lighting in public areas except the vestibule and lobby will be ceiling and/or wall mounted fixtures.

(ii) Lighting in mechanical spaces and storage rooms will be fluorescent.

(5) BRK SC7010B Photoelectric Smoke & Carbon Monoxide Combo Alarm (or equal), hard wired to AC power with battery back-up, 120 VAC, (or equal) shall be provided within 15 feet of each bedroom as per NYC Building Code.

R. Swimming Pools: none

S. Garage and parking areas.

None provided; Off street parking spaces not required in community district 3, Manhattan per ZR 13-11.

T. Permits and Certificates

1. The following inspections will be conducted concurrently with construction with final sign-off at the issuance of the Certificate of Occupancy.
   - NYC Department of Buildings
   - Elevator
   - Mechanical and Plumbing
   - Boiler
   - Department of Air Resources
   - Electrical
   - Fire Department

U. Violations

1. Any Building Code Violations will be corrected prior to the issuance of the Permanent Certificate of Occupancy.

2. No asbestos made materials will be used in the construction of the building, including without limitation all insulation or fireproofing material installed anywhere, as per approved plans.

3. There will be no lead paint used anywhere in the building construction of this condominium as per approved plans.

V. Unit Description

Unit Sizes are calculated from the exterior face of exterior walls adjacent to the unit to the centerline of the demising wall between Units, Corridors, Elevator, and Stairs.

| Unit Entry Level | Unit Designation | Unit Type | Approx. Gross Square Footage of Condo Unit | Approx. Gross Square Footage of Outdoor Area | Approx. Sq Footage of Cellar Storage |
|---|---|---|---|---|---|
| 3 | 1 | 2 Bedrooms 2 Bath | 1337 SF | PRIVATE TERRACE: 310 SF | 21 SF |
| 4 | 2 | 2 Bedrooms 2 Bath | 1344 SF | BALCONY: 68 SF | 31 SF |
| 5 | 3 | 2 Bedrooms 2 Bath | 1344 SF | PRIVATE TERRACE: 50 SF | 34 SF |
| 6 | PH | 3 Bedrooms 2 Bath | 6th FLOOR: 1162 SF<br>7th FLOOR: 1015 SF<br>TOTAL: 2177 SF | TERRACE: 92 SF<br>TERRACE: 93 SF<br>TERRACE: 96 SF<br>BALCONY: 37 SF<br>TERRACE: 340 SF | 40 SF |

W. Finishes /Appliances

All the interior apartment finishes and appliances are new.

I) Residential Lobby

- Floor — Porcelain Tile
- Walls — Painted gypsum board, wall covering
- Baseboards. — None
- Ceiling — Painted gypsum board ,
- All finishes as specified, or equivalent.

Interior of Residential Condominium Units, General

- Flooring: Concrete / Stone Tile
- Wall base: None
- Painted gypsum board walls
- Painted gypsum board ceilings
- Stair, where applicable: middle stringer with solid hardwood steps btwn 6th and 7th floors.

III) Kitchens
(All appliances shall be as specified below or equivalent)

| | |
|---|---|
| • Refrigerator | Viking VCFF-136 stainless steel finish |
| • Dishwasher | Viking DFB-450 stainless steel finish |
| • Range | Viking VGCC-530-4B gas, stainless steel finish |
| • Microwave | Viking VMOR-205 stainless steel finish |
| • Garbage Disposal | Insinkerator ¾ HP constant feed |
| • Kitchen Sink | Kohler K-3183 SS |
| • Kitchen sink faucet | Kohler K- 6333 VS |
| • All cabinets | Melamine and American Walnut |
| • Floor | Concrete |
| • Walls | Painted gypsum board, |
| • All Counters | Azul Armani slabs & Siazear Stone |
| • Backsplash | Glass |
| • Ceiling | Painted gypsum board |

IV) Master Bathroom
(All fixtures & accessories shall be as specified below or equivalent)

| | |
|---|---|
| • Tub | Zuma C 7236 |
| • Toilet | Duravit 15701 |
| • Sink Faucet | Kohler K-410-K |
| • Sink | Duravit –Vero Wall Mounted - 45450 |
| • Tub/ shower control | Kohler K-T14420-4 |
| • Shower surround | Glass / Stone Tile |
| • Floor | Stone Tile |
| • Walls | Glass / Stone Tile, Paint |
| • Medicine Cabinet | White Melamine / Glass |
| • Vanity | White Melamine |

V) Typical (guest) Bathroom
(All fixtures & accessories shall be as specified below or equivalent)

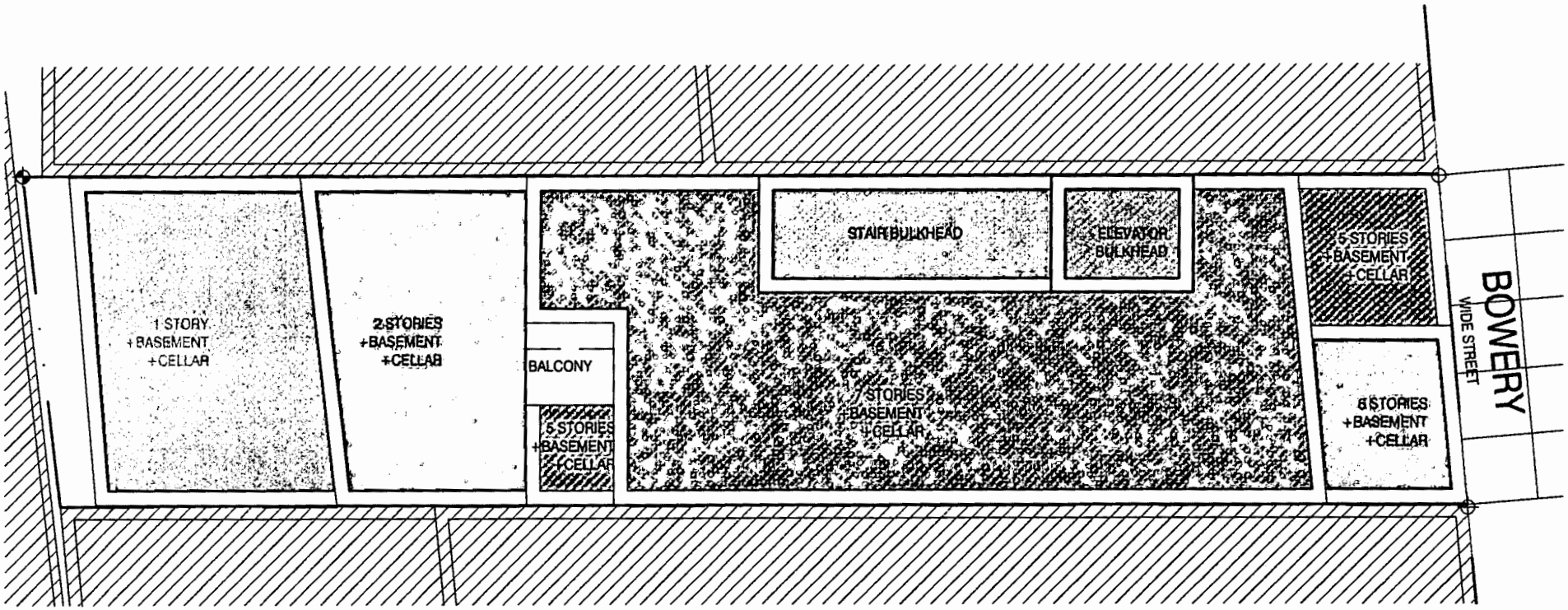
| | |
|---|---|
| • Toilet | Duravit 15701 |
| • Sink | Duravit –Vero Wall Mounted - 45450 |
| • Sink faucet | Kohler K-410-K |
| • Vanity | White Melamine |
| • Shower controls | Kohler K-T14422-4 |
| • Floor | Stone Tile |
| • Walls | Glass / Stone Tile, Paint |

Seal

Signature of Architect
September 2, 2010



# 263 BOWERY
## NEW YORK, NEWYORK




# SITE PLAN

0 6 12

AREA MEASUREMENTS ARE TAKEN FROM THE EXTERIOR SIDE OF UNIT BOUNDARY WALLS OR TO THE CENTER OF A WALL SEPARATING TWO UNITS.

THE UNIT SQUARE FOOTAGE, LAYOUT AND ROOM OR AREA DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON CONSTRUCTION DRAWINGS. THE UNIT WHEN BUILT WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE EXCEEDS THE USABLE FLOOR AREA. ROOM AND AREA DIMENSIONS ARE MEASURED FROM THE EXPOSED SURFACES OF THE ENCLOSING WALLS, CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. A MINOR OR IMMATERIAL INACCURACY IN THE ACTUAL SQUARE FOOTAGE (I.E.,OVERALL FLOOR AREA) OR THE ACTUAL SIZE OF INDIVIDUAL ROOMS OR AREAS OF A UNIT WHEN THE UNIT IS BUILT FROM THAT SHOWN ON THIS FLOOR PLAN SHALL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT WITHOUT ABATEMENT IN PRICE OR RECOURSE AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE OFFERING PLAN.

KARL FISCHER
ARCHITECT
OAQ OAA RAIC AIA

# EXHIBIT E

# FLOOR PLANS OF CONDOMINIUM UNITS

THE FOLLOWING PAGES SET FORTH THE FLOOR PLANS. PROSPECTIVE PURCHASERS ARE ADVISED THAT ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO NORMAL CONSTRUCTION TOLERANCES AND TOLERANCES. DIMENSIONS ARE MAXIMUM OVERALL WITHOUT THE SUBTRACTRACTION OF CUTOUTS.

Sponsor reserves the right to make changes in the layouts and dimensions of the Units which will be disclosed in a duly filed amendment to the Offering Plan.

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# 263 BOWERY
## NEW YORK, NEWYORK

# UNIT 1
## 2 BEDROOM
## 2 BATHROOM

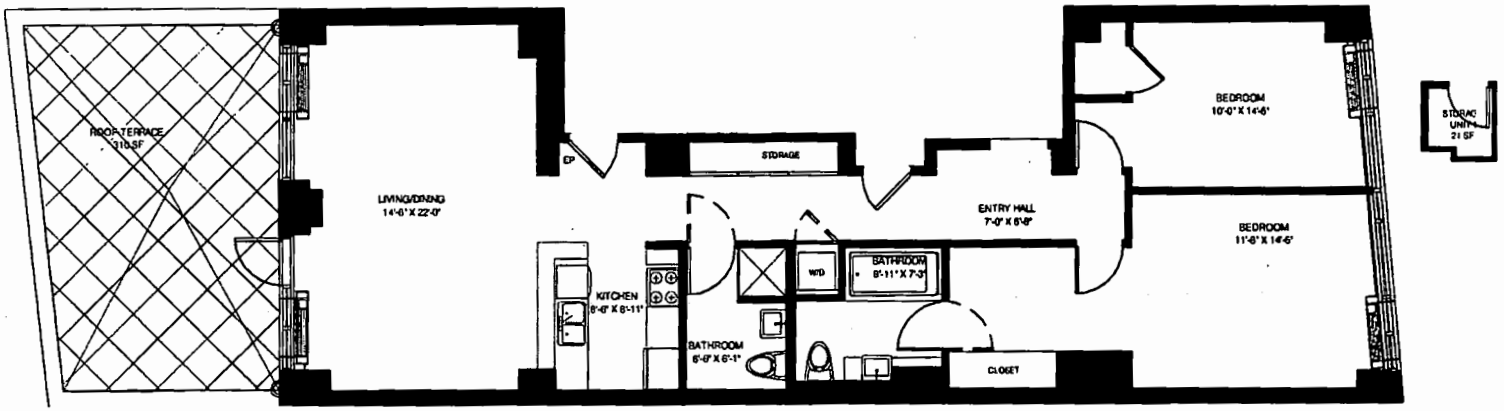
FLOOR NUMBER 3

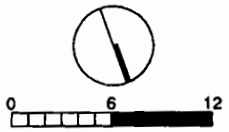
APARTMENT AREA: 1337 SF

OUTDOOR AREA:

TERRACE: 310 SF

BASEMENT STORAGE: 21 SF



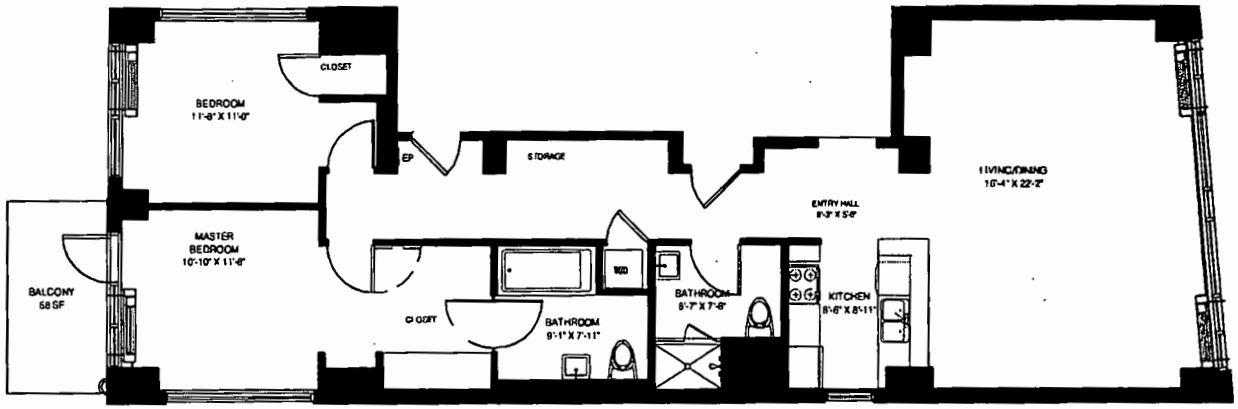




AREA MEASUREMENTS ARE TAKEN FROM THE EXTERIOR SIDE OF UNIT BOUNDARY WALLS OR TO THE CENTER OF A WALL SEPARATING TWO UNITS.

THE UNIT SQUARE FOOTAGE, LAYOUT AND ROOM OR AREA DIMENSIONS ON THIS FLOOR PLAN ARE APPROXIMATE WITHIN REASONABLE TOLERANCES AND BASED ON CONSTRUCTION DRAWINGS. THE UNIT WHEN BUILT WILL BE SUBJECT TO NORMAL CONSTRUCTION VARIANCES AND TOLERANCES. THE SQUARE FOOTAGE EXCEEDS THE USABLE FLOOR AREA. ROOM AND AREA DIMENSIONS ARE MEASURED FROM THE EXPOSED SURFACES OF THE ENCLOSING WALLS, CHASE WALLS, SHAFTS, CABINETS AND THE LIKE ARE NOT SUBTRACTED. A MINOR OR IMMATERIAL INACCURACY IN THE ACTUAL SQUARE FOOTAGE (I.E.,OVERALL FLOOR AREA) OR THE ACTUAL SIZE OF INDIVIDUAL ROOMS OR AREAS OF A UNIT WHEN THE UNIT IS BUILT FROM THAT SHOWN ON THIS FLOOR PLAN SHALL NOT EXCUSE A PURCHASER FROM COMPLETING THE PURCHASE OF A UNIT WITHOUT ABATEMENT IN PRICE OR RECOURSE AGAINST SPONSOR. SPONSOR RESERVES THE RIGHT TO MAKE CHANGES TO A UNIT IN ACCORDANCE WITH THE OFFERING PLAN.

KARL FISCHER ARCHITECT
OAQ OAA RAIC AIA

# 263 BOWERY
## NEW YORK, NEWYORK




# UNIT 2
## 2 BEDROOM
## 2 BATHROOM

FLOOR NUMBER 4

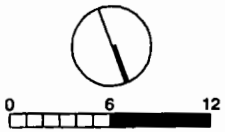
APARTMENT AREA: 1344 SF

OUTDOOR AREA:

BALCONY: 68 SF

BASEMENT STORAGE: 31 SF




AREA MEASUREMENTS ARE TAKEN FROM THE EXTERIOR SIDE OF UNIT BOUNDARY WALLS OR TO THE CENTER OF A WALL SEPARATING TWO UNITS.

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OAQ OAA RAIC AIA

# 263 BOWERY
## NEW YORK, NEWYORK

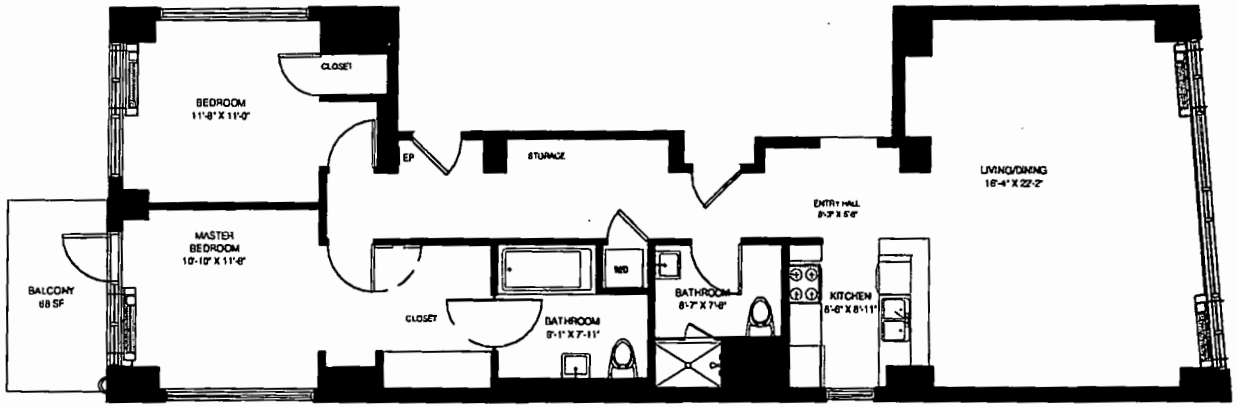
# UNIT 3
## 2 BEDROOM
## 2 BATHROOM

FLOOR NUMBER 5

APARTMENT AREA: 1344 SF

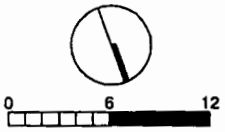
OUTDOOR AREA:
BALCONY: 68 SF

BASEMENT STORAGE: 34 SF







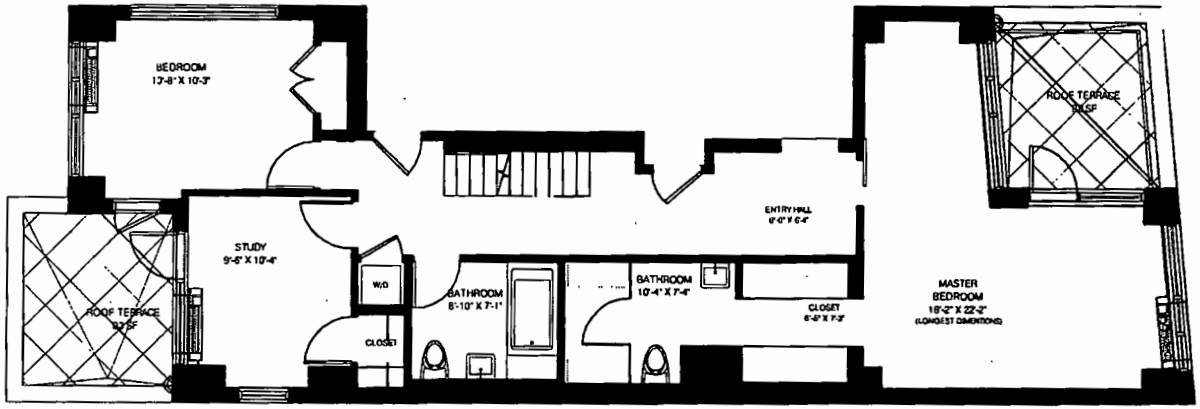



AREA MEASUREMENTS ARE TAKEN FROM THE EXTERIOR SIDE OF UNIT BOUNDARY WALLS OR TO THE CENTER OF A WALL SEPARATING TWO UNITS.

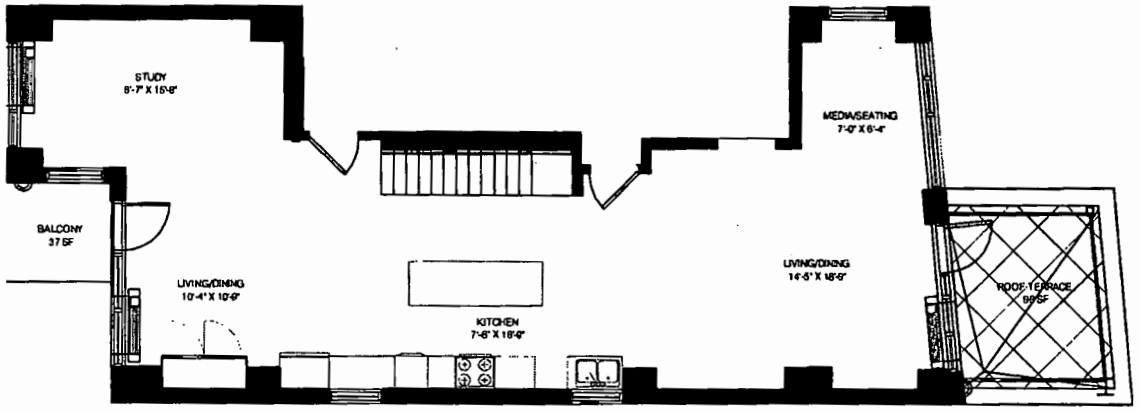
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KARL FISCHER ARCHITECT
OAQ OAA RAIC AIA

# 263 BOWERY
## NEW YORK, NEWYORK




6TH FLOOR




7TH FLOOR

# UNIT PH
## 3 BEDROOM
## 2 BATHROOM

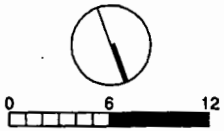
FLOOR NUMBER 6-7

APARTMENT AREA:
- 6th FLOOR: 1162 SF
- 7th FLOOR: 1015 SF
- TOTAL : 2177 SF

OUTDOOR AREA:
- TERRACE: 92 SF
- TERRACE: 93 SF
- TERRACE: 96 SF
- BALCONY: 37 SF

BASEMENT STORAGE: 40 SF



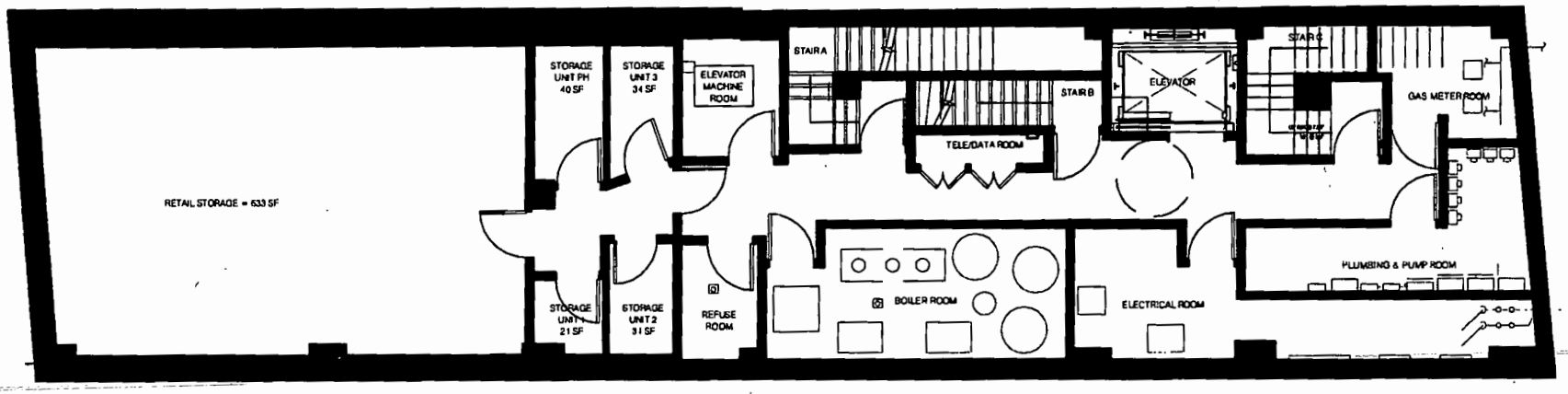




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KARL FISCHER ARCHITECT
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# 263 BOWERY
## NEW YORK, NEWYORK




# CELLAR

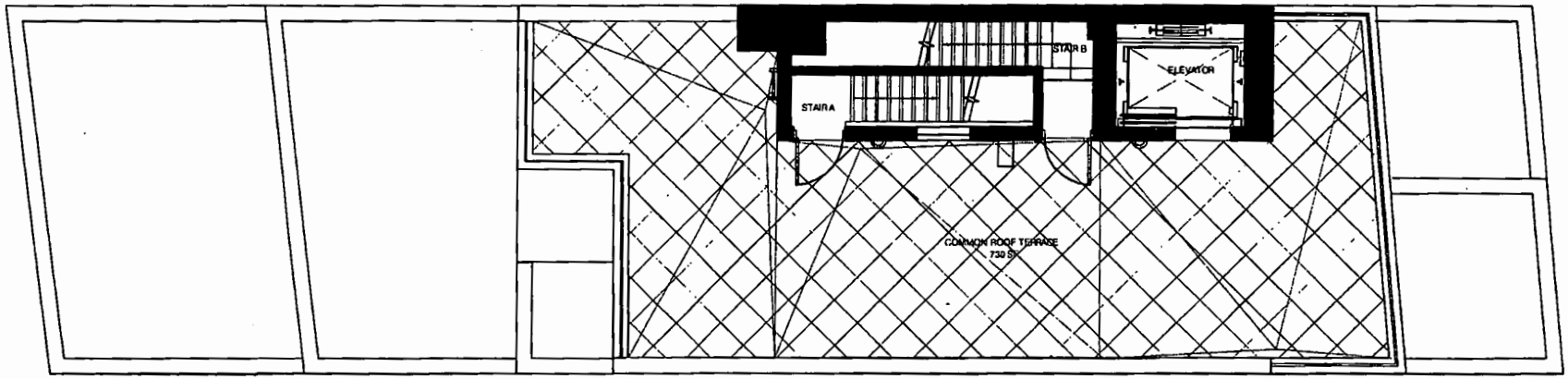
0 6 12

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# 263 BOWERY
## NEW YORK, NEWYORK






## ROOF

COMMON ROOF TERRACE: 730 SQ.FT.

0 6 12

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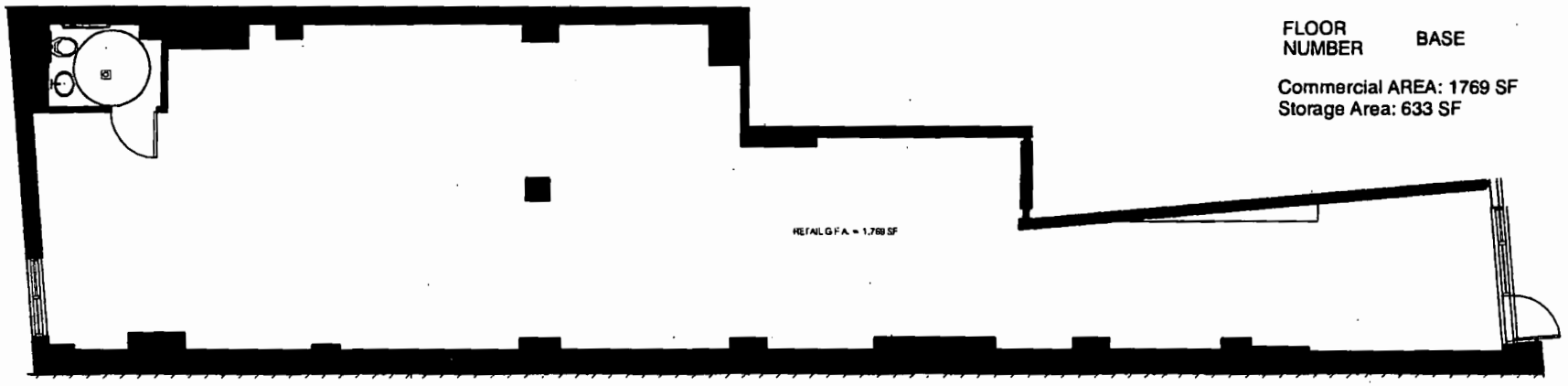
KARL FISCHER ARCHITECT
OAQ OAA RAIC AIA

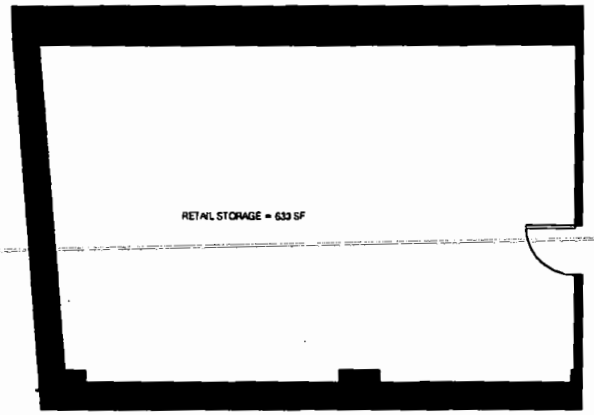
# 263 BOWERY
## NEW YORK, NEWYORK

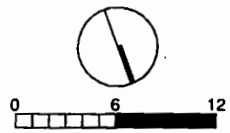
# Commercial Space

FLOOR NUMBER BASE

Commercial AREA: 1769 SF
Storage Area: 633 SF




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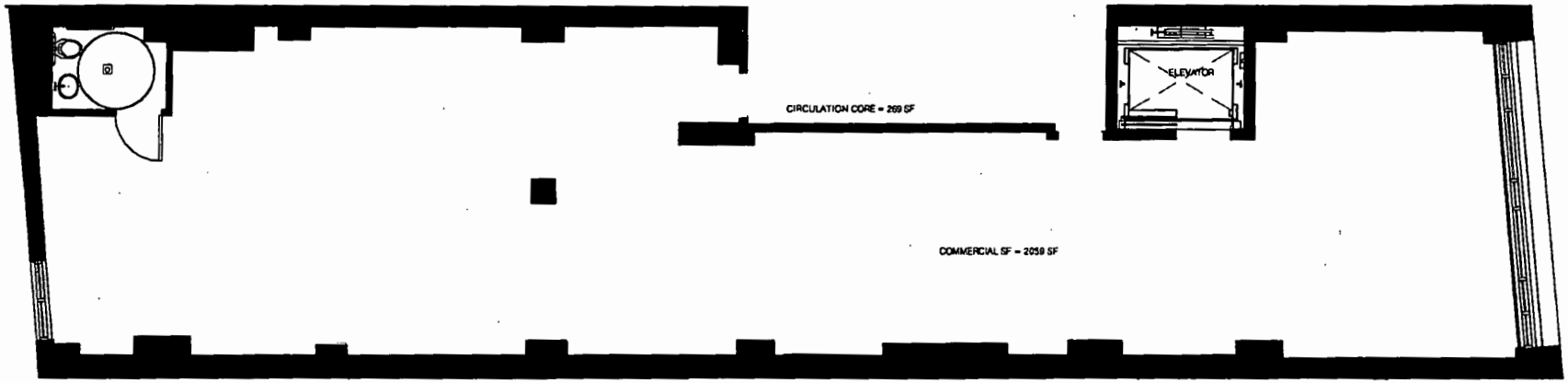
KARL FISCHER ARCHITECT
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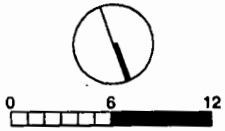
# 263 BOWERY
## NEW YORK, NEWYORK

## Commercial Space

FLOOR NUMBER 1

Commercial AREA: 2059 SF




AREA MEASUREMENTS ARE TAKEN FROM THE EXTERIOR SIDE OF UNIT BOUNDARY WALLS OR TO THE CENTER OF A WALL SEPARATING TWO UNITS.

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# 263 BOWERY
## NEW YORK, NEWYORK

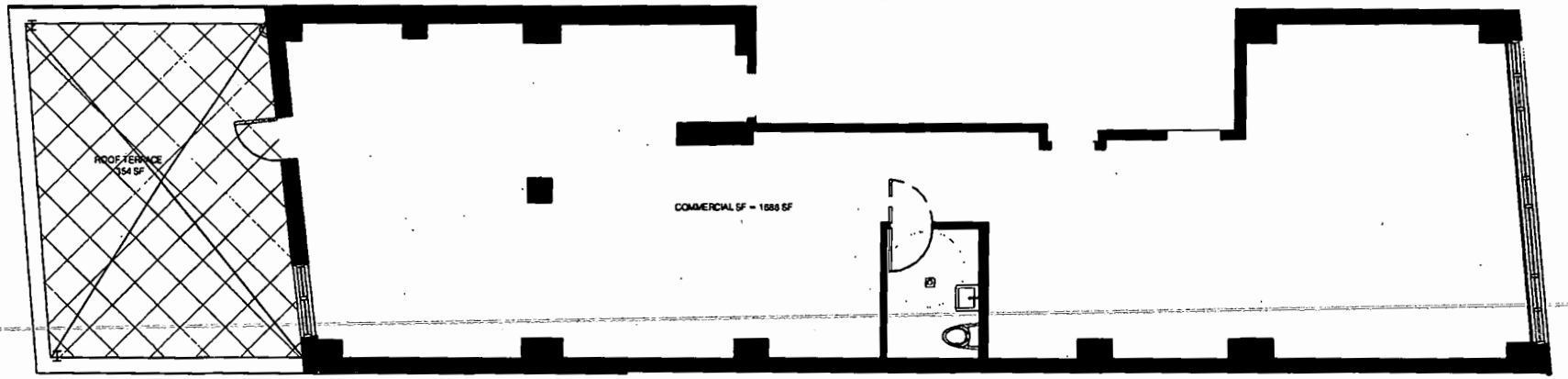
# Commercial Space

FLOOR NUMBER 2

Commercial AREA: 1686 SF

OUTDOOR AREA:

TERRACE: 354 SF






0 6 12

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KARL FISCHER ARCHITECT
OAQ OAA RAIC AIA

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**EXHIBIT F**

**ETF-1**

# APPLICATION TO THE ATTORNEY GENERAL FOR A DETERMINATION ON THE DISPOSITION OF DOWNPAYMENTS

[Send this application to the reviewing attorney assigned to the subject plan.]

Address of Building or
Name of Project:

File Number:

Application is made to the Attorney General to consider and determine the disposition of down payments held pursuant to GBL Sections 352-e(2-b) and 352-h. The following information is submitted in support of this application:

1. Name of Applicant:_____

2. Address of Applicant:_____

3. Name, Address, and Telephone Number of Applicant's Attorney (if any)

4. This is an application for

   [ ] return of downpayment.
   [ ] forfeiture of Downpayment.
   [ ] other:

5. The project is [ ] a conversion of occupied premises.
   [ ] newly constructed or rehabilitated.
   [ ] vacant {as is)

6. The project is structured as [ ] a cooperative.
   [ ] a condominium.
   [ ] a homeowners association.
   [ ] a timeshare.
   [ ] other:

7. Name and Address
of Sponsor

8. Name and Address
of Escrow Agent

9. If downpayments are maintained in an escrow account:

(a) Name of account

(b) Name and address of bank

(c) Account number (if known)

(d) Initial interest rate (if known)

10. If downpayments have been secured by bonds:

(a) Name and address of bond issuer or surety:

(b) Copy of bond included in this application. (DO NOT SEND ORIGINAL BOND.) If not included, explain:

11. If downpayments have been secured by a letter of credit:

(a) Name and address of bank which issued the letter of credit:

(b) Date of expiration of the letter of credit, if known:

12. Plan information:

(a) Date of filing of plan:

(b) Plan

[ ] has been declared effective. Approximate date:
[ ] has not been declared effective.

(c) If effective, the plan

[ ] has closed or the first unit has closed.
Approximate date:

[ ] has not closed.

[ ] don't know.

(d) Downpayments are secured by

[ ] escrow account.

[ ] bonds.

[ ] letter of credit.

13. Contract information:

(a) Copy of contract and of all riders or modification letters are attached. (DO NOT SEND ORIGINALS.)

(b) Date on which subscription or purchase agreement was signed:

(c) Date(s) of downpayment(s)

(d) Total amount of downpayment(s):

(e) Names and addresses of subscribers or purchasers affected by this application:

14. State the basis for your claim. Please be as specific as possible. You may add additional sheets. Attach copies of any relevant documents.

15. I am contemporaneously sending a copy of this application to the following persons:

Note: You are required to mail a copy of this Application to all other affected parties.

In filing this application, I understand that the Attorney General is not my private attorney, but represents the public in enforcing laws designed to protect the public from unlawful business practices. I also understand that if I have any questions concerning my legal rights or responsibilities I may contact a private attorney. The above application is true and accurate to the best of my knowledge. False statements made herein are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.

Signature: Date:
Name (Printed):
Telephone: (Home) (Business)
Mailing Address:

# EXHIBIT G

## ESCROW AGREEMENT

Agreement made this 25 day of March, 2010 between D.N.P. 336 CONVENT AVENUE LLC, a New York limited liability company having an address at c/o Yaniv Cohen, 451 Broome Street, Apt. 5E, New York, New York 10013 ("Sponsor"), and ROSENBERG & ESTIS P.C., 733 Third Avenue, New York, New York 10017, as escrow agent ("Escrow Agent").

WHEREAS, Sponsor is the sponsor, as such term is defined in an offering plan to offer units in the Bowery 263 Condominium at premises located at 263 Bowery, New York, New York, for sale (the "Plan"); and

WHEREAS, Rosenberg & Estis 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; and

WHEREAS, Sponsor desires that Escrow Agent act as escrow agent for deposits and payments by purchasers pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and other good and valuable consideration, the parties hereby agree as follows:

1. ESTABLISHMENT OF THE ESCROW ACCOUNT.

1.1 Sponsor and Escrow Agent hereby establish an escrow account with Escrow Agent for the purpose of holding deposits or payments made by purchasers. The escrow account has been opened with Valley National Bank at its branch located at 275 Madison Avenue, New York, New York 10018. The account number for the master escrow account is [redacted] and a separate sub-account will be opened under such master escrow account with respect to each separate sale transaction.

1.2 The name of the account is Rosenberg & Estis P.C. Attorney Trust Account.

1.3 The separate escrow sub-account for each sale transaction shall be an interest-bearing account as disclosed in the Plan.

1.4 The escrow account is not an IOLA established pursuant to Judiciary Law Section 497.

2. DEPOSITS INTO THE ESCROW ACCOUNT.

2.1 All funds 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 in the escrow account. All instruments to be deposited into the escrow account shall be made payable to the order of the

Escrow Agent. Any instrument payable, 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.

2.2 Within ten (10) business days after tender of the deposit submitted with the contract of sale, Escrow Agent shall notify the purchaser of the deposit of such funds in the bank indicated in the 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.

3.1 Escrow Agent shall not release the escrowed funds of a defaulting purchaser until after consummation of the Plan as defined in the Attorney General's regulations. Consummation of the Plan shall not relieve Sponsor of its fiduciary obligations pursuant to GBL Section 352-h.

3.2 Escrow Agent shall continue to hold the funds in escrow until otherwise directed (a) in writing signed by both Sponsor and purchaser or (b) in determination of the Attorney General or (c) in judgment or order of a court of competent jurisdiction or (d) until released pursuant to the regulations of the Attorney General pertaining to release of escrowed funds.

3.3 Sponsor shall not object to the release of the escrowed funds to (a) a purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an amendment to the Plan or (b) all purchasers after an amendment abandoning the Plan is accepted for filing by the Department of Law.

3.4 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 no less 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.

4.1 Escrow Agent shall maintain all records concerning the escrow account for seven (7) years after release of the funds.

4.2 Upon the dissolution of a law firm which was Escrow Agent, the former partners or members of the firm shall make appropriate arrangements for the maintenance of these records by one of the partners or members of the firm or by the successor firm and shall notify the Department of Law of such transfer.

4.3 Escrow Agent shall make available to the Attorney General, upon request, all books and records of Escrow Agent relating to the funds deposited and disbursed hereunder.

5. GENERAL OBLIGATIONS OF ESCROW AGENT.

5.1 Escrow Agent shall maintain the accounts called for in this Agreement under the direct supervision and control of Escrow Agent.

5.2 A fiduciary relationship shall exist between Escrow Agent and purchasers, and Escrow Agent acknowledges its fiduciary obligations.

6. RESPONSIBILITIES OF SPONSOR.

6.1 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.

6.2 Sponsor agrees that it shall not interfere with Escrow Agent's performance of its fiduciary duties and compliance with the Attorney General's regulations.

7. TERMINATION OF AGREEMENT.

7.1 This Agreement shall remain in effect unless and until it is cancelled, by either:

(a) Written notice given by Sponsor to Escrow Agent of cancellation of designation of Escrow Agent to act in said capacity, which cancellation shall take effect only upon the filing of an amendment with the Department of Law providing for a successor Escrow Agent; or

(b) The resignation of Escrow Agent upon giving notice to Sponsor of 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 (which amendment Sponsor agrees to file within thirty (30) days after such resignation); or

(c) All shares or units offered pursuant to the plan have been sold and all sales transactions have been consummated.

7.2 Upon termination of the duties of Escrow Agent as described in paragraph 7.1 above, Escrow Agent shall deliver 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.

8.1 This Agreement shall be binding upon Sponsor and Escrow Agent and their respective successors and assigns.

9. GOVERNING LAW.

9.1 This Agreement shall be construed in accordance with and governed by the laws of the State of New York.

10. ESCROW AGENT'S COMPENSATION.

10.1 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. SEVERABILITY.

11.1 If any provision of this Agreement or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remaining provisions of this Agreement or the application of such provision to other persons or to other circumstances shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

12. ENTIRE AGREEMENT.

12.1 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: ROSENBERG & ESTIS P.C.

By: _____
Name: Richard L. Sussman
Title: Member

SPONSOR: D.N.P. 336 CONVENT AVENUE LLC

By: _____
Name: Eyal Devidas
Title: Senior Manager

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**EXHIBIT H**

# DECLARATION

**Establishing a Plan for Condominium Ownership of the Premises 263 Bowery, New York, New York Pursuant to Article 9-B of the Real Property Law of the State of New York**

**Name:** **BOWERY 263 CONDOMINIUM**

**Declarant:** **D.N.P 336 Convent Avenue, LLC**
**c/o Yaniv Cohen**
**451 Broome Street, Suite 5E**
**New York, New York 10013**

**Date of Declaration:** **_____, 2010**

**The land affected by the within instrument lies in Block 427, Lot 10 on the Tax Map of the Borough of Manhattan County of New York now known as lots _____ through _____.**

**Rosenberg & Estis, P.C.**
**Attorneys for Declarant**
**733 Third Avenue**
**New York, New York 10017**
**Attention: Lisa R. Radetsky, Esq.**

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# DECLARATION

# OF

# BOWERY 263 CONDOMINIUM

**(Pursuant to Article 9-B of the Real Property Law of the State of New York)**

D.N.P 336 Convent Avenue, LLC, a New York limited liability company, having an office in care of Yaniv Cohen, 451 Broome Street, Apartment 5E, New York, New York 10013 ("Declarant" or "Sponsor"), does hereby declare as follows:

## ARTICLE 1

## SUBMISSION OF THE PROPERTY

1.1 Declarant hereby submits the Land and Building (each as hereinafter defined), all other improvements erected and to be erected thereon, all easements, rights and appurtenances belonging thereto and all other property, real, personal or mixed, intended for use in connection therewith (collectively, the "Property") to the provisions of Article 9-B of the Real Property Law of the State of New York (the "New York Condominium Act") and pursuant thereto does hereby establish a condominium to be known as Bowery 263 Condominium (the "Condominium").

1.2 Attached to this Declaration and made a part hereof are the By-Laws of Bowery 263 Condominium which set forth detailed provisions governing the operation, use and occupancy of the Condominium (said By-Laws, as they may be amended from time to time, are hereinafter referred to as the "By-Laws"). All capitalized terms which are not separately defined herein shall have the meanings given to those terms in the By-Laws.

## ARTICLE 2

## THE LAND

Included in the Property described in Article 1 is all that certain tract, plot, piece and parcel of land (the "Land") situate, lying and being in the Borough of Manhattan, County of New York and City and State of New York, and more particularly described in Schedule A annexed hereto and made a part hereof. The Land has an area of approximately 2,640 square feet.

## ARTICLE 3

## THE PROPERTY AND THE BUILDING

Included in the Property is a building (the "Building") having nine (9) stories, eight (8) of which are located above grade level. The cellar is below grade level. The Building contains:

(a) Four (4) residential units (collectively, the "Residential Units" and individually a "Residential Unit"), located on floors three (3) through seven (7);

(b) one (1) commercial unit (the "Commercial Unit") located on a portion of the cellar, a portion of the basement, the entire first (1st) floor and on the entire second (2nd) floor;

(c) the Common Elements, as defined in Article 6 below, other than the Land;

(d) the Residential Limited Common Elements, as defined in Section 6.3 below; and

(e) the Commercial Limited Common Elements as more particularly described in Article 14 below.

The owner of a Residential Unit is herein called a "Residential Unit Owner" and all the owners of Residential Units are herein called "Residential Unit Owners". The Residential Unit and the Commercial Unit are sometimes collectively referred to as the "Units" and individually as a "Unit". The Residential Unit Owner and the Commercial Unit Owner are collectively referred to herein as the "Unit Owners" and individually as a "Unit Owner". The Residential Limited Common Elements and the Commercial Limited Common Elements are collectively referred to herein as the "Limited Common Elements" and individually as a "Limited Common Element".

## ARTICLE 4

## THE UNITS

Schedule B annexed hereto and made a part hereof sets forth the following data with respect to each Unit necessary for the proper identification thereof: Unit designation; tax lot number; location; approximate square foot area; number of rooms; the portions of the Common Elements (as hereinafter defined) and Limited Common Elements to which the Unit has immediate access; and the percentage interest in the Common Elements appurtenant to such Unit. The location of each Unit is also shown on the floor plans of the Building (the "Floor Plans") certified by Karl Fischer, of Karl Fischer Architects, intended to be filed in the New York County Office of the Register of the City of New York (the "City Register's Office") simultaneously with the recording of this Declaration.

## ARTICLE 5

## DIMENSIONS OF UNITS

5.1 Each Unit is measured horizontally from the exterior sides of its windows or exterior walls at the midpoint of the Unit's demising walls and vertically from the top of the concrete floor to the underside of the ceiling. Unit dimensions listed on Schedule B are approximate and include allocable portions of the elevators, hallways and entrances reserved for the exclusive or shared use of the Unit Owners. Unit dimensions set forth on Schedule B do not include the area of any Terrace (as such term is hereinafter defined) appurtenant to any Unit.

5.2 Any Common Elements located within any Unit shall not be considered as part of that Unit.

5.3 Each Residential Unit includes, and each Residential Unit Owner shall be responsible for all plumbing, gas, heating fixtures, refrigerators, ranges, and other appliances, as may be affixed, attached or appurtenant to such Unit, including, without limitation, the HVAC system installed in each Unit which solely serves the Unit. Plumbing, gas, and heating fixtures as used in the preceding sentence shall include exposed gas, steam and water pipes 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 Unit Owner may install within a wall or ceiling, or under the floor, but shall not include gas, steam, water or other pipes, conduits, wiring or duct work within the walls, ceiling or floors which service other portions of the Building. Each Residential 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 serving or benefitting only that Unit.

5.4 The Commercial Unit Owner shall be responsible for all plumbing, gas, heating fixtures, air-conditioning equipment, heating equipment, and other appliances, located in the spaces contained within the Commercial Unit. Plumbing, gas, heating fixtures and air-conditioning equipment as described in the preceding sentence shall include exposed gas, steam and water pipes attached to fixtures, appliances and equipment and the fixtures and equipment to which they are attached, and any special pipes or equipment that the Commercial Unit Owner may install within a wall or ceiling, or under the floor, but shall not include gas, steam, water or other pipes, conduits, wiring or duct work within the walls, ceiling or floors which service other portions of the Building. The Commercial Unit shall also include all lighting and electrical fixtures within the Commercial Unit and any special equipment, fixtures or facilities affixed, attached or appurtenant to the Commercial Unit to the extent located within the Commercial Unit and serving or benefiting only the Commercial Unit, to the extent that such fixtures do not belong to the tenants who have leased space within the Commercial Unit.

## ARTICLE 6

## COMMON ELEMENTS

6.1 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 therein for the common use of the Units and the Unit Owners (except for those Common Elements which are designated for the exclusive use of any of the Unit Owners) or which are necessary or convenient for the existence, maintenance or safety of the Property.

6.2 The Common Elements consist of all portions of the Property, except the Units themselves, including, without limitation, the following:

6.2.1 the Land (as more particularly described in Schedule A attached hereto), together with all easements, rights and privileges appurtenant thereto;

6.2.2 all foundations, columns, girders, beams, supports, pile caps, and their enclosures;

6.2.3 all exterior walls of the Building, not including the portions thereof on the Unit side of the brick work or masonry of such walls; windows and window frames; all walls and partitions separating Units from corridors, elevator shafts, stairs, and other mechanical equipment spaces, other than the portions thereof between the Unit side of such walls and partitions and the brick work, sheetrock or masonry of such walls and partitions separating Units; the portions of the plaster or equivalent partitions separating Units between the Unit side of the plaster or its equivalent on each side of such partition, the partitions and all concrete floors and concrete ceilings;

6.2.4 the sidewalk areas, street-level setbacks and all street trees, shrubbery and other plantings located thereon including planters;

6.2.5 the lobby and entrance from Bowery Street, the mail boxes, the elevator access area to the elevator in the lobby, all of which are located on the ground floor;

6.2.6 the one (1) passenger elevator which services the cellar, the basement, floors one (1) through seven (7) and the roof, including the elevator cabs, the elevator shafts and the walls thereof, overruns, bulkheads, shafts, pits, tanks, pumps, motors, fans, compressors, control and other related equipment in connection therewith, to the extent the same exists therein;

6.2.7 all stairs, stairways and fire stairs located within the Building;

6.2.8 all passages, including the fire passage, halls and corridors located in the cellar and the basement of the Building;

6.2.9 all space devoted to the use of person(s) employed in connection with the operation of the Property;

6.2.10 all central and appurtenant installations for services such as power, light, security system, telephone, television, cable, internet service, gas, cold water, heat and air-conditioning and including all pipes, ducts, chutes, wires, cables, and conduits and the enclosures used in connection therewith, whether located in common areas or in the Units;

6.2.11 all mechanical equipment and mechanical equipment space located in the Building, which are not otherwise defined as Residential Limited Common Elements or located within the Commercial Unit, which solely service the Commercial Unit;

6.2.12 all hallways, mechanical areas, and passages located in the Building, which are not otherwise defined as Residential Limited Common Elements or located within the Commercial Unit, which solely service the Commercial Unit;

6.2.13 all tanks, pumps, motor fans, compressors, control equipment and elevator equipment;

6.2.14 hot water and condensed water systems servicing the Units;

6.2.15 all sewer pipes;

6.2.16 all areaways and any drains contained therein;

6.2.17 all exterior glass surfaces of windows in the Building, except for the windows of the Commercial Unit;

6.2.18 the roof, including roof-top mechanical rooms (but excluding those portions of the roof which are Terraces (as such term is hereinafter defined) designated as Limited Common Elements which service the Building;

6.2.19 all other parts of the Property and all apparatus, installations, systems, equipment, facilities, pipes, conduits, ducts, chutes, wires and cables and their enclosures existing in the Building or on the Property for common use or necessary or convenient to the existence, maintenance or safety of the Property;

6.2.20 sprinkler system for the Building, including all piping, fittings, valves and sprinkler heads, excluding however, all such items located within a Unit and servicing only a single Unit which shall be the responsibility of such Unit Owner to maintain; and

6.2.21 all Building storage rooms, telephone rooms and other service, mechanical and utility rooms in the Building.

6.3 The Residential Limited Common Elements consist of those portions of the Property designated on the Floor Plans as Residential Limited Common Elements and also those Common Elements which exclusively serve or exclusively benefit all or a combination of the

Residential Units or the Residential Unit Owners whether or not designated as Residential 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 telephone, television, internet service and telecom providers). The Residential Limited Common Elements include, without limitation, the following:

6.3.1 all halls, passages, corridors, storage rooms, 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;

6.3.2 those stairs and stairways in the Building shown on the Floor Plans as Residential Limited Common Elements (and excluding, however, those portions of stairs, stairways and fire stairways in the Building shown on the Floor Plans as constituting part of another Common Element or Unit);

6.3.3 the recreation space and recreational roof terrace and any other amenities, to the extent existing therein and dedicated for use solely by occupants of Residential Units, excluding, however, those portions of designated as Limited Common Elements;

6.3.4 all plumbing fixtures, equipment for distribution of cold water and equipment for producing and distributing hot water, including pumps, valves, pressure reducers, meters and water heaters, excluding, however, all such items located within a Residential Unit and servicing only a single Residential Unit;

6.3.5 smoke detection alarm system, sprinkler system, telephone system, internet system and cable television system, excluding however, all such items located within a Residential Unit and servicing only a single Residential Unit which shall be the responsibility of such Residential Unit Owner to maintain;

6.3.6 all security monitors and equipment and other security facilities serving or benefiting only the Residential Units;

6.3.7 all Building storage rooms, including the storage room containing the Storage Units, telephone rooms and other service, mechanical and utility rooms serving or benefiting only the Residential Units; and

6.3.8 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.

## ARTICLE 7

## USE OF UNITS

7.1 As more particularly set forth in the By-Laws, Units may be used only as a residence and for permitted professional and ancillary business uses as permitted by law, and not more than one (1) family may occupy a Residential Unit at one time. A Residential Unit owned or leased by an individual, corporation, partnership, limited liability company, fiduciary or any other legal entity, may only be occupied by said individual, or an officer, director, stockholder or employee of such corporation, or a partner or employee of such partnership, or member or employee of such limited liability company, or said fiduciary (including directors, officers, stockholders or employees of corporate fiduciaries or partners or employees of partnership fiduciaries) or the beneficiary of said fiduciary, or a principal or employee of such other entity, respectively, or members of the immediate family (including domestic partners) or guests of any of the foregoing (and nothing contained in this sentence shall be deemed to prohibit the exclusive occupancy of any Residential Unit by such family members (including domestic partners or guests). Any use of a Residential Unit must conform to the terms and conditions of the then existing certificate of occupancy for such Unit and applicable federal, state and local governmental and municipal regulations (including any zoning variance applicable to such Unit).

7.2 The recreational roof terrace may be used by the Residential Unit Owners and their guests for passive recreational uses, as are permitted by applicable law, subject to the Rules and Regulations of the Condominium.

7.3 The balconies adjacent to Units 3, 4 and 5 (each a "Balcony" and collectively, the "Balconies" may be used by the respective Unit Owners who own such Units. The Unit Owners who own the Commercial Unit and the Penthouse may each use the respective terrace adjacent to such Units (each a "Terrace" and, collectively, the "Terraces"). The Terraces and Balconies may be used by the Unit Owners and their guests for passive recreational use, as are permitted by applicable law, subject to the Rules and Regulations of the Condominium.

7.4 Notwithstanding the foregoing or anything contained in the By-Laws or the Rules and Regulations to the contrary, Declarant may, without the permission of the Condominium Board, (a) grant permission for the use of any Unsold Unit (as such term is hereinafter defined) as a professional office or for any other purpose, provided such use is permitted by law, does not violate the then existing certificate of occupancy for such Unit and the user of the Unit complies with all applicable governmental and municipal regulations; and (b) use any Unsold 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. "Unsold Unit" shall mean those Units not sold to a "Purchaser" under the Offering Plan of the Building (the "Offering Plan"), including any Unit owned or retained, by way of lease or any other arrangement by which management and/or financial responsibility is retained, by Declarant or a successor owner of the Unsold Units or a transferee who has the written consent of the Declarant or a successor owner of Unsold Units (as applicable) at the time in question, or a Unit that is acquired, individually or collectively, by a principal of Declarant or a group of which Declarant or one or more principals of Declarant is a member or a permitted transferee under Article 26 below. Anything contained herein

to the contrary notwithstanding, if any of such Units are used for commercial office use as herein above provided, they shall nevertheless be deemed Units hereunder and shall be entitled and subject to all of the rights and restrictions provided or imposed hereunder with respect to the Units.

## ARTICLE 8

## CHANGES IN THE CONDOMINIUM

8.1 Except as prohibited by law, Declarant or its successor shall have the right, without the vote or consent of the Condominium Board, other Unit Owners or the Mortgage Representatives, if any, to: (a) make alterations, additions or improvements, whether structural or non-structural, interior or exterior; (b) change the layout of, or number of rooms in, any Unsold Units from time to time; (c) change the size and/or number of Unsold Units by subdividing one (1) or more Unsold Units into two (2) or more separate Units, combining separate Unsold Units (including those resulting from such subdivision or otherwise) into one (1) or more Units, altering the boundary walls between any Unsold Units, or otherwise; (d) if appropriate, reapportion among the Unsold Units affected by such change in size or number pursuant to the preceding clause and their percentage interests in the Common Elements; provided, however, that the percentage interest in the Common Elements of any other Units (other than Unsold Units) shall not be changed by reason thereof unless the owners of such Units shall consent thereto and, provided further, that Declarant or its successor shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction and shall agree to hold the Condominium Board and all other Unit Owners harmless from any liability arising therefrom.

8.2 In the event of any change pursuant to Section 8.1, such change may only be made after Sponsor has disclosed such changes in a duly filed amendment to the Offering Plan. No change in size of a Unit or its layout will be made with respect to any Unit for which a Purchase Agreement is then in effect and with respect to which the Purchaser is not in default unless the Purchaser consents thereto. Except for Sponsor's right to make certain changes in Unsold Units, as set forth in subparagraphs (a) through (d) of Section 8.1, once this Declaration is filed and recorded, no change may be made in the number of Units or number of rooms within a Unit, nor may the size of a Unit be changed by subdivision or combination or alteration of boundary walls as aforesaid, or otherwise, nor may the Common Interest of any Unit or the amount or quality of the Common Elements be changed, unless the Plan and the Declaration are amended with the consent of all Unit Owners directly affected. Sponsor or its successor shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction, including filing an amendment to the Plan and the Declaration, and shall agree to hold the Condominium Board and all other Unit Owners harmless from any liability arising therefrom.

8.3 The provisions of this Article 8 may not be added to, amended, modified or deleted without the prior written consent of Declarant or its successor. By the written permission of the Condominium Board, which shall not be unreasonably withheld, any Unit Owner may be given, with respect to such owner's Unit, the same rights as are set forth in this Article 8 with respect to Unsold Units, except that such Unit Owner may not subdivide his Unit into separate Units. In addition to the restrictions set forth above in this Article 8, no reapportionment of the interests in the Common Elements appurtenant to any Unit shall be made unless there is first delivered to the Condominium

Board a written certification stating that the percentage interests of the respective Units in the Common Elements, immediately after such reapportionment, will be 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 respective Units, the availability of Common Elements for exclusive or shared use and the overall dimensions of the respective Units. The certification referred to in the preceding sentence shall be delivered (a) in the case of any Unsold Unit, at Declarant's election, by Declarant, the managing agent of the Condominium or any other person reasonably acceptable to the Condominium Board, and (b) in the case of any Unit, by either the managing agent of the Condominium or any other person reasonably acceptable to the Condominium Board.

8.4 Any Unit Owner who shall make any changes to his Unit in accordance with this Article 8 shall be solely responsible for all costs and expenses, including professional fees and expenses, incurred by such Unit Owner and/or Condominium Board in connection therewith.

## ARTICLE 9

## PERSON TO RECEIVE SERVICE

The Secretary of State of the State of New York (the "Secretary of State") is hereby designated as agent of the Board of Managers upon whom process against it may be served, and the post office address to which the Secretary of State shall mail a copy of any process against it served upon him as President, having an office at 263 Bowery, New York, New York _____. As required by law, the Board of Managers shall notify the Secretary of State of any change in the managing agent or person authorized to receive a copy of any process served against the Secretary of State.

## ARTICLE 10

## DETERMINATION OF PERCENTAGE INTERESTS IN COMMON ELEMENTS

The respective percentage interests of each Unit in the Common Elements has been determined upon the basis of floor space, subject to the location of such space and additional factors of relative value to other space in the Condominium, the uniqueness of the Unit or, the availability of Common Elements and/or the Limited Common Elements for exclusive or shared use and the overall dimensions of the particular Unit and the Terrace appurtenant thereto, if any.

## ARTICLE 11

## ENCROACHMENTS

If (a) any portion of the Common Elements encroaches upon any Unit, upon any other Common Element, (b) any Unit, encroaches upon any other Unit, or upon any portion of the Common Elements, or (c) any encroachment shall hereafter occur as a result of (i) settling or shifting of the Building, (ii) any alteration or repair to the Common Elements made by or with the consent (when required by the By-Laws) of the Condominium Board or made by Declarant or its successor in accordance with this Declaration or the By-Laws, or (iii) any repair or restoration of the Building (or

any portion thereof) or of any Unit or Common Element or after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, 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.

## ARTICLE 12

## FACILITIES AND ALL OTHER COMMON ELEMENTS

Each Unit Owner shall have an easement in common with all other Unit Owners to use, maintain, repair, alter and replace all facilities and all other Common Elements, located in any of the other Units or elsewhere on the Property which serve his Unit. Each Unit shall be subject to an easement in favor of all Unit Owners to use, maintain, repair, alter and replace the facilities and all other Common Elements located in such Unit or elsewhere on the Property which serve other Units. The Condominium Board shall have a right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the Common Elements contained therein or elsewhere in the Property, provided such right of access shall be exercised 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 not less than one (1) days notice, except that no notice will be necessary in the case of an "emergency" (a condition requiring repairs or replacements immediately (a) necessary for the preservation or safety of the Building or for the safety of occupants of the Building, or other persons, or (b) required to avoid the suspension of any necessary service in the Building).

## ARTICLE 13

## EASEMENTS

13.1 Each Unit Owner shall have, in common with all other Unit Owners, an easement, for the exclusive use of the Common Elements, except for those Limited Common Elements which are designated for the exclusive use of certain Unit Owners as set forth herein.

13.2 Each Unit Owner shall have, in common with all other Unit Owners, and each Unit shall be subject to, an easement to install, operate, maintain, repair, alter, rebuild, restore and replace the Common Elements located in, over, under, through or upon any Unit, or any other Common Elements or elsewhere on the Property, and provided that access to any Unit or the Common Elements in furtherance of such easement shall be exercised 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 not less than one (1) days' notice, except that no notice will be necessary in the case of an emergency.

13.3 Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

13.4 Declarant or its successors and assigns shall, to the extent permitted by law, have an easement to erect, maintain, repair and replace, from time to time, one (1) or more signs on the Property for the purposes of advertising the sale or lease of any Unsold Unit.

13.5 Declarant or its successor and the Condominium Board shall have the right to grant such additional electric, gas, steam or other utility easements or relocate any existing utility easements in any portion of the Property, as Declarant, its successor, or the Condominium Board, as the case may be, shall deem necessary or desirable for the proper operation and maintenance of the Building or any portion thereof, or for the general health or welfare of the owners, tenants and occupants of the appropriate Units, provided that such additional utilities or the relocation of existing utilities will not prevent or unreasonably interfere with the use of the Units for their permitted purposes. Any utility company and its employees and agents shall have the right of access to any Unit or the Common Elements in furtherance of such easement, provided such right of access shall be exercised in such a manner as shall not unreasonably interfere with the use of the Units for the purposes permitted pursuant to applicable Law and regulations subject, however, to the terms and conditions contained in this Declaration.

## ARTICLE 14

## LIMITED COMMON ELEMENTS

14.1 Certain portions of the Common Elements are limited and restricted in use to the Unit Owners to which those Common Elements are appurtenant, and are thereby identified as Limited Common Elements. The use of Limited Common Elements by any Unit Owner having exclusive use thereof, is subject to the structural repairs or structural replacements to said Limited Common Element and subject to the Rules and Regulations of the Condominium. Included among Limited Common Elements for each Unit are: (a) the Unit entrance doors (to and from common hallways), (b) the Unit windows and interior portions of the window frames (but not any Unit skylights or skylight frames), and (c) any Terrace of which a Unit Owner has exclusive use.

14.2 The cost of normal maintenance and repair of Limited Common Elements (*i.e.*, keeping surface areas clean and absent of cracks, breaks, or similar damage and replacing such surface areas when appropriate) will be borne by the Unit Owner having the exclusive use thereof. The cost of repairing and/or replacing Limited Common Elements shall be shared equally by the Unit Owners affected, unless the need for repair or replacement was occasioned by the negligence of one (1) of the Unit Owners or his or her guest(s) or agent(s), in which case the cost shall be borne by the Unit Owners as a Common Expense. Structural repairs of the Limited Common Elements will also be borne by the Unit Owners as a Common Expense.

14.3 There are Terraces appurtenant to Units 3, 4, 5, and PH, which Terraces are directly accessed from the respective Unit and the respective Unit Owner shall have the exclusive use of such Terrace as a Limited Common Element. The Terraces shall include any pavers, decking and drains, hose bibs, electrical outlets, lighting and light fixtures, enclosures and dividers, to the extent contained therein, installed as part of the original construction of the Building. The Terraces are for passive recreational use only. The Terraces may not be rented out or employed for any commercial purpose. Use of the Terraces must be in compliance with all applicable laws and regulations and the Rules and Regulations of the Condominium.

## ARTICLE 15

## THE COMMERCIAL UNIT

15.1 The Commercial Unit may be used for any lawful purpose, including, without limitation, for retail, restaurant, including an establishment for the sale of prepared food, a wine store, banking, commercial, office, municipal, school annex, and utility purposes. It is currently anticipated that the Commercial Unit will initially be used for retail purposes including a restaurant or an establishment for the sale of prepared food (and ancillary uses), although no representation or warranty is made with respect to such initial or any subsequent uses of the Commercial Unit or with respect to who the owner or tenant(s) of the Commercial Unit may be at any time. Notwithstanding the foregoing, the Condominium Board will have no right to restrict or limit any of the uses of, or alterations in or to, the Commercial Unit (including the storefronts thereof) which are permitted by law and applicable zoning ordinances, except as otherwise set forth in the By-Laws and Declaration. The following uses are prohibited: a funeral parlor, an establishment for the servicing of motor vehicles, machinery or equipment, a drug or alcohol treatment center, a shelter for homeless persons, an AIDS treatment center, a facility housing or treating criminal or mentally disturbed persons, a massage parlor or sex club or for the sale or display of pornographic material or a cabaret or nightclub, provided however, such restriction shall not prohibit a restaurant from having live entertainment. No income derived from any use of the Commercial Unit will constitute income to the Condominium Board or the Residential Unit Owners.

15.2 Except to the extent prohibited by law, the Commercial Unit Owner(s) shall have the right, without the vote or consent of the Board, by Managing Agent or any other Unit Owner to: (a) mortgage or otherwise hypothecate its Unit: (b) decorate or make alterations, additions or improvements, in, to and upon its Commercial Unit (provided, however, that such Commercial Unit Owner, if other than Declarant or its successor-in-interest, must obtain the prior consent of the Board, which consent shall not be reasonably withheld, to any alterations, additions or improvements to its Commercial Unit which would affect the structural, mechanical, electrical or plumbing elements of the Building which shall service the Residential Units); (c) change the layout of, or number of rooms in, its Commercial Unit from time to time; (d) change the size of its Commercial Unit by subdividing the same into any desired number of condominium units (or by combining any units resulting from each subdivision); and (e) reapportion among the newly created condominium units resulting from any subdivisions (or combinations) their percentage interests in the Common Elements, provided such changes are in compliance with Article 9-B, Section 339 of the New York Condominium Act; provided, however, that (i) the percentage interest in the Common Elements of any Unit owned by any other Unit Owner shall not be changed by reason thereof, unless the owner of such Unit shall consent thereto, and (ii) such Commercial Unit Owner shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction and shall hold the Board and all other Unit Owners harmless from any liability arising from any such decoration, alteration, addition, improvement, change, designation or reapportionment. Each Unit Owner by accepting a deed or otherwise succeeding to title to their respective Units, together with the Sponsor, shall be deemed to have irrevocably approved.

15.3 The Commercial Unit Owner(s) shall have the unilateral right with regard to the Commercial Unit to amend the Declaration in order to reflect changes as set forth above in

Section 15.1, or to cause the Board to do so and all of the Unit Owners by accepting a deed or otherwise succeeding to title to their respective Units, together with the Declarant, shall be deemed to have irrevocably consented to any such amendments. If the Commercial Unit is subdivided, the owner of each Commercial Unit resulting from a subdivision will generally have all of the rights (without the consent of the Board or other Unit Owners) set forth above in Section 15.1, described as pertaining to the Unit Owner of the original Commercial Unit or Commercial Units in question.

## ARTICLE 16

## POWER OF ATTORNEY TO THE CONDOMINIUM BOARD

Each Unit Owner shall grant to the persons who shall from time to time constitute the Condominium Board, an irrevocable power of attorney, coupled with an interest (in such form and content as the Condominium Board shall determine), (a) to acquire or lease any Unit, together with its Appurtenant Interests (as hereinafter defined), whose owner desires to sell, convey, transfer, assign, lease or surrender the same, or which becomes the subject of a foreclosure or other similar sale, in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners; (b) to convey, sell, lease, mortgage or otherwise deal with (but not to vote the interest appurtenant to) any such Unit so acquired or leased; (c) to execute, acknowledge and deliver and record in the City Register's Office and elsewhere, if required by law, regulation or administrative practice, such instruments and documents including, without limitation (i) any declaration or other instrument affecting the Condominium which the Condominium Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Condominium or (ii) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the Condominium or the Common Elements which the Condominium Board deems necessary or appropriate; and (d) to initiate, prosecute and settle matters related to real estate taxes on behalf of all Unit Owners.

## ARTICLE 17

## ACQUISITIONS OF UNITS BY THE CONDOMINIUM BOARD

If (a) any Unit Owner surrenders his Unit, together with (i) the undivided interest in the Common Elements appurtenant thereto, (ii) the interest in the Terrace appurtenant to such Unit, if applicable, (iii) the interest of such Unit Owner in any other Units, if applicable, theretofore acquired by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners or the proceeds of the sale or lease thereof, if any, and (iv) the interest of such Unit Owner in the Common Elements and any other assets of the Condominium (such interests in (i), (ii), (iii) and (iv) being hereinafter collectively called the "Appurtenant Interests"), pursuant to the provisions of Section 339-x of the New York Condominium Act; or (b) the Condominium Board acquires or leases a Unit, together with its Appurtenant Interests, or purchases, at a foreclosure or other similar sale, a Unit, together with its Appurtenant Interests, then, in any such event, title to any such Unit, together with its Appurtenant Interests, shall be held by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective interests in the

Common Elements. The lease or sublease covering 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 Unit Owners, in proportion to their respective interests in the Common Elements.

## ARTICLE 18

## COVENANTS RUNNING WITH THE LAND

18.1 All provisions of this Declaration, the By-Laws and the Rules and Regulations (true copies of which are annexed hereto and made a part hereof), including, without limitation, the provisions of this Article 18 shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions thereof shall be binding upon and inure to the benefit of the owner of all or any part thereof, or interest therein, and his heirs, executors, administrators, legal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time, are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

18.2 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 New York 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 New York 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 New York 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 New York Condominium Act.

18.3 Subject to Section 18.2, if this Declaration and the By-Laws are sufficient to submit the Property to the provisions of the New York 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 other applicable law to the extent permitted under such applicable law with the same force and effect as if immediately after the recording of this Declaration and the By-Laws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land.

## ARTICLE 19

## AMENDMENTS OF DECLARATION

19.1 Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions or deletions affecting Declarant or any successor owner of any Unsold Units, except as hereinafter set forth, any provision of this Declaration may be added to, amended, modified or deleted by the vote of at least 66-2/3 percent in number and in common interest of all Unit Owners taken in accordance with the provisions of the By-Laws. Notwithstanding the foregoing, the Board of Managers may approve an amendment to this Declaration without obtaining the approval of the Unit Owners, if the sole purpose of such amendment is to amend the Condominium Plans to either (a) combine two (2) Units or more Units into a single Unit in an instance where a Unit Owner owns Units which are contiguous Units whether or not such Units are located on the same floor, or (b) incorporate the elevator vestibule into a Unit in instances where a Unit Owner owns both Units located on a floor. Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions or deletions affecting Declarant or its successor or any Unsold Units, no amendment, modification, addition or deletion pursuant to the preceding sentence shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of the Mortgage Representatives, if any. No such amendment, modification, addition or deletion shall be effective until recorded in the City Register's Office. Subject to the provisions contained herein or in the By-Laws with respect to amendments, modifications, additions or deletions affecting Declarant or its successor or any Unsold Units, any such amendment, modification, addition or deletion shall be executed by the Condominium Board as attorney-in-fact for the Unit Owners coupled with an interest, which the Condominium Board is hereby authorized by the Unit Owners so to act as their attorney-in-fact. Subject to the rights of Declarant or its successor under Articles 7 and 8 of this Declaration, Articles 7 and 8 of 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) 100 percent in number and in common interest of all Unit Owners affected thereby approve such amendment, modification, addition or deletion in the manner set forth above.

19.2 If any changes are made by the Declarant to the Property, the Condominium, any Units, Terraces, Balconies or the Common Elements in accordance with Article 8 hereof, then Declarant or its successor or the owner of an Unsold Unit shall have the right to execute, or (on its request) to require any other Unit Owner or the Condominium Board to execute, and record in the City Register's Office and elsewhere, if required by law, an amendment to this Declaration (together with such other documents as Declarant or its successor deems appropriate to effectuate the same) reflecting such changes.

19.3 Notwithstanding anything contained in this Declaration to the contrary, no change in the common interest of any Unit Owner shall be made or effective without the consent of all Unit Owners whose common interests would be affected thereby.

19.4 The provisions of Sections 19.1 and 19.2 may not be modified, amended, added to or deleted, in whole or in part, without the consent of Declarant or any successor owner of the Unsold Units.

## ARTICLE 20

## TERMINATION OF CONDOMINIUM

The Condominium shall continue until (a) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in the By-Laws or (b) such time as withdrawal of the Property from the provisions of the New York Condominium Act is authorized by a vote of at least 80 percent in number and in common interest of all Unit Owners. No such vote under clause (b) in the preceding sentence shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of the Mortgage Representatives, if any. Declarant will not vote its interests appurtenant to any Unsold Units for such withdrawal unless at least 80 percent in number and in common interest of all other Unit Owners so elect for such withdrawal, at which time Declarant may choose to vote either in favor of or against withdrawal from condominium ownership, as it sees fit. In the event said withdrawal is authorized as aforesaid, the Property shall be subject to an action for partition by any Unit Owner or lienor as if owned in common, in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective common interest, provided, however, that no payment shall be made to a Unit Owner until there has first been paid from out of his share of such net proceeds all liens on his Unit in the order of priority of such liens.

## ARTICLE 21

## 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 22

## CAPTIONS

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provision thereof.

## ARTICLE 23

## CERTAIN REFERENCES

23.1 A reference in this Declaration to any gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural, and vice versa, unless the context otherwise requires.

23.2 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.

23.3 Unless otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of this Declaration.

## ARTICLE 24

## SEVERABILITY

Subject to the provisions of Sections 18.2 and 18.3, if any provision of this Declaration is invalid or unenforceable as against any person or under certain circumstances, the remainder of this Declaration and the applicability of such provision to other persons or circumstances shall not be affected thereby. Each provision of this Declaration shall, except as otherwise herein provided, be valid and enforceable to the fullest extent permitted by law.

## ARTICLE 25

## COVENANT OF FURTHER ASSURANCES

25.1 Any party which is subject to the terms of this Declaration, whether such party is a Unit Owner, a lessee or sublessee of a Unit Owner, an occupant of a Unit, a member or officer of the Condominium Board, or otherwise, shall, at the expense of any such other party requesting the same, execute, acknowledge and deliver to such other party such instruments, in addition to those specifically provided for herein, and take such other action, as such other party 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.

25.2 If any Unit Owner or any other party which is subject to the terms of this Declaration fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after request therefor, to take any action which such Unit Owner or party is required to execute, acknowledge and deliver or to take pursuant to this Declaration, then the Condominium Board is hereby authorized as attorney-in-fact for such Unit Owner or other party, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Unit Owner or other party and such document or action shall be binding on such Unit Owner or other party.

25.3 If any Unit Owner or the Condominium Board or any other party which is subject to the terms of this Declaration fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after request therefor, to take any action which the Condominium Board or Unit Owner or other party is required to execute, acknowledge and deliver or take pursuant to this Declaration at the request of Declarant, then Declarant, is hereby authorized as attorney-in-fact for the Condominium Board or such Unit Owner or other party, coupled with an interest, to execute, acknowledge and deliver such instrument or to take such action, in the name of the Condominium Board or such Unit Owner or other party and such document or action shall be binding on the Condominium Board or such Unit Owner or other party, as the case may be.

## ARTICLE 26

## SUCCESSORS AND ASSIGNS

The rights and/or obligations of Declarant as set forth herein shall inure to the benefit of and be binding upon any successor or assign of Declarant who is the successor owner of the Unsold Units or, with written consent of Declarant or a successor owner of Unsold Units, any transferee who purchased one or more Unsold Units (as applicable) from Declarant or a successor owner of Unsold Units and if (if included in said consent) such transferee's successors and assigns (a "permitted transferee"). Subject to the foregoing, Declarant shall have the rights, at any time, in its sole discretion, to assign or, otherwise transfer its interest herein, whether by merger, consolidation, lease, assignment or otherwise.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the day of_____, 2010.

D.N.P. 336 CONVENT AVENUE, LLC

By:_____

STATE OF NEW YORK )
:ss.:
COUNTY OF )

On the _____ day of _____ in the year 2010, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

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**SCHEDULE A**

**TO THE DECLARATION**

**OF BOWERY 263 CONDOMINIUM**

**METES AND BOUNDS DESCRIPTION OF PROPERTY**

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York known and designated as Lot 10 in Block 427, Section 2 on the Tax Map of the City of New York for the Borough of Manhattan, as said Map was on May 1, 1998.

Said lot being bounded and described as follows:

BEGINNING at a point on the easterly side of Bowery where the same is intersected by the division line between the northerly face of the northerly independent wall of the three-story masonry building on the hereby described premises (No. 263 Bowery) and the southerly face of the southerly independent wall of the two-story masonry building on the premises adjoining on the hereby described premises no the north (No. 265 Bowery), said point being distant 181 feet 9 inches southerly, as measured along the easterly side of Bowery, from the corner formed by the intersection of the southerly side of East Houston Street with the said easterly side of Bowery:

RUNNING THENCE from said point of beginning easterly along the division line between the above mentioned walls, along a line forming an angle of 84 degrees 57 minutes 38 seconds on the southerly side with the easterly side of Bowery, a distance of 101 feet 6 5/8 inches;

THENCE Southerly along a line forming an interior angle of 96 degrees 29 minutes 09 seconds, a distance of 23 feet 3 3/4 inches;

THENCE continuing southerly along a line forming an interior angle of 178 degrees 05 minutes 49 seconds, a distance of 0 feet 7 7/8 inches;

THENCE Westerly along a line forming an interior angle of 84 degrees 40 minutes 34 inches, said line being along the division line between the southerly face of the southerly independent wall of the three-story masonry building, on the hereby described premises (No. 263 Bowery) and the northerly face of the northerly independent wall of the one and three-story masonry building on the premises adjoining the hereby described premises on the south (No. 261 Bowery) a distance of 102 feet 13/4 inches to the easterly side of Bowery;

THENCE Northerly along the easterly side of Bowery which forms an interior angle of 95 degree 00 minutes 14 seconds with the last described course, a distance of 24 feet 3 3/4 inches to the point and place of BEGINNING.

TOGETHER with the benefits of the Agreement of Negative Easement recorded in Reel 2899 Page 2050.

**SCHEDULE B**
**TO THE DECLARATION OF**
**BOWERY 263 CONDOMINIUM**

| Unit designation | Number of bedrooms and baths | Approx Unit area Sq. Ft. | Outdoor Areas Gross Sq. Ft. | Common Element Percentage |
|---|---|---|---|---|
| Commercial | N/A | 6,195 | 354 | 35.0% |
| | | | | |
| | | | | |
| 3rd | 2/2 | 1,337 | 310.00 | 15.0% |
| 4th | 2/2 | 1,344 | 68 | 13.0% |
| 5th | 2/2 | 1,344 | 50 | 13.0% |
| Penthouse | 3/2 | 2,177 | 340 | 24.0% |
| | | | | |
| Total | 9/8 | 12,397 | 1,122 | 100% |

**EXHIBIT I**

# BY-LAWS OF

# BOWERY 263 CONDOMINIUM

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EXHIBIT A

RULES AND REGULATIONS FOR THE RESIDENTIAL
UNIT OWNERS OF BOWERY 263 CONDOMINIUM

# BY-LAWS OF THE

# BOWERY 263 CONDOMINIUM

## ARTICLE 1

## GENERAL

1.1 Purpose. The purpose of these By-Laws is to set forth the rules and procedures concerning the conduct of the affairs of Bowery 263 Condominium (the "Condominium"). The Condominium covers the property (the "Property") consisting of approximately 9,008 square feet of land (the "Land") located on Lot 10, which forms a part of Block 427 on the Tax Map of the Borough of Manhattan, County, City and State of New York, the building and other improvements now or hereafter to be constructed thereon (hereinafter collectively called the "Building"), including, without limitation, the Units, the Residential Limited Common Elements, the Residential Special Limited Common Elements, the Commercial Limited Common Elements and the Common Elements, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith, all of which have been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York by the recording of a Declaration (which, as the same may be amended from time to time, is herein called the "Declaration") in the Office of the Register of the City of New York ("City Register's Office"), together with these By-Laws. References herein below to the Common Elements may be deemed to include any one (1) or more of the Residential Limited Common Elements and the Limited Common Elements. All capitalized terms herein which are not separately defined herein shall have the meanings given to those terms in the Declaration.

1.2 Applicability of By-Laws. These By-Laws are applicable to the Property and to the use and occupancy thereof. 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 facilities of the Property, are and shall be subject to the Declaration, these By-Laws and the Rules and Regulations (as such term is hereinafter defined). The acceptance of a deed or 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 these By-Laws, the Rules and Regulations and the Declaration are accepted, ratified, and will be complied with.

1.3 Principal Office of Condominium. The principal office of the Condominium shall be located within the Property or at such other place within the Borough of Manhattan, County of New York reasonably convenient thereto, as may be designated from time to time by the Condominium Board (as such term is hereinafter defined).

## ARTICLE 2

## BOARD OF MANAGERS

2.1 Number, Term and Qualification.

2.1.1 As more particularly set forth in Section 2.2, the affairs of the Condominium shall be governed by a board of managers of the Condominium (the "Condominium Board" or the "Board" or the "Board of Managers") which shall be comprised of representatives of the Unit Owners. From and after the holding of the first (1st) annual meeting of Unit Owners, the Board shall consist of three (3) persons.

2.1.2 At the first (1st) annual meeting, the Unit Owners shall elect three (3) managers: two (2) managers elected by the Residential Unit Owners (including Declarant) (subject, however, to Declarant's right to designate certain Board Members (defined herein below) during the Initial Control Period, as hereinafter set forth) (each, a "Residential Board Member" and together, the "Residential Board Members") and one (1) manager designated by the Commercial Unit Owner (the "Commercial Board Member"). The Residential Board Members and the Commercial Board Member are hereinafter collectively, the "Board Members" and each a "Board Member." Each Board Member elected by the Unit Owners shall serve for a one-year term. Prior to the fifth (5th) anniversary of the First Unit Closing (as such term is defined in the Offering Plan for the Building (the "Offering Plan")), for so long as Declarant or its successor owns at least fifteen (15%) percent of the Unsold Units, Declarant or the successor owner of the Unsold Units may elect two (2) members of the Board of Managers, and for so long as Declarant or its successors own at least one (1) Unsold Unit, Declarant or its successor, as the case may be, may designate one (1) member of the Board of Managers. Any person who wishes to serve as a member of the Board or wishes to nominate a person to serve as a member of the Board (other than those persons designated by Declarant or its successor) shall give written notice to the managing agent of the Condominium no less than fourteen (14) days prior to the annual meeting at which such election is being held. There shall be no limit on the number of successive terms a Board Member may serve.

2.1.3 Except for Board Members elected or designated by Declarant or its successor, all Board Members shall be either Unit Owners or officers, directors, shareholders, partners, members, principals, employees or beneficiaries of corporations, partnerships, limited liability companies, fiduciaries or any other entities which are Unit Owners, Permitted Mortgagees (as such term is defined as Section 7.1 hereof), or family members (including domestic partners) of any of the foregoing. Other than Board Members elected or designated by Declarant or its successor, no Board Member shall continue to serve after he ceases to be qualified as set forth above.

2.2 Powers and Duties.

2.2.1 The Board shall have the powers and duties necessary for or incidental to the administration of the affairs of the Condominium (except such powers and duties which by law, the Declaration or these By-Laws may not be delegated to the Board by the Unit Owners). All determinations with respect to the administration of the affairs of the Condominium shall be made by the Condominium Board.

2.2.2 Subject to the provisions of subsection 2.2.1 and without limiting the generality thereof, the Condominium Board shall be entitled to make determinations with respect to the following matters:

2.2.2.1 Operation, care, upkeep, maintenance, repair or replacement of the Common Elements, except to the extent that certain Unit Owners are responsible for certain Limited Common Elements designated for their exclusive use, as set forth in the Declaration and in Section 6.9 hereof.

2.2.2.2 Determination and collection of Common Charges (as such term is hereinafter defined).

2.2.2.3 Employment and dismissal of the personnel necessary for the maintenance and operation of the Common Elements.

2.2.2.4 Adoption of, and amendments and additions to, the Rules and Regulations (as such term is hereinafter defined).

2.2.2.5 Maintaining bank accounts on behalf of the Condominium (with respect to matters within its jurisdiction as provided in these By-Laws) and designating the signatories required therefor.

2.2.2.6 Obtaining and reviewing insurance of the Property, including the Units, pursuant to the provisions of Section 6.2.

2.2.2.7 Making repairs, restorations, additions and improvements to, or alterations of, the Common Elements, except to the extent that certain Unit Owners are responsible for certain Limited Common Elements designated for their exclusive use, as set forth in the Declaration and in Section 6.9 hereof.

2.2.2.8 Levying fines against Unit Owners for violations of the Rules and Regulations (any such fines shall constitute Common Charges payable by the Unit Owner of the Unit against which they are levied).

2.2.2.9 Adjusting and settling insurance claims and executing and delivering releases in connection therewith, as set forth in Section 6.2.

2.2.2.10 Borrow money on behalf of the Condominium and all Unit Owners when required for major and minor maintenance repairs, additions, improvements, replacements, working capital, bad debt and unpaid Common Expenses, depreciation, obsolescence and similar purposes. Such debt may be incurred no earlier than the fifth (5th) anniversary of the first (1st) conveyance of a Unit and the consent of a majority in interest of Unit Owners must be obtained. In order to secure such loans, the Board of Managers may (a) assign the rights to receive future income and Common Charges that it will be entitled to collect from Unit Owners; (b) create a security interest in, assign, pledge, mortgage or otherwise encumber funds or other real or personal property that it holds; (c) agree that to the extent of any amounts due under any of the provisions of the agreements under which the debt was incurred and subject to the provisions of Section 339.1(2)

of the Real Property Law of the State of New York all Common Charges received and to be received by it, and the right to receive such funds shall constitute trust funds for the purpose of paying such debt and the same shall be expended for such purpose before expending any part of the same for any other purpose; and (d) agree that at the lender's direction it will increase Common Charges to the extent necessary to pay any amounts when due under any of the provisions of the agreements under which the debt was incurred.

2.2.2.11 Collection of Common Charges from Unit Owners.

2.2.2.12 Enforcing obligations of Unit Owners.

2.2.2.13 Execution, acknowledgment and delivery of (a) any declaration or other instrument affecting the Property which the Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals or any other public authority, applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Building, or (b) any consent, covenant, restriction, easement or declaration affecting the Property which the Board deems necessary or appropriate.

2.2.2.14 Prepare, execute and record, on behalf of all Unit Owners, as their attorney-in-fact, coupled with an interest, a restatement of the Declaration and/or these By-Laws whenever, in the Board's estimation, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the Declaration and/or these By-Laws.

2.2.2.15 Accepting the surrender of any Unit in the name of the Board or its designee, on behalf of all Unit Owners.

2.2.2.16 Purchasing, leasing or otherwise acquiring in the name of the Board or its designee, on behalf of all Unit Owners, Units offered for sale or lease by their owners.

2.2.2.17 Purchasing any Unit, at foreclosure or other similar sale, in the name of the Board or its designee, on behalf of all Unit Owners.

2.2.2.18 Organizing corporations, limited liability companies, or other entities to act as designees of the Board with respect to such matters as the Board may determine, including, without limitation, in connection with the acquisition of title to any Unit the Board on behalf of all Unit Owners.

2.2.2.19 Selling, leasing, mortgaging or otherwise dealing with (but not voting the interest appurtenant to) any Unit, if acquired by the Board or its designee, on behalf of all Unit Owners.

2.2.2.20 Making repairs and restorations of the Common Elements or parts thereof damaged or destroyed by fire or other casualty or necessitated as a result of condemnation or eminent domain proceedings.

2.2.2.21 Any act with respect to a matter determinable by the Board and deemed necessary or desirable by the Board in connection therewith shall be done or performed by the Board or shall be done on its behalf and at its direction by the agents, employees or designees of the Board.

2.2.2.22 Filing on behalf of all of the Unit Owners tax certiorari petitions to obtain reductions in the real estate tax assessments for the Units.

2.2.2.23 Notwithstanding anything to the contrary contained in these By-Laws, so long as Declarant or its successor owns or controls at least fifteen (15%) percent in Common Interest of all Units (but only for a maximum period of five (5) years from the date of the first (1st) closing of title to a Unit under a Purchase Agreement pursuant to the Offering Plan), the Board may not, without Declarant's prior written consent: (i) make any addition, alteration or improvement to the Common Elements (unless required by law); (ii) assess any Common Charges for the creation of, addition to, or replacement of, all or part of any reserve, contingency or surplus provided for in Schedule B of the Offering Plan, as the same has been and may from time to time be amended; (iii) hire any additional employee or engage any independent contractor to provide services to the Condominium on a continuing basis; (iv) enter into any service or maintenance contract for work not covered in Schedule B of the Offering Plan, or otherwise provide services in excess of those contemplated by Schedule B or elsewhere in the Offering Plan; or (v) borrow money on behalf of the Condominium.

2.3 Managing Agent and Manager. The Board shall, with respect to decisions on matters which the Board is entitled to make, employ a managing agent and/or a manager at a compensation established by the Board, to perform such duties and services as the Board shall authorize including, but not limited to, the duties listed in subsections 2.2.(2.1), (2.3), (2.6), (2.7), (2.11) and (2.20). The Board may also delegate to such managing agent or manager other powers granted to it by these By-Laws, except the powers set forth in subsections 2.2.(2.2), (2.4), (2.5), (2.8), (2.9), (2.10) and (2.19).

2.4 First Board. Until the first (1st) annual meeting of Unit Owners, the Board shall consist of one (1) person designated by Declarant, from time to time. Within 30 days of the first (1st) anniversary of the First Unit Closing (as such term is defined in the Offering Plan) or after Units totaling more than fifty (50%) percent of the Common Interests have closed, such first (1st) Board shall call the first (1st) annual meeting of Unit Owners in accordance with the provisions of Section 3.1.

2.5 Removal. Subject to the provisions of Section 2.4 and subsection 3.9.3, any Board Member may, be removed, with or without cause, by a vote of Unit Owners present in person or by proxy at a regular or special meeting of Unit Owners at which a quorum is present and any Board Member designated as such by Declarant may be removed, only for cause, by a vote of all Unit Owners, present in person or by proxy at a meeting of all Unit Owners at which a quorum is present. Any Board Member whose removal has been proposed shall be given an opportunity to be heard at the meeting.

2.6 Vacancies. Subject to the provisions of Section 2.4 and subsection 3.9.3, any vacancy on the Board for whatever reason shall be filled by the members of the Board then in office, at a

special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy even though the members present at such meeting may constitute less than a quorum, and any person so elected shall be a member of the Board for the remainder of the term of the member creating such vacancy and until a successor shall be elected at the next annual meeting of Unit Owners.

2.7 Organization Meeting of Condominium Board. The first (1st) meeting of the Board following each annual meeting of Unit Owners shall be held within ten (10) days after such annual meeting at such time and place in the Borough of Manhattan as shall be fixed by a majority of the members thereof, and no notice shall be necessary to the newly elected Board Members in order to legally constitute such meeting, provided that a majority of the members of the Board shall be present thereat.

2.8 Regular Meetings of Condominium Board. Regular meetings of the Board may be held at such time and place in the Borough of Manhattan as shall be determined from time to time by a majority of the members thereof, provided that at least four (4) of such meetings shall be held during each fiscal year. Notice of regular meetings shall be given to each member thereof, by personal delivery, mail or electronic transmission, at least five (5) business days' prior to the day named for such meeting.

2.9 Special Meetings of Condominium Board. Special meetings of the Board may be called by the President or Secretary-Treasurer of the Condominium by giving five (5) business days' prior notice to each member of the Board, by personal delivery, mail or electronic transmission, which notice shall state the time, place (in the Borough of Manhattan) and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary-Treasurer of the Condominium in like manner and on like notice on the written request of at least one (1) member of the Board.

2.10 Waiver of Notice. Any Board Member may at any time waive notice of any Board meeting in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting thereof shall constitute a waiver of notice by him of the time and place thereof. If all the members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

2.11 Determinations by Condominium Board; Quorum.

2.11.1 Except as otherwise set forth in subsection 2.11.3, all determinations of the Board shall be made at a meeting of the Board at which a quorum thereof is present. At any such Board meeting, a majority of the members thereof shall constitute a quorum and the votes of a majority of such members present shall constitute the decision of the Board.

2.11.2 If at any Board meeting there is less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.11.3 Members of the Board may participate in a meeting thereof by means of a conference telephone or similar communications equipment by means of which all persons participating in such meeting can hear each other and such participation shall constitute presence at such meeting. Notwithstanding anything to the contrary contained herein, action permitted or required to be taken at a meeting of the Board may be taken without a meeting if all members of the Board consent thereto in writing.

2.12 Compensation. No member of the Board shall receive any compensation for acting as such.

2.13 Liability of Condominium Board and Unit Owners. To the extent permitted by applicable law, no member of the Board shall have any personal liability with respect to any contract, act or omission of the Board or of any managing agent or manager in connection with the affairs or operation of the Condominium (except in their capacities as Unit Owners) and the liability of any Unit Owner with respect thereto shall be limited as hereinafter set forth. Every contract made by the Board or by any managing agent or manager thereof shall state that it is made by the Board, managing agent or manager only as agent for all Unit Owners, that such Board Members or managing agent or manager shall have no personal liability thereon (except in their capacities as Unit Owners) and shall also state the applicable limitations of liability of Unit Owners provided for in the next sentence. The liability of any Unit Owner with respect to any contract, act or omission with respect to the Condominium shall be limited to such proportionate share of the total liability as the interest of such Unit Owner bears to the aggregate common interests of all Unit Owners and, unless expressly stated to the contrary in such contract (as determined by the Board in its sole and absolute discretion), to the extent permitted by applicable law, shall be limited to such Unit Owner's interest in his Unit and his Appurtenant Interest in the Common Elements so that such Unit Owner shall have no personal liability for such contract, act or omission. Nothing in the preceding sentence shall limit a Unit Owner's liability for his payment of Common Charges. Any such contract or agreement may also provide that it covers the assets, if any, of the Board. Board Members shall have no liability to Unit Owners for errors of judgment, negligence or otherwise, except that a Board Member shall be liable for his own bad faith or willful misconduct. All Unit Owners shall severally, to the extent of their respective interests in their Units and their Appurtenant Interests in the Common Elements, indemnify each Board Member against any liability or claim except those arising out of his own bad faith or willful misconduct. The Board may contract or effect any other transaction with any Board Member, any Unit Owner, Declarant or any affiliate of any of them without, except in cases of bad faith or willful misconduct, incurring any liability for self-dealing.

2.14 Fidelity Bonds. The Board may obtain fidelity bonds in amounts deemed appropriate by it for all of its members, officers and employees and of the managing agent or manager, if any, employed by it and the premiums on such bonds shall constitute Common Expenses.

2.15 Committees. The Board may, subject to such limitations and exceptions as the Board may prescribe, appoint such committees as the Board may deem appropriate, each to consist of one (1) or more members of the Board. Each such committee, to the extent provided in the resolution which creates it, shall have and may exercise all the powers of the Board during the intervals between the meetings of the Board insofar as may be permitted by law.

2.16 Principal Office of Condominium Board. The principal office of the Board shall be located within the Property or at such other place in the Borough of Manhattan reasonably convenient thereto, as may be designated from time to time by the Board.

2.17 Status of Condominium Board. In addition to the status conferred upon the Board under or pursuant to the provisions of the New York Condominium Act, the Board shall, to the extent permitted by applicable law, be deemed to constitute a separate unincorporated association for all purposes under and pursuant to the provisions of the General Associations Law of the State of New York. In the event of the incorporation of the Board pursuant to the provisions of Section 2.18, the provisions of this Section 2.17 shall no longer be applicable.

2.18 Incorporation of Condominium Board. To the extent and in the manner provided in the New York Condominium Act, the Board may, as provided in this Article 2, be incorporated under the applicable statutes of the State of New York. In the event that the Board so incorporates it shall have, to the extent permitted by applicable law, the status conferred upon it under such statutes in addition to the status conferred upon the Board under or pursuant to the provisions of the New York Condominium Act. The certificate of incorporation and by-laws of any such resulting corporation shall conform as closely as practicable to the provisions of the Declaration and these By-Laws and the provisions of the Declaration and these By-Laws shall control in the event of any inconsistency or conflict between the provisions thereof and the provisions of such certificate of incorporation and by-laws.

2.19 Condominium Board as Agent of Unit Owners. In exercising its powers and performing its duties under the Declaration and these By-Laws, the Board shall act as, and shall be, the agent of the Unit Owners, subject to and in accordance with the provisions of the Declaration and these By-Laws.

## ARTICLE 3

## UNIT OWNERS

3.1 Annual Meetings. On a date not later than 30 days after the first (1st) anniversary of the First Unit Closing, the first (1st) annual meeting of Unit Owners shall be held. At such meeting, the incumbent Board shall resign and a new Board shall be elected (as provided herein) consisting of three (3) Board Members: two (2) members elected by the Residential Unit Owners (including Declarant) (subject, however, to Declarant's right to designate certain Board Members during the Initial Control Period, as hereinafter set forth) and one (1) member elected by the Commercial Unit Owner. Thereafter, annual meetings of Unit Owners shall be held on a date within 45 days of the anniversary of the First Unit Closing. Unit Owners shall receive no less than 20 days written notice of such annual meetings. At each annual meeting, the Unit Owners shall elect the three (3) members of the Board who shall each serve for a one-year term. There shall also be transacted such other business as may properly come before such meeting. Written notices of persons who intend to run for election to the Board of Managers shall be delivered to the managing agent by such person or the persons who wish to nominate such persons no less than fourteen (14) days prior to the annual meeting of Unit Owners.

3.2 Place of Meetings. Meetings of Unit Owners shall be held at the principal office of the Condominium or at such other suitable and convenient place in the Borough of Manhattan, as may be designated by the Board.

3.3 Special Meetings. The President of the Condominium shall call a special meeting of Unit Owners if so directed by resolution of the Board or upon a petition signed and presented to the Secretary-Treasurer of the Condominium by not less than 25 percent in common interest of Unit Owners.

3.4 Notice of Meetings. Notice of each annual or special meeting shall be given by the Secretary-Treasurer of the Condominium to all Unit Owners of record entitled to vote thereat. Each such notice shall state the purposes of the meeting and the time and place where it is to be held and no business shall be transacted thereat except as stated in the notice. All notices hereunder shall be given by personal delivery, mail or telegram, at least five (5) business days prior to the day named for the meeting and shall be given or sent to the Unit Owners entitled to receive same at their address at the Property or at such other address as any Unit Owner has designated by notice in writing to the Secretary-Treasurer at least ten (10) days prior to the giving of notice of the applicable meeting.

3.5 Adjournment of Meetings. If any meeting of Unit Owners cannot be held because a quorum is not present, a majority of Unit Owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time fixed for the original meeting.

3.6 Order of Business. The order of business at all meetings of Unit Owners shall be as follows:

(a) Roll call;

(b) Proof of notice of meeting;

(c) Reading of minutes of preceding meeting;

(d) Reports of officers;

(e) Reports of members of the Board;

(f) Reports of committees;

(g) Election of inspectors of election (when so required);

(h) Election of members of the Board (when so required);

(i) Unfinished business; and

(j) New business.

3.7 Title to Units. Title to Units and the Appurtenant Interests may be taken by any individual, corporation, partnership, limited liability company, association, trust or other entity, or

any two (2) or more of such owners as joint tenants, tenants-in-common or tenants by the entirety, as may be appropriate, but not as owners in severalty.

3.8 Voting.

3.8.1 Each Unit Owner or a person designated by such Unit Owner to act as proxy on his behalf (who need not be a Unit Owner) shall be entitled to cast the votes appurtenant to such Unit at all meetings of Unit Owners. The designation of any such proxy shall be made in writing to the Secretary-Treasurer of the Condominium and shall be revocable at any time by written notice to such Secretary-Treasurer by the Unit Owner so designating. A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity. Neither the Board nor its designee shall be entitled to vote the interest appurtenant to any Unit owned by the Board and the common interest of such Unit shall be excluded from the total of interests ("Common Interests") in the Common Elements when computing the interest of Unit Owners for voting purposes.

3.8.2 Except as set forth in Section 3.9, at all meetings of Unit Owners each Unit Owner (or his proxy) entitled to vote thereat (including Declarant with respect to Units owned by Declarant or its successor) shall be entitled to cast one vote for each 0.0001 percent (rounded off to the nearest .0001 percent) of Common Interest attributable to his or its Unit.

3.9 Election of Condominium Board: Rights of Declarant.

3.9.1 All elections of Board Members shall be determined by plurality vote.

3.9.2 When voting for members of the Board, the voting shall be by ballot and each ballot shall state the name of the Unit Owner voting and the percentage of Common Interest owned by such Unit Owner, and, in addition, the name of the proxy if such ballot is cast by a proxy. Nothing contained in these By-Laws shall be deemed to permit cumulative voting.

3.9.3 Notwithstanding anything in this Section 3.9 or these By-Laws to the contrary, so long as Declarant or its successor owns at least one (1) Unsold Unit, and whenever there is a vacancy on the Board, Declarant shall have the right to designate, prior to the election of members of the Condominium Board at the annual meeting of Unit Owners, a sufficient number of Board Members so that Declarant or its successor shall have designated the following number of Board Members at any one time: (a) one (1) member, if Declarant owns less than 50 percent in Common Interest of all Units; and (b) two (2) members, if Declarant owns 50 percent or more in Common Interest of all Units before the fifth (5th) anniversary of the First Unit Closing. The number of Board Members may not be increased prior to the fifth (5th) anniversary of the First Unit Closing. After the end of the Sponsor Control Period (as such term is defined in the Offering Plan), the majority of the Board Members must be Unit Owners of the Building who are not controlled by Declarant. Any vacancy created by removal or by any other cause of the Board Member designated by Declarant shall be filled by a member designated by Declarant.

3.10 Majority of Unit Owners. Except as may otherwise be provided by law, as used in these By-Laws, the term "Majority of Unit Owners" means those Unit Owners having more than 50 percent of the total authorized votes of all Unit Owners (determined in accordance with the

provisions of Section 3.8), who are present in person or by proxy and voting at any meeting at which a quorum is present.

3.11 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of Unit Owners owning more than 50 percent of the Common Interests attributable to all Units shall constitute a quorum at all meetings of Unit Owners.

3.12 Majority Vote. Except where otherwise provided by law, the Declaration or these By-Laws, at all meetings of Unit Owners, the affirmative vote of a Majority of Unit Owners shall be binding upon all Unit Owners for all purposes.

## ARTICLE 4

## OFFICERS

4.1 Designation. The principal officers of the Condominium shall be a President, Vice-President and Secretary-Treasurer thereof, all of whom shall be elected by the Board. The Board may appoint such other officers as in its judgment may be desirable. None of the officers of the Condominium need be Unit Owners nor have any interest therein nor be Board Members until the first (1st) organizational meeting of the Board after the first (1st) annual meeting of Unit Owners. Thereafter, the President, the Vice-President and Secretary-Treasurer of the Condominium must be members of the Board.

4.2 Election of Officers. The officers of the Condominium shall be elected annually by the Board at the organizational meeting thereof, except that the initial officers of the Condominium shall be elected by the initial Board and shall hold office at the pleasure of such Board and until their successors are elected.

4.3 Removal of Officers. Upon the affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and his successor may be elected, at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

4.4 President. The President of the Condominium shall be the chief executive officer of the Condominium and shall preside at all meetings of Unit Owners and at all meetings of the Board. The President shall have all of the general powers and duties which are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York, including, but not limited to, the power to appoint committees from among Unit Owners from time to time as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Condominium.

4.5 Vice President. The Vice President shall take the place of the President under whom such Vice President serves and perform the duties of the President whenever such President shall be absent or unable to act. If both the President and the Vice President of the Condominium are unable to act, the Board under whom such President and Vice President serves shall appoint some member of such Board to act in the place of such President and Vice President on an interim basis. The Vice

President shall also perform such other duties as shall from time to time be imposed upon him by the board or by the President under whom such Vice President serves.

4.6 Secretary-Treasurer. The Secretary-Treasurer of the Condominium shall keep the minutes of all meetings of Unit Owners and of the Board and 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 Secretary-Treasurer shall have charge of such books and papers as the Board shall direct and shall also be responsible for the deposit of all funds and other securities in the name of the Board (or in the name of the managing agent appointed by the Board) in such depositories as may from time to time be designated by the Board and shall in general perform all the duties incident to the office of secretary and/or treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

4.7 Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by any two (2) officers thereof or by such other person or persons as may be designated by the Board.

4.8 Compensation of Officers. Except as otherwise provided by the Board, no officer shall receive any compensation for acting as such.

## ARTICLE 5

## NOTICES

5.1 Notices. All notices required or desired to be given hereunder to the Board shall be in writing and shall be deemed to have been given if delivered personally or sent by certified or registered mail, return receipt requested to the office of the Board or to such other address as the Board may designate from time to time, by notice in writing to all Unit Owners and Permitted Mortgagees, and, if there is a managing agent of the Board, a duplicate shall be sent in like manner to such managing agent. All notices to any Unit Owner shall, except as otherwise provided herein, be in writing and shall be deemed to have been given if delivered personally or sent by certified or registered mail, return receipt requested to the Property address of such Unit Owner or to such other address as may have been designated by such Unit Owner from time to time, in writing, to the Board. All notices to Permitted Mortgagees shall be sent by certified or registered mail, return receipt requested to their respective addresses, as designated by them from time to time, in writing to the Board. Except as otherwise expressly provided, all notices shall be deemed to have been received on the date of personal delivery or on the fifth (5th) day after mailing.

5.2 Waiver of Service of Notice. Whenever any notice is required to be given by law, the Declaration or these By-Laws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

## ARTICLE 6

## OPERATION OF THE PROPERTY

6.1 Determination of Common Expenses and Fixing of Common Charges.

6.1.1 Except as otherwise provided herein, 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 ("Common Expenses") shall be determined by the Board and as set forth below, shall be borne by the Unit Owners. Common Expenses shall also include all such other items provided for in the Declaration or these By-Laws to be Common Expenses. Common Expenses may also include such amounts as the Board may deem proper for a general operating reserve or for a reserve for working capital or for replacements with respect to the Common Elements (including those portions of the Common Elements described as Limited Common Elements) and such amounts, determined by the Board, as may be required for the purchase, lease or sublease by the Board or its designees, corporate or otherwise, on behalf of all Unit Owners, of any Unit whose owner has elected to sell, lease, transfer or convey such Unit or which is to be sold at a foreclosure or other sale. The Board shall from time to time and at least annually prepare a budget to meet Common Expenses and shall allocate and assess to the Unit Owners, *pro rata* in accordance with their respective Common Interests (except as otherwise provided in the Declaration or these By-Laws), charges ("Common Charges") to meet Common Expenses. The Board shall advise all Unit Owners promptly in writing of the amount of Common Charges payable by each of them and shall furnish copies of the budget on which Common Charges are based to all Unit Owners and Permitted Mortgagees thereof. In addition, until the Units are separately assessed for real estate tax purposes, the Board will pay all taxes with respect to the Property and allocate the cost thereof among all Units in proportion to each Units' Common Interest, and each Unit Owner will reimburse the Board for his proportionate share thereof. Such reimbursement shall be allocated as if it were a Common Charge.

6.1.2 The excess of all rents, profits and revenues derived from the rental or use of any space forming part of or included in any Common Element remaining after the deduction of the expenses in connection therewith shall constitute income of the Unit Owners and be collected on behalf of the Unit Owners by the Board. Notwithstanding any provision contained in these By-Laws or in the Declaration to the contrary, in no event shall any rent, profit or revenue derived from the rental or use of any space in the Building be deemed to be derived from the rental or use of any floor slabs, ceilings or walls delineating or enclosing such space or the incidental use of any portion of any Common Elements appurtenant to such space.

6.1.3 Allocations of insurance costs for the Condominium may be made by the Board in accordance with Section 339-bb of the Real Property Law of the State of New York.

6.2 Insurance.

6.2.1 The Board shall be required to obtain and maintain, to the extent obtainable, the following insurance: (a) fire insurance with all risk endorsements, insuring the entire Building (including each Unit, but excluding fixtures, furniture, furnishings or other personal property not

constituting a part of such Unit or not covered by the Condominium Board's insurance policy), together with all service machinery contained therein and covering the interests of the Condominium, the Condominium Board and all Unit Owners and Permitted Mortgagees, as their respective interests may appear, in an amount not less than an amount sufficient to avoid any defense based on co-insurance or other insurance or of any invalidity arising from any acts of the insured and of pro-rata reduction of liability but in no event greater than the full insurable replacement value of the Building (exclusive of foundation and footings), without deduction for depreciation; each of said policies shall contain a New York standard mortgagee clause in favor of each Permitted Mortgagee which shall provide that the loss, if any, thereunder shall be payable to such Permitted Mortgagee as its interest may appear, subject however, to the loss payment provisions hereinafter set forth; (b) rent insurance in an amount equal to Common Charges for one (1) year; (c) workmen's compensation and New York State disability benefits insurance; (d) water damage legal liability insurance; (e) elevator liability and collision insurance; (f) at the option of the Board, fidelity insurance covering all officers, members of the Board of Managers of the Condominium and employees of the Condominium and of the managing agent or agents who handle funds of the Condominium; and (g) such other insurance as the Board may reasonably determine. The premiums for all insurance referred to above and for the liability insurance referred to below shall be a Common Expense and shall be borne by the Unit Owners in proportion to their respective Common Interests. If additional coverage or other coverage is added by the Condominium, the premium for such coverage will be increased, thereby increasing the amount of Common Charges payable by all Unit Owners.

6.2.2 All such policies shall provide that adjustment of loss shall be made by the Board. Insurance proceeds with respect to any loss shall be payable to the Board, except that the proceeds of all policies of physical damage insurance, if in excess of $1,000,000.00, shall be payable to a bank or trust company designated by the Board as Insurance Trustee pursuant to the provisions of Section 12.5.

6.2.3 The amount of fire insurance and all risk extended coverage to be maintained until the first (1st) Board meeting following the first (1st) annual meeting of Unit Owners shall be in an amount of no less than $3,000,000.00.

6.2.4 All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or other insurance or of invalidity arising from any acts of the insured and of pro-rata reduction of liability, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days' prior written notice to all of the insureds, including all Permitted Mortgagees. Upon request in each instance, duplicate originals or certificates of insurance of all policies of physical damage insurance and of all renewals thereof, shall be delivered to Unit Owners and Permitted Mortgagees at least ten (10) days' prior to expiration of the then current policies.

6.2.5 The Board also shall be required to obtain and maintain comprehensive general liability insurance in such limits as the Board may from time to time determine, covering (a) the Board, the managing agent thereof, each Board Member and each officer and employee of the Condominium and (b) each Unit Owner, and covering all claims for personal injury or property damage arising out of any occurrence on the Property, except that such policy will not cover liability of a Unit Owner arising from occurrences within his own Unit or within the Limited Common

Elements, if any, exclusive to his Unit. Such insurance shall also cover cross-liability claims of one insured against another. The Board shall review such insurance limits once each year. Until the first (1st) meeting of the Board following the first (1st) annual meeting of Unit Owners, such liability insurance shall have a limit of no less than $1,000,000.00 covering all claims for personal injury or property damage arising out of one occurrence and $2,000,000 in the aggregate.

6.2.6 Any insurance maintained by the Board may provide for such deductible amounts as the Board determines.

6.2.7 The Unit Owners shall each carry, at their expense, insurance on the personal property and improvements contained in their Unit and public liability insurance in an amount of no less than $1,000,000.00 per occurrence. The Unit Owners shall upon request deliver to the Board of Managers certificate evidence such insurance.

6.2.8 The Unit Owners shall not be prohibited from carrying other insurance for their own benefit, provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

6.3 Repair or Reconstruction after Fire or Other Casualty.

6.3.1 Except as set forth in the next subsection, in the event that the Building or any part thereof is damaged or destroyed by fire or other casualty, the Condominium Board will arrange for the prompt repair and restoration thereof (including any damaged Units, but excluding any appliances, fixtures, furniture, furnishings, or other personal property not constituting a part of such Unit or not covered by the Condominium Board's insurance policy and subject to the limitation set forth in the next sentence). The aforesaid restoration obligation of the Condominium Board with respect to the Units shall be limited to solely restoring any damaged Unit to the condition that the Unit was in on the date that Declarant conveyed title to the Unit to the original Unit Owner (*i.e.*, the Closing Date) or the Condominium Board may elect to assign the insurance proceeds attributable to such Unit, in which case such Unit Owner would be responsible for the restoration of the Unit to the condition that the Unit was in on the Closing Date. If the insurance proceeds are insufficient to cover the cost of repairs or restorations, the Condominium Board may assess the deficit as a Common Expense to the Unit Owners in proportion to their respective share of the Common Elements. Any surplus insurance proceeds will be paid to all Unit Owners at the discretion of the Board in proportion to their respective Common Interests, except that no payment may be made to a Unit Owner until there has first been paid, out of his share of such funds, such amounts as may be necessary to eradicate unpaid liens on his Unit (other than mortgages that are Permitted Mortgages (as such term is hereinafter defined) in the order of priority of such liens.

Each Unit Owner should make sure that he is adequately insured to the extent of any changes, modifications and/or deletions that he may have made to his Unit subsequent to the initial transfer of the Unit from Declarant.

6.3.2 If 75 percent or more of the Building is destroyed or substantially damaged and if 75 percent or more of all Unit Owners, both in number and in Common Interest, do not

promptly resolve to proceed with the repair or restoration of the same, the Building may not be repaired and will be subject to an action for partition instituted by any Unit Owner or lienor, as if owned in common, in which case the net proceeds of the resulting sale, together with the net proceeds of insurance policies, will be divided among all Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of his share of such funds, such amounts as may be necessary to eradicate all unpaid liens on his Unit (other than mortgages that are Permitted Mortgages, as such term is defined in the Declaration) in the order of priority of such liens. If Declarant or a successor owner of Unsold Units is then a Unit Owner, Declarant or such successor owner of Unsold Units will have the right to vote at any meeting of Unit Owners called for the purpose of deciding whether or not to proceed with the restoration or repair of the Building. As used in this Section 6.3, the words "promptly resolve" shall mean not more than 60 days from the date of such damage or destruction.

6.3.3 Any dispute between Unit Owners or between any Unit Owner and the Board arising under this Section 6.3 shall be determined by arbitration.

6.4 Payment of Common Charges.

6.4.1 All Unit Owners shall be obligated to pay Common Charges assessed by the Board pursuant to the provisions of Section 6.1 at such time or times (but not less than monthly) as the Board determines. Unless otherwise determined by the Board, Common Charges shall be payable monthly, in advance, on the first (1st) day of each month.

6.4.2 No Unit Owner shall be liable for the payment of any part of the Common Charges assessed against his Unit subsequent to a sale or other conveyance by him (made in accordance with these By-Laws) of such Unit together with its Appurtenant Interests in the Common Elements. Any Unit Owner may, subject to the terms and conditions of these By-Laws and provided that (a) such Unit is free and clear of liens and encumbrances other than Permitted Mortgages and the statutory lien for unpaid Common Charges; and (b) no violation of any provision of the Declaration, these By-Laws or the Rules and Regulations then exists with respect to such Unit, convey such Unit together with its Appurtenant Interests in the Common Elements, to the Board or its designee, corporate or otherwise, on behalf of all Unit Owners and in such event be exempt from Common Charges thereafter accruing. However, in no event shall Declarant or a successor owner of the Unsold Units be permitted to convey any Unsold Unit to the Board and thereby exempt itself from Common Charges attributable to such Unit thereafter accruing. A purchaser of a Unit shall be liable for the payment of Common Charges accrued and unpaid against such Unit prior to the acquisition by him of such Unit, except that, to the extent permitted by law, a purchaser of a Unit at a foreclosure sale of a Permitted Mortgagee shall not be liable for, and such Unit shall not be subject to, a lien for the payment of Common Charges accrued and unpaid against such Unit prior to the acquisition by said purchaser of such Unit. However, in the event of a foreclosure sale of a Unit by a Permitted Mortgagee, the owner of such Unit prior to the foreclosure sale shall remain liable for the payment of all unpaid Common Charges which accrued prior to such sale. Except to the extent prohibited by law, the Board, on behalf of all Unit Owners, shall have a lien on each Unit for unpaid Common Charges, together with interest thereon, assessed against such Unit in proportion to their respective Common Interests.

6.4.3 All liens provided for in subsection 6.4.2, to the extent permitted by applicable law, shall be subordinate to liens for real estate taxes and any first mortgage liens on the Unit. As used in these By-Laws, the term "Permitted Mortgage" means only a mortgage of a Unit or Units permitted to be placed thereon pursuant to the provisions of these By-Laws.

6.5 Collection of Common Charges. The Board shall take prompt action to collect any Common Charges due to the Board which remain unpaid for more than ten (10) days after the due date for payment thereof, including, without limitation, the institution of such actions for the recovery of interest and expenses as provided in this Article 6.

6.6 Default in Payment of Common Charges. In the event any Unit Owner fails to make payment of Common Charges, such Unit Owner shall be obligated to pay (a) a "late charge" of $.04 for each dollar of such amounts which remain unpaid for more than ten (10) days from their due date (although nothing herein shall be deemed to extend the period within which such amounts are to be paid) and (b) interest at the rate of two (2%) percent per month (but in no event in excess of the maximum rate permitted by law) on such unpaid amounts (less any "late charges" theretofore collected on such amounts) computed from the due date thereof, together with all expenses, including, without limitation, attorneys' fees paid or incurred by the Board or by its managing agent in any proceeding brought to collect such unpaid Common Charges or in an action to foreclose the lien on such Unit arising from said unpaid Common Charges as provided in Section 339-z of the New York Condominium Act, in the manner provided in Section 339-aa thereof or in any other manner permitted by law. All such "late charges," interest and expenses shall be added to and shall constitute Common Charges payable by such Unit Owner.

6.7 Foreclosure of Liens for Unpaid Common Charges. In any action brought by the Board to foreclose a lien on a Unit because of unpaid Common Charges, the Unit Owner shall be required to pay a reasonable rental for the use and occupancy of his Unit and the plaintiff in such foreclosure action shall be entitled to the appointment, without notice, of a receiver to collect the same. The Board, acting on behalf of all Unit Owners, shall have 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 such Unit). A suit to recover a money judgment for unpaid Common Charges may be maintained without foreclosing or waiving the lien securing such charges. In the event the net proceeds received on such foreclosure (after deduction of all legal fees, advertising costs, brokerage commissions and other costs and expenses incurred in connection therewith) are insufficient to satisfy the defaulting Unit Owner's obligations, such Unit Owner shall remain liable for the deficit.

6.8 Statement of Common Charges. The Board shall promptly provide any Unit Owner who so requests with a written statement of all unpaid Common Charges due to it from such Unit Owner.

6.9 Maintenance and Repairs.

6.9.1 Except as otherwise provided in the Declaration or these By-Laws, all painting, decorating, maintenance, repairs and replacements, whether structural or nonstructural, ordinary or extraordinary, (a) in or to any Unit (including any portion of the Limited Common

Elements included therein and maintained as a part of such Unit pursuant to subsection 6.15.4 but excluding other Common Elements included therein) and the interior side of entrance doors thereto shall be made by the owner of such Unit at such Unit Owner's sole cost and expense and (b) in or to the Common Elements, shall be made by the Board and the cost and expense thereof shall be charged to the Unit Owners as a Common Expense. The Unit Owners whose Units have balconies (referred to herein as a "Balcony" or "Balconies") and/or terraces (referred to herein as a "Terrance" or "Terraces") which are Limited Common Elements appurtenant to their respective Units shall be responsible for cleaning and general upkeep of such Balcony and/or Terrace.

6.9.2 Notwithstanding the provisions of subsection 6.9.1 hereof:

6.9.2.1 In the event that any painting, decorating, maintenance, repairs or replacements to the Property or any part thereof is necessitated by the negligence, misuse or neglect of (a) any Unit Owner, the entire cost thereof shall be borne by such Unit Owner or (b) the Board, the entire cost thereof shall be charged to all Unit Owners as a Common Expense, except in all such cases to the extent such cost is covered by the proceeds of any insurance maintained pursuant to the provisions hereof.

6.9.2.2 Neither the interior nor the exterior glass surfaces of all windows located in any Unit shall be colored or painted. The interior glass surfaces of all windows located in any Residential Unit shall be washed and cleaned by the owner thereof at such Residential Unit Owner's sole cost and expense. The Commercial Unit Owner shall be responsible to maintain both the interior and exterior surfaces of the windows in the Commercial Unit. The exterior surfaces of the windows in the Residential Units shall be cleaned from time to time by the Board of Managers. All normal maintenance, repairs and replacements made to a particular Unit shall be made by the Unit Owner owning such Unit at his own cost and expense. Any structural or extraordinary repairs or replacements made to a Unit, which the Board determines are not caused by the acts or negligence of the Unit Owner owning such Unit, shall be made by the Board, and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense. Notwithstanding the foregoing, any and all replacements of glass windows or glass portions of Balconies or Terraces in any Unit because of breakage or otherwise shall be made by the Board at the sole cost and expense of the owner of such Unit.

6.9.3 Each Unit and all portions of the Common Elements shall be kept in first-class condition (and with respect to any yard, roof or any part of the Property exposed to the elements, free of snow, ice and accumulation of water) by the Unit Owner or the Board, whichever is responsible for the maintenance thereof as set forth herein, and such Unit Owner or the Board, as the case may be, shall promptly make or perform, or cause to be made or performed, all maintenance work, repairs and replacements necessary in connection therewith. In addition, the public areas of the Building and those areas exposed to public view shall be kept in good appearance, in conformity with the dignity and character of the Building, by (a) the Board with respect to such parts of the Building required to be maintained by it and (b) each Unit Owner with respect to the interior surfaces of windows and window treatments in or appurtenant to his Unit.

6.10 Violations of Maintenance Obligations.

6.10.1 In the event that any Unit Owner, after receipt of written notice from the Board, fails or neglects in any way to perform any obligations of his with respect to the painting, decorating, maintenance, repair or replacement of his Unit as provided in this Article 6 or of any Common Element for which such Unit Owner is responsible under the Declaration or these By-Laws, the Board shall perform or cause to be performed such painting, decorating, maintenance, repairs or replacements unless such Unit Owner, within five (5) days after receiving notice of such default by the Board, cures such default, or in the case of 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, repairs or replacements in such Unit Owner's Unit, together with interest thereon at the rate of two (2%) percent per month (but in no event in excess of the maximum rate permitted by law), shall be immediately payable by such Unit Owner to the Board and shall, for all purposes hereunder, constitute Common Charges payable by such Unit Owner.

6.11 Structural Alterations, Additions, Improvements and Repairs of Units.

6.11.1 Except as otherwise provided in the Declaration and in this subsection 6.11.1, no Unit Owners, shall make any structural alteration, addition, improvement or repair in or to his Unit without the prior written approval of the Board of Managers which approval shall not be unreasonably withheld or delayed. The Board of Managers shall not unreasonably withhold its consent to a proposed alteration which would combine two (2) or more Unsold Units in instances where a Unit Owner owns contiguous Units. Non-structural alterations and any interior decorating which do not affect the Building systems may be performed without the Board's prior approval. The Board shall have the obligation to answer any written request by a Unit Owner for approval of a proposed structural alteration, addition, improvement or repair in or to such Unit Owner's Unit within 30 days after the receipt of such request, and failure to do so within the stipulated time shall constitute the Board's consent to the proposed alteration, addition, improvement or repair. Prior to, and as a condition of, the granting of its consent to the making of a structural alteration, addition, improvement or repair in or to a Unit, the Board may, at its option, require the 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, including, without limitation, the days and hours during which any work shall be performed (an "Alteration Agreement"). Prior to the commencement of any alterations being performed in their Unit, all Unit Owners will be required to obtain their own individual work permits and file separate alteration applications with the appropriate authorities. Such Unit Owners shall be responsible for the cost and expense of obtaining all required "sign offs" from the appropriate governmental authorities in connection with any open building permits or alteration applications filed for the Unit. Notwithstanding anything to the contrary contained in this subsection 6.11.1, in no event shall any provision contained in this subsection requiring the approval of the Board apply to Declarant, a successor owner of Unsold Units, a transferee who has the written consent of the Declarant or a successor owner of Unsold Units (as applicable) for any structural alteration, addition, improvement, or repair to any Unit or Units, including, without limitation, any work to (a) combine two (2) or more Unsold Units in instances where a Unit Owner owns contiguous Units; or (b) to subdivide any Unit.

In addition, Declarant, a successor owner of Unsold Units, a transferee of a Unit who has the written consent of the Declarant or a successor owner of Unsold Units (as applicable), or a Commercial Unit Owner shall not be required to enter into an Alteration Agreement with the Board.

6.11.2 All structural alterations, additions, improvements and repairs by Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction thereof. A Unit Owner making or causing to be made any structural alteration, addition, improvement or repair shall agree, and shall be deemed to have agreed, to hold the Board and all other Unit Owners harmless from any liability arising therefrom.

6.11.3 Any application to any department of The City of New York or to any other governmental authority having jurisdiction thereof for a permit to make a structural alteration, addition, improvement or repair in or to any Unit so approved by the Board shall be executed by the Board, provided that the Board shall not incur any liability, cost or expense in connection with such application or to any contractor, subcontractor, material man, architect or engineer retained by the Unit Owner on account of such alteration, addition, improvement or repair or to any person having any claim for injury to person or damage to property arising therefrom. Notwithstanding anything to the contrary set forth above, in no event shall Declarant or a successor owner of the Unsold Units or persons who are permitted transferees of Unsold Units as defined in Article 25 of the Declaration be required to pay any amounts (a) to architects, engineers or other professionals retained by the Board in connection with such alterations or (b) to the Board for the execution of any such applications.

6.11.4 Notwithstanding anything to the contrary contained in this Section 6.11 of the By-Laws, the provisions of subsection 6.11.1 which require Unit Owners to obtain the consent of the Board of Managers to perform any alteration, addition or improvement in a Unit including, without limitation, the subdivision of the Unit into two (2) or more Units and to enter into an Alteration Agreement with respect thereto, shall not apply to the Commercial Unit Owner provided that no such alteration performed by the Commercial Unit Owner shall affect the structural supports of the Building and/or the buildings systems which serve the Residential Units.

6.12 Alterations, Additions or Improvements to Common Elements. Except as otherwise provided in the Declaration or these By-Laws, all alterations, additions or improvements in or to any Common Element shall be made either by the Board or Unit Owner required to maintain such Common Element and the cost and expense thereof shall be charged either to all Unit Owners as a Common Expense or to the Unit Owner responsible therefor, as the case may be. Whenever in the judgment of the Board the cost of any such alteration, addition or improvement would exceed $100,000.00 in the aggregate in any calendar year, then such proposed alteration, addition or improvement shall not be made unless first approved by a Majority-in-Interest of the Unit Owners who shall be required to bear the cost and expense thereof as aforesaid and by the Mortgage Representatives (as such term is hereinafter defined), if any. The foregoing limitation shall not apply in the event such work is required to conform with applicable legal requirements. Except as otherwise provided in the Declaration or these By-Laws, all such alterations, additions or improvements costing in the aggregate $100,000.00 or less in any calendar year may be made as aforesaid without the approval of the Unit Owners or said Mortgage Representatives.

6.13 Special Alterations of Certain Common Elements.

6.13.1 In the event that pursuant to any of the provisions of these By-Laws, any consent by a Unit Owner is required as a condition precedent to any alteration, addition or improvement to a Limited Common Element (collectively sometimes referred to in this Section 6.13 as a "Special Alteration") proposed to be made by Declarant, or a successor owner of an Unsold Unit, or a permitted transferee of an Unsold Unit, or the Board (collectively sometimes referred to herein as the "Proponent"), such consent shall not be unreasonably withheld or delayed by said Unit Owner (referred to in this Section 6.13 as the "Consenting Party"). The Proponent shall give to the Consenting Party notice setting forth in reasonable detail the material aspects of such proposed Special Alteration. If the Consenting Party does not give notice of any objection to the Proponent within 20 days after the Proponent gives its notice, then the Consenting Party shall be deemed to have consented to the making of the proposed Special Alteration. If the Consenting Party does give notice of objection (which notice of objection shall set forth in reasonable detail the specific objections of the Consenting Party) within such 20-day period and the Proponent considers such objection unreasonable, then the Proponent may submit to Arbitration the question of whether or not the Consenting Party unreasonably withheld its consent. If in such Arbitration it is determined that the Consenting Party unreasonably withheld its consent to such proposal if (a) the Proponent makes or causes to be made reasonable provisions providing (i) for the costs and expenses of the Special Alteration to be paid by it and (ii) that all costs and expenses for maintaining and repairing such Special Alteration after its completion will not be charged to the Consenting Party, (b) the proposed Special Alteration would not unreasonably or unnecessarily interfere with the use and enjoyment of the owners, tenants and occupants of those Units affected by the Special Alteration and (c) the proposed Special Alteration would not materially threaten or weaken the structure of the Building.

6.13.2 Nothing contained in subsection 6.13.1 hereof shall in any way be deemed to limit (a) the Proponent's right to modify any proposal made by it thereunder in such a manner as the Proponent believes will meet the objections of the Consenting Party or of any arbitrator or (b) any party's right, pursuant to the other applicable provisions of these By-Laws or the Declaration, to make any alteration to other Common Elements without the Consenting Party's approval (unless otherwise expressly provided elsewhere herein or in the Declaration).

6.13.3 Except as set forth hereinabove, alterations to be made to any Balcony or Terrace which is a Limited Common Element may not be made without the consent of the Board, which may be withheld in the Board's sole discretion.

6.14 Restrictions on Use of Units.

6.14.1 In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

6.14.1.1 Each Unit shall be used only as set forth in this Section 6.14, Unit may be owned by an individual, corporation, partnership, limited liability company, fiduciary or any other legal entity and may only be occupied by (a) the individual Unit Owner (or members of his family or guests), (b) an officer, director, stockholder or employee of such corporation (or members

of his family or guests), (c) a partner or employee of such partnership (or members of his family or guests), (d) a member or employee of such limited liability company (or members of his family or guest), (e) the fiduciary or beneficiary of such fiduciary (or members of his family or guests) or (vi) a principal or employee of such other entity (or members of his family or guests), as the case may be. Unless otherwise consented to by the Board, occupants of a leased Unit must be (i) an individual lessee (or members of his family or guests), (ii) an officer, director, stockholder or employee of a corporate lessee (or members of his family or guests), (iii) a partner or employee of a partnership lessee (or members of his family or guests), (iv) a member or employee of a limited liability company lessee (or members of his family or guest), (v) a fiduciary or beneficiary of a fiduciary lessee (or members of his family or guests), or (vi) a principal or employee of such other entity which is a lessee (or members of his family or guests). Notwithstanding anything contained in this subsection 6.14.1.1, in no event shall transient occupancy agreements or arrangements be permitted. "Members of his family" or words of similar import whenever used herein shall be deemed to mean spouse, domestic partner, parents, parents-in-law, brothers, sisters, children and grandchildren and nothing contained herein shall be deemed to prohibit the exclusive occupancy of any Unit by such family members or guests. Notwithstanding the foregoing, the Board may consent to occupancy of a Unit by persons other than those set forth above.

6.14.1.2 The Units may be used for dwelling purposes, in conformance with the terms and conditions of the then existing certificate of occupancy for the Building and applicable federal, state and local governmental and municipal laws, rules and regulations.

6.14.1.3 No portion of a Unit (other than the entire Unit) may be sold, conveyed, leased or subleased, and no transient occupant (other than a guest permitted under this subsection 6.14.1) may be accommodated therein without the prior consent of the Board, which consent may be withheld in accordance with the absolute discretion of the Board.

6.14.1.4 Notwithstanding the provisions of this subsection 6.14.1, Declarant may, without the permission of the Board (a) 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, does not violate the then existing certificate of occupancy for such Unit and the user of such Unit complies with all applicable governmental regulations; and (b) use any Unsold 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.

6.15 Use of Common Elements.

6.15.1 Subject to the provisions of subsection 6.15.4 hereof, Common Elements may be used only for the furnishing of the services and facilities and for the other uses for which they are reasonably suited.

6.15.2 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 without the prior consent of the Board. The lobbies, vestibules, public halls, stairways and public elevators shall be used only for normal passage through them.

6.15.3 The provisions of subsection 6.15.1, (.2) and (.3) hereof shall not apply to Declarant or its successor so long as there are any Unsold Units, provided, however, that no such party shall use such Common Elements in such a manner as will unreasonably interfere with the use of the other Units for their permitted purposes.

6.15.4 The Balconies and Terraces shall be used by the Unit Owners in accordance with the provisions of applicable law. The Balconies and Terraces which are Limited Common Elements (a) may be used for passive recreational use only (*e.g.* walking, reading and quiet personal enjoyment), (b) may not be used for any commercial purpose, and (c) must be used in accordance with the Rules and Regulations.

6.16 Use of Commercial Unit; Permits and Licenses.

6.16.1 Subject to the provisions of these By-Laws, the Commercial Unit may be operated for any lawful purpose (including, without limitation, for retail, restaurant, including a "fast food establishment" or cabaret, banking, commercial, office, residential, community center, educational annex, storage and utility purposes).

6.16.2 No part of any Commercial Unit shall be used for any of the following uses:

(a) the repair, servicing or maintenance of any vehicles, machinery or equipment or the operation of an "automobile repair shop" (in each case other than as may be incidental to the operation of a parking garage facility);

(b) funeral parlor;

(c) massage parlor or sex club or for the sale or display of pornographic or obscene material; or

(d) for any obscene or pornographic purpose or any other commercial sex establishment.

6.16.3 Neither a Commercial Unit Owner nor any other occupant of a Commercial Unit shall sell, display, distribute or use all or any portion of a Commercial Unit for:

(a) the sale or viewing of any pornographic or obscene goods, wares, printed materials, videos, digital video discs, movies or other digital transmission;

(b) the sale of illegal drugs;

(c) an amusement gallery, bowling alley, game room, swimming pool, pool hall, auditorium, funeral home, mortuary, video arcade, warehouse, storage facility, ice skating, roller skating, mini-car racetrack, massage parlor, a so called "off track betting" operation, abortion clinic, gym, any motel, hotel or tourist court, any automobile or truck sales storage, service, fueling, washing or repair operation;

(d) laundromat, dry cleaners or other type of clothes cleaning facility;

(e) a cabaret or night club, provided that the foregoing shall not prohibit a restaurant or other permitted use which provides live or recorded entertainment as part of its primary use; or

(f) a flea market.

The Commercial Unit Owner may use the sidewalk space adjacent to such Commercial Unit for an outside café, provided however, such use is subject to such Commercial Unit Owner obtaining all requisite authorizations and approvals by any governmental rule, regulation or authority having jurisdiction over such use.

6.16.4 A Commercial Unit Owner shall not at any time use or occupy, or suffer or permit anyone to use or occupy its Commercial Unit, or do or permit anything to be done in its Commercial Unit in violation of the certificate of occupancy for its Commercial Unit or for the Building.

6.16.5 If any governmental license or permit, other than a certificate of occupancy, shall at any time be required for the proper and lawful conduct of business in a Commercial Unit then being conducted or to be conducted in that Commercial Unit or any portion thereof, then the subject Commercial Unit Owner, at its own expense, shall duly procure and thereafter maintain such license or permit.

6.16.6 The Commercial Unit Owner shall take all commercially reasonable measures, including, without limitation, the installation of sound-rated insulation, to ensure that no excessive noise emanates from any portion of the Commercial Unit, provided however, for purposes of this subsection 6.16.6, noise, including, music, crowd and machinery noise typically associated with the operation of a first-class restaurant in Manhattan shall not be deemed to be excessive.

6.16.7 The Commercial Unit Owner shall sort and separate such waste products, garbage, refuse and trash into such categories as provided by law, and in accordance with the Rules and Regulations adopted by the Condominium for the sorting and separating of such designated recyclable materials. The Commercial Unit Owner shall comply with the requirement to rinse recyclable bottles and containers before placing them in the designated receptacles, in accordance with all applicable law and regulations. All food and other wet refuse shall be placed in separate receptacles reasonably approved by the Board and shall be stored in a refrigerated room within the Commercial Unit until removed by the refuse collection contractor. If applicable, all medical waste, regulated waste and hazardous waste shall be separated into red bags or containers or other appropriately labeled bags or containers and removed from the Building and disposed of by an appropriately licensed medical waste hauler approved by the Board at the Commercial Unit Owner's sole cost and expense in compliance with all applicable laws and regulations. The Board reserves the right, where permitted by law, to refuse to collect or accept from the Commercial Unit Owner any waste products, garbage, refuse, or trash which is not separated and sorted as required by law. Where permitted by law, the Board reserves the right to require the Commercial Unit Owner to arrange for such collection, at the Unit Owner's sole cost and expense, utilizing a contractor satisfactory to the Board. The Commercial Unit Owner shall pay all costs, expenses, fines, penalties, or damages which may be imposed on the Condominium or the Commercial Unit Owner by reason

of the Unit Owner's failure to comply with the provisions of these By-Laws, and, at the Commercial Unit Owner's sole cost and expense, the Commercial Unit Owner shall indemnify, defend, and hold the Board and the Condominium harmless (including legal fees and expenses) from and against any actions, claims, and suits arising from such Commercial Unit Owner's non-compliance, utilizing counsel reasonably satisfactory to the Board, if the Board so elects. The Commercial Unit Owner shall be liable to the Board for any costs, expenses, or disbursements, including attorneys' fees, of any action or proceeding by the Board against the Unit Owner, predicated upon Unit Owner's breach of this Article.

6.17 General Provisions as to Use.

6.17.1 No nuisance shall be allowed in the Property nor shall any use or practices be allowed in the Property which interferes with the peaceful possession or proper use thereof by the Unit Owners or the occupants of their respective Units. No improper, offensive or unlawful use shall be made of the Property or any portion thereof. All Legal Requirements relating to any portion of the Property shall be complied with at the sole expense of whichever of the Unit Owners or the Board shall have the obligation to maintain or repair such portion of the Property.

6.17.2 The Board may, in its discretion, grant permission for the use of a Unit for a use other than its original intended use, provided such use is permitted by law or court order, does not violate the then existing Certificate of Occupancy for such Unit, these By-Laws or the Declaration, and the Unit Owner thereof complies with all Legal Requirements. Such permission by the Board shall be in writing and shall be personal to the Unit Owner. Any successor in the title to such Unit shall be required to obtain the prior written approval of the Board before using such Unit for any purpose other than those expressly set forth above.

6.17.3 No portion of a Residential Unit (other than the entire Unit) may be sold, conveyed, leased or subleased.

6.17.4 Declarant, or a successor owner of the Unsold Units, or a transferee who has the written consent of Declarant, or a successor owner of Unsold Units (as applicable),without the permission of the Board, may (a) use or grant permission for the use of any Unsold Unit for any purpose (including, without limitation, use for a home occupation), provided such use is permitted by law or court order, does not violate the then existing Certificate of Occupancy for such Unit, and the user of such Unit complies with all applicable Legal Requirements; (b) use of any one (1) or more Unsold Units as models and sales and/or leasing offices in connection with the sale or rental of the Units or for any other purpose, subject only to compliance with applicable Legal Requirements; and (c) lease Unsold Units to any party(ies).

6.17.5 Each Unit Owner shall promptly comply with all Legal Requirements applicable to its Unit. No Unit Owner shall use or permit the use of Hazardous Materials on, about, under, or in its 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 hereon, 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. As used herein, the term "Hazardous Materials" means petroleum products, asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identifies in, or regulated by, any Environmental Law; and "Environmental Laws" means all federal, state and local laws, rules, regulations, ordinances, requirements and orders whether now existing or hereafter enacted, promulgated or issued, regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material and/or the protection of human health and the environment.

6.18 Use of and Alterations to Storage Units. To protect the security of the Building, any licensee of any Storage Unit must also at all times be the lessee or owner, of a Unit, provided, however that the foregoing restrictions shall not apply: (a) to Declarant, or a successor owner of the Unsold Units or a transferee who has the written consent of Declarant or a successor owner of Unsold Units (as applicable); or (b) to the Board or its designees. If an action shall be brought to foreclose a perfected security interest in and to a License Agreement by reason of a non-payment of a loan secured by such Storage Unit, in the event that the license for such Storage Unit is not being sold together with the Unit to which the same is appurtenant, the Board, acting on behalf of all Unit Owners, shall be obligated to purchase the Storage Unit at the foreclosure sale, in the name of the Board or its designee, corporate or otherwise. No materials which pose a health or safety threat or which create a nuisance may be stored in a Storage Unit. The Storage Units may be used only for storage purposes, in compliance with all applicable laws and without causing the dissemination of noxious odors, dirt or other sanitary problems. Except as otherwise expressly permitted herein, no licensee of a Storage Unit (other than Declarant or its successors-in-interest) may make any alteration, addition, improvement or repair in or to its Storage Unit without the prior approval of the Board and complying with all Legal Requirements and all applicable Rules and Regulations.

6.19 Other Provisions as to Use. No nuisance shall be allowed on the Property, nor shall any use or practice be allowed which is a source of annoyance to its residents or occupants or which 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, zoning ordinances and regulations of governmental bodies having jurisdiction thereof, relating to any portion of the Property, shall be complied with at the full expense of the respective Unit Owners or the Board, whoever shall have the obligation to maintain or repair such part of the Property.

6.20 Right of Access.

6.20.1 Each Unit Owner shall grant a right of access to his Unit, Balcony and/or Terrace to the Board, the managing agent, manager, superintendent and/or any other person authorized by any of the foregoing for the purpose of making inspections of, or for the purpose of removing violations noted or issued by any governmental authority against, the Common Elements or any other part of the Property, or for the purpose of curing defaults hereunder or under the Declaration or Rules and Regulations (as such term is hereinafter defined) by such Unit Owner or correcting any conditions originating in his Unit, Balcony or Terrace and threatening another Unit, Balcony or Terrace or all or any part of the Common Elements, or for the purpose of performing

installations, alterations or repairs to the mechanical or electrical services or other portions of the Common Elements within his Unit or elsewhere in the Building, or for the purpose of reading, maintaining or replacing utility meters relating to the Common Elements, his Unit, Balcony or Terrace or any other Unit, Balcony or Terrace in the Building or to correct any condition which violates the provisions of any Permitted Mortgage covering another Unit, provided that requests for such entry are made not less than one day in advance and that any such right shall be exercised in such a manner as will not unreasonably interfere with the use of the Units, Balconies or Terraces for their permitted purposes. In case of an emergency (*i.e.*, a condition requiring repairs or replacements 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), such right of entry shall be immediate, without advance notice, whether or not the Unit Owner is present.

6.20.2 A Unit Owner shall grant a right of access to his Unit, Balcony or Terrace, and the Board shall grant rights of access to the Common Elements, to Declarant and its contractors, subcontractors, agents and employees, for the purposes of fulfilling Declarant's obligations as set forth in the Offering Plan, provided that access thereto shall be exercised in such a manner as will not unreasonably interfere with the use of the Balcony or Terrace for its permitted purposes.

6.21 Rules and Regulations. Annexed hereto as Exhibit A and made a part hereof are the Rules and Regulations for the Residential Unit Owners of Bowery 263 Condominium ("Rules and Regulations of Bowery 263 Condominium" or the "Rules and Regulations") concerning the use of the Units, Balconies or Terraces, the Residential Limited Common Elements and the Limited Common Elements. The Board may from time to time modify, amend or add to such Rules and Regulations, except that a majority of Residential Unit Owners may overrule the Board with respect to any such modification, amendment or addition. Copies of any newly adopted, or any modifications, amendments or additions to the Rules and Regulations shall be furnished by the Board to each Unit Owner not less than 30 days prior to the effective date thereof.

6.22 Real Estate Taxes, Water Charges and Sewer Rents.

6.22.1 Unless and until real estate taxes are billed directly to Unit Owners by the City Collector, the Board shall promptly pay such taxes, charges and rents as a Common Expense, and the Unit Owners shall be required to reimburse the Board, as a Common Expense, for their proportionate share of such taxes. In the event of a proposed sale of any Unit, the Board (so long as the Board is still paying such real estate taxes), on request of the selling Unit Owner, shall execute and deliver to the purchaser of such Unit or to such purchaser's title company, a letter agreeing to promptly pay all such taxes, charges and rents affecting such owner's Unit to the date of the closing of title to such Unit.

6.22.2 Water for the Building shall be supplied by the City of New York. Water charges and sewer rents for the water used in the Residential Units and the Residential Limited Common Elements shall be paid by the Board of Managers as a Common Expense.

6.22.3 The cost of water charges and sewer rents used for the occupancy and operation of the Commercial Unit will be the sole responsibility of the Commercial Unit Owner.

The Commercial Unit Owner shall reimburse the Board of Managers for the charges therefor based upon submeter readings within 30 days following the presentation of an invoice for such amounts. Payments received after such time will be subject to a late charge equal to one and one-half (1.5%) percent per month. In addition, the Commercial Unit Owner shall be responsible for any cost incurred by the Board to obtain any such submeter reading. Any disputes regarding the reading of the water meter shall be determined by arbitration as set forth in Article 12 herein below.

6.23 Gas. The charges for cooking gas, the operation of gas clothes dryers and the PTAC units used in the Residential Units shall be paid by the Residential Unit Owners directly to the utility company. The charges for gas usage for the operation of equipment and the PTAC units used in the Commercial Unit shall be paid by the Commercial Unit Owner directly to the utility company.

6.24 Electricity. Electricity shall be supplied to the Condominium through one (1) or more electrical meters and that the cost thereof shall be borne by each Unit Owner. Each Unit Owner shall be required to pay the bills for electricity consumed or used in his Unit either to the Condominium or to the utility company as directed by the Condominium.

6.25 Utilities Serving the Common Elements. The cost and expense of water and electricity serving or benefiting any Common Element shall (a) be considered part of the expense of maintaining such Common Element, (b) be determined by the Board, and (c) be charged to the Unit Owners as a Common Expense. Any disputes as to the apportionment of such cost or expense shall be determined by arbitration.

6.26 Abatement and Enjoinment of Violations by Unit Owners.

6.26.1 The violation of any of the Rules and Regulations or the breach of any By-Law contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to such other rights set forth in these By-Laws, to (a) enter any Unit or Common Element in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition resulting in such violation or breach and the Board shall not thereby be deemed guilty or liable in any matter of trespass, or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach.

6.26.2 The violation or breach of any of the provisions of these By-Laws, any of the Rules and Regulations or the Declaration with respect to any rights, easements, privileges or licenses granted to Declarant, or a successor owner of the Unsold Units shall give to Declarant and its successor the right, in addition to any other rights set forth in these By-Laws or the Declaration, to enjoin, abate or remedy by appropriate legal proceedings either at law or in equity, the continuance of any such violation or breach.

6.27 Vault Charges. All license fees, and all periodic taxes and charges, for vaults or other protrusions beyond the building line, if any, shall be paid by the Board and charged to the Unit Owners as a Common Expense.

## ARTICLE 7

## MORTGAGES

7.1 Permitted Mortgages. As used herein the term "Permitted Mortgagee" means the holder of any Permitted Mortgage encumbering a Unit or Units which is permitted to be placed thereon pursuant to Article 8 hereof. As more fully set forth in said Article 8, each Unit Owner may mortgage his Unit to a bank, trust company, insurance company, savings and loan association or any institutional or non-institutional lender, including, without limitation, the seller of a Unit, as a Permitted Mortgagee, provided that (a) the mortgage be substantially in the form of the New York statutory form of mortgage, except for such changes or additions as may be required to permit a lender to make the loan, (b) the Condominium Board is notified in writing of the making of such mortgage, and (c) the owner making such mortgage first satisfies all unpaid liens against his Unit, other than Permitted Mortgages.

7.2 Notice to Condominium Board. A Unit Owner who mortgages his Unit or the holder of such mortgage shall notify the Board of the name and address of the mortgagee and shall file a conformed copy of the note and mortgage with the Board. A Unit Owner who satisfies a mortgage covering his Unit shall so notify the Board and shall file a conformed copy of the satisfaction of mortgage with the Board. The Board shall maintain such information in a book entitled "Mortgages of Units."

7.3 Notice of Default and Unpaid Common Charges. Whenever so requested in writing by a Permitted Mortgagee, the Board shall promptly report to such Permitted Mortgagee any default in the payment of Common Charges or any other default by the Unit Owner of such Unit under the provisions of the Declaration or these By-Laws which may to the Board's knowledge then exist. The Board, when giving notice to a Unit Owner of any such default, shall, if requested, also send a copy of such notice to any Permitted Mortgagee thereof.

7.4 Performance by Permitted Mortgagees. The Board shall accept payment of any sum or performance of any act by any Permitted Mortgagee of a Unit Owner required to be paid or performed by such Unit Owner pursuant to the provisions of the Declaration, these By-Laws or the Rules and Regulations, with the same force and effect as though paid or performed by such Unit Owner.

7.5 Examination of Books. The Board shall keep detailed, accurate records, in chronological order, of the receipts and expenditures arising from the operation of the property. Such records and the vouchers authorizing the payments shall be available for examination by the Unit Owners at convenient weekday hours. A written report summarizing such receipts and expenditures shall be rendered by the Board to all Unit Owners at least once annually.

7.6 Representatives of Mortgagees.

7.6.1 In the manner more particularly set forth in subsection 7.5.2 hereof, the holders of Institutional Mortgages (as such term is hereinafter defined) may, at their election, designate one or more (but not more than three (3)) representatives ("Mortgage Representatives")

who shall be empowered to act on behalf of all holders of Institutional Mortgages with respect to any matter requiring their consent or approval under the Declaration or these By-Laws. If any Mortgage Representatives are so designated and notice thereof is given to the Board, the act of any such representative (or a majority of such representatives if more than one is so designated) shall be deemed binding upon the holders of all Institutional Mortgages. As used herein, the term "Institutional Mortgage" means any first mortgage covering a Unit or Units (a) which is a Permitted Mortgage, and (b) the initial holder of which is (i) a savings bank, savings and loan association, bank or trust company, insurance company, real estate investment trust or mortgage trust, or (ii) a federal, state, municipal, teacher's or union employee, welfare, pension or retirement fund or system.

7.6.2 Any designation of a Mortgage Representative made by the holders of Institutional Mortgages constituting a majority in principal amount of all Institutional Mortgages shall be binding upon the holders of all Institutional Mortgages. Any such designation of any Mortgage Representative shall remain effective until (a) any subsequent designation thereof is made pursuant to the provisions hereof and (b) notice of such subsequent designation is given to the Board. Unless otherwise permitted by law, all Permitted Mortgagees other than holders of an Institutional Mortgage, shall have no right to participate in the selection of Mortgage Representatives, but shall be subject to all determinations made by such Mortgage Representatives pursuant to the Declaration or these By-Laws.

7.7 Consent of Mortgagees. Except as otherwise expressly provided for herein or in the Declaration, no consent or approval by any mortgagee shall be required with respect to the determination or act of the Board or any Unit Owner, provided, however, that nothing contained herein shall be deemed to limit or affect the rights of any mortgagee against his mortgagor.

## ARTICLE 8

## SELLING, LEASING AND MORTGAGING OF UNITS

8.1 Selling and Leasing. No Unit Owner other than Declarant, or a successor owner of the Unsold Units or a transferee who has the written consent of Declarant or a successor owner of Unsold Units (as applicable) may sell or lease his Unit except by complying with the following provision:

8.1.1 Any Unit Owner who receives a *bona fide* offer to (a) purchase his Unit together with its Appurtenant Interests in the Common Elements or (b) lease his Unit (such offer to purchase or lease a Unit, as the case may be, is called a "*Bona fide* Offer," the party making any such *Bona fide* Offer is called a "*Bona fide* Offeror" and the Unit Owner to whom the *Bona fide* Offer is made is called an "Offeree Unit Owner"), which he intends to accept shall give notice in writing and shall be deemed to have been given if delivered personally or sent by certified or registered mail, return receipt requested, to the Board of the receipt of such *Bona fide* Offer. Said notice shall also state the name and address of the *Bona fide* Offeror, the terms of the proposed transaction as set forth in an executed contract of sale or lease (which is made subject to approval by the Condominium Board) made with the prospective purchaser or lessee and such other information as the Board may reasonably require. The giving of such notice to the Board shall constitute an offer by such Unit Owner to sell his Unit together with its Appurtenant Interest in the Common Elements or to lease his

Unit to the Board, or its designee, corporate or otherwise, on behalf of all other Unit Owners, upon the same terms and conditions as contained in such *Bona fide* Offer and shall also constitute a representation and warranty by the Unit Owner who has received such *Bona fide* Offer, to the Board on behalf of all Unit Owners, that such Unit Owner believes the *Bona fide* Offer to be *bona fide* in all respects. The Offeree Unit Owner shall submit in writing such further information with respect thereto as the Board may reasonably request. Not later than 20 days after receipt of such notice together with such further information as may have been requested, the Board may elect, by sending written notice to such Offeree Unit Owner before the expiration of said 20-day period, by delivering personally or sending certified or registered mail, return receipt requested, to purchase such Unit together with its Appurtenant Interests in the Common Elements 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 Unit Owners, upon the same terms and conditions as contained in the *Bona fide* Offer and as stated in the notice from the Offeree Unit Owner, provided that such election to purchase said Unit is not being exercised in violation of Federal laws which prohibit discrimination or on the basis of race, color, national origin, religion, sex, family status or disability.

8.1.2 In the event the Board shall timely elect to purchase such Unit together with its appurtenant interests in the Common Elements or to lease such Unit, or to cause the same to be purchased or leased by its designee, corporate or otherwise, title shall close or a lease shall be executed at the office of the attorneys for the Board, in accordance with the terms of the *Bona fide* Offer, within 45 days after the giving of notice by the Board of its election to accept such offer. If, pursuant to such *Bona fide* Offer to purchase said Unit, the *Bona fide* Offeror was to assume or take title to the Unit subject to the Offeree Unit Owner's existing mortgage or mortgages, and assume or take title to the Unit subject to said existing mortgage or mortgages, as the case may be. At the closing, the Offeree Unit Owner, if such Unit together with its Appurtenant Interests in the Common Elements is to be sold, shall convey the same to the Board, or to its designee, on behalf of all other Unit Owners, by deed in the form required by Section 339-o of the Real Property Law of the State of New York, with all tax and/or documentary stamps affixed at the expense of such Unit Owner, who shall also pay all other taxes arising out of such sale. Real estate taxes (including water charges and sewer rents if separately assessed to the Unit), mortgage interest, if any, and Common Charges shall be apportioned between the Offeree Unit Owner and the Board, or its designee, corporate or otherwise, as of the closing date. In the event such Unit is to be leased, the Offeree Unit Owner shall execute and deliver to the Board, or to its designee, corporate or otherwise, a lease between the Offeree Unit Owner, as landlord, and the Board, or its designee, corporate or otherwise, as tenant, covering such Unit, for the rental and term contained in such *Bona fide* Offer.

8.1.3 In the event the Board or its designee shall fail to accept such offer within 20 days after receipt of notice as aforesaid, said contract of sale or lease, as the case may be, shall be deemed approved by the Condominium Board. In the event the sale or lease pursuant to the said contract of sale or lease is not consummated for any reason, then, should such Offeree Unit Owner thereafter elect to sell or lease such Unit, as the case may be, the Offeree Unit Owner shall be required to again comply with all the terms and provisions of this Section 8.1.

8.1.4 Any deed to a *Bona fide* Offer or shall be deemed to provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, these By-Laws and the Rules and Regulations, as the same may be amended from time to time.

8.1.5 Any lease executed in connection with the acceptance of any *Bona fide* Offer to lease a Unit shall be consistent with these By-Laws and shall provide that it may not be modified, amended, extended or assigned without the prior consent in writing of the Board, that the tenant shall not assign his interest in such lease or sublet the demised premises or any part thereof without the prior consent in writing of the Board and that the 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 Real Property Law of the State of New York.

8.1.6 Except as hereinbefore set forth, the form of any such lease executed by the Board or a *Bona fide* Offer or shall be the then current form of condominium apartment lease recommended by The Real Estate Board of New York, Inc. and shall contain such other modifications as shall be approved in writing by the Board. Any lease executed by the Board as tenant shall provide that the Board may enter into a sublease of the premises without the consent of the landlord.

8.1.7 Any purported sale or lease of a Unit in violation of this Section 8.1 shall be voidable at the election of the Board and if the Board shall so elect, the Unit Owner shall be deemed to have authorized and empowered the Board to institute legal proceedings to evict the purported tenant (in case of an unauthorized leasing), in the name of the said Unit Owner as the purported landlord. Said Unit Owner shall reimburse the Board for all expenses (including attorneys' fees and disbursements) incurred in connection with such proceedings.

8.1.8 The foregoing restrictions contained in this Section 8.1 shall not apply to any sale being conducted by a lender as part of a foreclosure proceeding or any transaction in any subsequent sale of such Unit acquired by a lender or its designee in a foreclosure or by deed-in-lieu of foreclosure.

8.1.9 The foregoing restrictions of this Section 8.1 shall not apply to Unsold Units. Declarant or any successor owner of the Unsold Units shall have the right to freely sell Unsold Units or to freely lease all or any part thereof without having to first offer the same for sale or lease to the Board.

8.1.10 The foregoing restrictions of this Section 8.1 shall not apply to the Commercial Unit. The Commercial Unit Owner shall have the right to freely sell or enter into a lease for all or any part of the Commercial Unit without having to first offer the same for sale or lease to the Board.

8.2 Consent of Unit Owners to the Purchase or Lease of Units by Condominium Board. The Board shall not exercise any option herein above set forth to purchase or lease any Unit without the prior approval of 75 percent in number of the members of the Condominium Board. Further, no Unit acquired by the Condominium Board or its designee pursuant to this Article 8 shall carry voting rights as long as such Unit is so held.

8.3 No Severance of Ownership. No Unit Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to his Unit without including therein its Appurtenant

Interests in the Common Elements, it being the intention to prevent any severance of such combined ownership. Any such deed, 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. No part of the appurtenant interests in the Common Elements 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 in the Common Elements of all Units. Nothing in this Section 8.3 shall permit the lease of any Unit without the simultaneous lease of its Appurtenant Interests.

8.4 Release by Condominium Board of Right of First Refusal. The right of first refusal contained in Section 8.1 may be released or waived by the Board only in the manner provided in Section 8.5. In the event the Board shall release or waive its right of first refusal as to any Unit, such Unit may be sold, conveyed or leased, free and clear of the provisions of Section 8.1.

8.5 Certificate of Termination of Right of First Refusal. A certificate executed and acknowledged by the Secretary-Treasurer of the Condominium stating that the provisions of Section 8.1 have been met by a Unit Owner or stating that the right of first refusal contained therein has been duly released or waived by the Board, and that as a result thereof the rights of the Board thereunder have terminated, shall be conclusive upon the Board and the Unit Owners in favor of all persons who rely on such certificate in good faith. The Board shall furnish, without charge, such certificate upon request to any Unit Owner with respect to whom the provisions of Section 8.1 have, in fact, terminated.

8.6 Financing of Purchase of Units by Condominium Board. 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. If the funds in such accounts are insufficient to effectuate any such purchase, the Board may levy an assessment against each Unit Owner, in proportion to his respective Common Interest, as a Common Charge, and/or the Board may, in its discretion, finance the acquisition of such Unit, provided, however, that no such financing 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 Interests in the Common Elements.

8.7 Exceptions. The provisions of Section 8.1 shall not apply with respect to any lease, sale or conveyance of any Unit by (a) the Unit Owner thereof to his spouse, domestic partner, adult children, parents, parents-in-law, adult siblings or to any one or more of them or to any related or controlled entity of the Unit Owner thereof, (b) Declarant or its successor with respect to the Unsold Units, (c) the Board, (d) 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 (e) a Permitted Mortgagee or his nominee, who has acquired title to any Unit at any foreclosure sale of his Permitted Mortgage or by deed in lieu thereof delivered in a *bona fide* transaction; provided, however, that each succeeding Unit Owner shall be bound by, and his Unit subject to, the provisions of this Article 8.

The term "related or controlled entity" shall mean an entity which owns more than 50 percent of the legal and beneficial interest of such Unit Owner, or an entity with respect to which such Unit

Owner owns more than 50 percent of the legal and beneficial interest thereof.

8.8 Gifts and Devises, etc. Any Unit Owner shall be free to convey or transfer his Unit by gift, or may devise his Unit by will or have his Unit pass by intestacy, without restriction, provided, however, that each succeeding Unit Owner shall be bound by, and his Unit subject to, the provisions of this Article 8.

8.9 Waiver of Right of Partition with Respect to Units Acquired on Behalf of Unit Owners as Tenants-in-Common. In the event that any Unit shall be acquired by the Board or its designee, corporate or otherwise, on behalf of all Unit Owners as tenants in common, all such Unit Owners shall be deemed to have waived all rights of partition with respect to such acquired unit and the entire Property as herein provided.

8.10 Payment of Assessments. No Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate or lease his Unit unless and until he shall have paid in full to the Board all unpaid Common Charges theretofore assessed against such Unit and until such Unit Owner shall have satisfied all unpaid liens against his Unit, other than Permitted Mortgages.

8.11 Mortgage of Units. Subject to Article 7 and Section 8.10 hereof, each Unit Owner shall have the right to mortgage his Unit without restriction, provided that any such mortgage covering a Unit shall be substantially in the form of the New York statutory form of mortgage, except for such changes or additions as may be required in order to permit a particular bank, trust company, insurance company, savings and loan association or other institutional or non-institutional lender to make the mortgage loan and the Board is notified in writing of the making of such mortgage.

## ARTICLE 9

## COMMERCIAL UNIT

9.1 Right to Lease. Subject to the terms of the Declaration and these By-Laws, a Commercial Unit Owner shall have the right to lease in whole or in part a Unit for such rent and term and on such other conditions as may be agreed upon by the Commercial Unit Owner and any tenant of such Unit or a portion thereof. No Unit Owner shall lease its Unit or any portion thereof or permit its Unit or any portion thereof to be used or occupied by anyone other than for the permitted uses set forth in the Declaration and in these By-Laws.

9.2 Subordinate to Declaration and Bylaws. Any lease entered into by a Commercial Unit Owner shall be consistent with and subordinate to the Declaration and to these By-Laws and shall provide in reference to any commercial tenant that such tenant shall maintain, at its expense, public liability insurance policies naming as parties insured the Unit Owners, the Board of Managers and their agents in such amounts as may then be customarily by required by landlords with respect to similar commercial tenancies in the City of New York. Any insurance policy to be maintained pursuant to the terms of any such lease shall provide that said policy shall not be cancelled or materially amended upon not less than twenty (20) days prior written notice the Board of Managers

and the Unit Owner. The commercial tenant of a Commercial Unit shall also deliver to the Board of Managers certificate evidencing such insurance.

9.3 Non-Disturbance Agreement. Upon request from the Commercial Unit Owner, the Board will enter into a Non-Disturbance and Attornment Agreement (a "Non-Disturbance Agreement") with a tenant under a lease for either of the Commercial Units or any portion thereof (a "Tenant") on terms and conditions reasonably acceptable to the Board of Managers. Such agreement will provide, in part, that so long as a lease has not been terminated on account of a Tenant's default that has continued beyond applicable cure periods (an "Event of Default"), the Board of Managers shall not name or join a Tenant as a defendant in any exercise of Board's rights and remedies arising upon a default by the Commercial Unit Owner in its obligations to pay Common Charges and Assessments unless applicable law requires a Tenant to be made a party thereto as a condition to proceeding against the Commercial Unit Owner or prosecuting such rights and remedies. In the latter case, the Board of Managers may join a Tenant as a defendant in such action for such purpose, but shall not terminate the lease or otherwise adversely affect a Tenant's rights under the lease or the Declaration.

Any such Non-Disturbance Agreement shall further provide that if the lease has not been terminated on account of an Event of Default by a Tenant, then, when the Board of Managers or its successor takes title to the Commercial Unit: (a) the successor landlord shall not terminate or disturb a Tenant's possession of Tenant's premises under the lease, except in accordance with the terms of the lease and these By-Laws; (b) the successor landlord shall be bound to a Tenant under all the terms and conditions of the lease; (c) Tenant shall recognize and attorn to the successor landlord as Tenant's direct landlord under the lease as affected by these By-Laws; and (d) the lease shall continue in full force and effect as a direct lease, in accordance with its terms, between the successor landlord and a Tenant.

## ARTICLE 10

## CONDEMNATION

In the event of the taking in condemnation or by eminent domain of all or any part of the Common Elements, the Board, subject to the provisions set forth below, will arrange for the prompt repair and restoration of such part of the Common Elements so taken which, pursuant to the provisions of these By-Laws, are required to be maintained by the Board. The award made for any such taking shall be payable to the Board, provided, however, that if any such award exceeds $1,000,000.00, such award shall be payable to the Insurance Trustee and shall be disbursed to the contractors engaged in such repair and restoration, if any, in appropriate progress payments. If the net proceeds of any such award are insufficient to cover, or if such net proceeds exceed, the cost of any repairs and restorations, the deficit or surplus, as the case may be, will be borne and shared by all Unit Owners to the extent that the taking involves the Common Elements shared by all of the Unit Owners in accordance with their respective Common Interests. Notwithstanding any provisions contained herein to the contrary, in the event that 75 percent or more in Common Interest of all Unit Owners do not duly and promptly resolve to proceed with such repair or restoration of the Common Elements, such repairs or restorations shall not be made and the proceeds of any such award with respect thereto will be divided among the Unit Owners in proportion to their respective Common

Interests, after first paying out of the share of each Unit Owner the amount of any unpaid liens on such Units other than mortgages which are not Permitted Mortgages. As used in this Article 10, the words "promptly resolve" shall mean not more than 60 days from the date of such taking.

## ARTICLE 11

## RECORDS AND AUDITS

11.1 Records. The Board or the managing agent thereof shall keep detailed records of the actions of the Board, minutes of the meetings of the Board, minutes of the meetings of the Unit Owners and financial records and books of account with respect to the activities of the Board, including a listing of all receipts and expenditures. In addition, the Board shall keep a separate account for each Unit which, among other things, shall contain the amount of each assessment of Common Charges against each such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid.

11.2 Audits. Within four months after the end of each fiscal year, an annual report of receipts and expenditures prepared by an independent certified public accountant, shall be submitted by the Board to all Unit Owners and if so requested, to any Permitted Mortgagee. The cost of such report submitted by the Board shall be paid by the Unit Owners as a Common Expense.

11.3 Availability 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 Board and shall be available for inspection by Unit Owners and their authorized agents during reasonable business hours.

## ARTICLE 12

## ARBITRATION

12.1 General Procedure. Any arbitration provided for in these By-Laws shall be conducted before one (1) arbitrator in the Borough of Manhattan by the American Arbitration Association or any successor organization thereof, in accordance with its rules then in effect and the decision rendered in such arbitration shall be binding upon the parties and may be entered in any court having jurisdiction. In the event that the American Arbitration Association shall not then be in existence and has no successor, any arbitration hereunder shall be conducted in the Borough of Manhattan before one (1) arbitrator appointed, on application of any party, by any Justice of the highest court of appellate jurisdiction located in the County of New York. The decision of the arbitrator so chosen shall be given within ten (10) days after his appointment. All expenses of arbitration hereunder, including the fees and expenses of counsel and experts, shall be Common Expenses. Any arbitrator appointed or selected in connection with any arbitration hereunder shall be a member of a law firm whose principal office is in the Borough of Manhattan and which has at least five (5) members.

12.2 Agreement by Parties. The parties to any dispute required or permitted to be submitted to arbitration hereunder may, by mutual agreement between them, vary any of the provisions of Section 11.1 hereof with respect to the arbitration of such dispute, or may agree to

resolve their dispute in any other manner, including, without limitation, the manner set forth in Section 3031 of the New York Civil Practice Law and Rules and known as the "New York Simplified Procedure for Court Determination of Disputes."

## ARTICLE 13

## MISCELLANEOUS

13.1 Waiver. No provision contained in these By-Laws or the Rules and Regulations 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.

13.2 Captions. The captions herein are inserted 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.

13.3 Certain References.

13.3.1 A reference in these By-Laws to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural, and vice versa, unless the context otherwise requires.

13.3.2 The terms "herein," "hereof" or "hereunder" or similar terms used in these By-Laws refer to these entire By-Laws and not to the particular provision in which the terms are used.

13.3.3 Unless otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of these By-Laws.

13.4 Severability. Subject to the provisions of the Declaration, if any provision of these By-Laws is invalid or unenforceable as against any person, party or under certain circumstances, the remainder of these By-Laws and the applicability of such provision to other persons, parties or circumstances shall not be affected thereby. Each provision of these By-Laws shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by law. In the event any provision of these By-Laws or the Rules and Regulations conflicts with the provisions of the Declaration, the provisions of the Declaration shall control.

13.5 Insurance Trustee. The Insurance Trustee shall be a bank or trust company designated by the Board and having a capital surplus and undivided profits of $100,000,000.00 or more. Any holder of Institutional Mortgage liens (as further qualified by this Section 13.5) on more than three (3) Units shall have the right to require the Board to appoint such Institutional Mortgagee as Insurance Trustee. 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 bank or trust company having a capital surplus and undivided profits of $100,000,000.00 or more. The Board shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a Common Expense.

13.6 Successors and Assigns. The rights and/or obligations of Declarant as set forth herein shall inure to the benefit of and be binding upon any successor or assign of Declarant or, with the consent of Declarant, upon any transferee of all of the then Unsold Units.

13.7 Covenant of Further Assurances.

13.7.1 Any party which is subject to the terms of these By-Laws, whether such party is a Unit Owner, a lessee or sublessee of a Unit Owner, an occupant of a Unit, a member or officer of the Board, or otherwise, shall, at the expense of any such other party requesting the same, execute, acknowledge and deliver to such other party such instruments, in addition to those specifically provided for herein, and take such other action, as such other party may reasonably request 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.

13.7.2 If any Unit Owner or other party which is subject to the terms of these By-Laws fails to execute, acknowledge or deliver any instrument, or fails or refuses within ten (10) days after request therefor, to take any action which such Unit Owner or party is required to execute, acknowledge and deliver or to take pursuant to these By-Laws, then the Board is hereby authorized, as attorney-in-fact for such Unit Owner or other party, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Unit Owner or other party and such document or action shall be binding on such Unit Owner or other party.

13.7.3 If the Board, any Unit Owner or other party which is subject to the terms of these By-Laws fails to execute, acknowledge or deliver any instrument, or fails or refuses, within ten (10) days after request therefor, to take any action which the Board, such Unit Owner or party is required to execute, acknowledge and deliver or to take pursuant to these By-Laws at the request of Declarant, then Declarant is hereby authorized, as attorney-in-fact for the Board, such Unit Owner or other party, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of the Board, such Unit Owner or other party and such document or action shall be binding on such Unit Owner, Board or other party.

## ARTICLE 14

## AMENDMENTS TO THE BY-LAWS

14.1 Amendments by Unit Owners. Subject to the provisions contained herein or elsewhere in the Declaration with respect to amendments affecting Declarant or its successor or any Unsold Units or a transferee who has the written consent of Declarant or a successor owner of Unsold Units (as applicable), any provision of these By-Laws may be amended, modified, added to or restated by affirmative vote of at least 66 2/3 percent in number and in Common Interest of all Unit Owners, provided, however, that the Common Interest appurtenant to each Unit as expressed in the Declaration shall not be altered without the written consent of the Unit Owners affected thereby. Subject to the provisions contained herein or in the Declaration with respect to amendments, modifications, additions or deletions affecting Declarant or its successor-in-interest or any Unsold Unit or a transferee who has the written consent of Declarant or a successor owner of Unsold Units

(as applicable), any such amendment, modification, addition or deletion shall be executed by the Board, as attorney-in-fact for the Unit Owners, coupled with an interest, for the purpose of approving and executing any instrument effecting such amendment, modification, addition or deletion. Notwithstanding the foregoing and subject to the provisions contained herein or in the Declaration with respect to amendments affecting Declarant or its successor-in-interest or any Unsold Units or a transferee who has the written consent of Declarant or a successor owner of Unsold Units (as applicable), (i) no amendment, modification, addition or deletion pursuant to the provisions set forth above shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of the Mortgage Representatives, if any, and (ii) the provisions of Section 6.14 hereof may not be amended, modified, added to or deleted unless (in addition to the consent, if required, of the Mortgage Representatives, as set forth above) 75 percent in number and in Common Interest of all Unit Owners affected thereby approve such amendment, modification, deletion or addition in the manner set forth above.

14.2 Amendments Affecting Declarant or Unsold Units. Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition or deletion of or to these By-Laws, the Declaration or the Rules and Regulations shall be effective in any way against (a) Declarant, or a successor owner of any Unsold Unit or a transferee who has the written consent of Declarant or a successor owner of Unsold Units (as applicable) unless Declarant or said affected successor owner or permitted transferee (as applicable) has given its prior written consent thereto or (b) the holder of an existing mortgage, pledge or other lien or security interest covering any Unsold Unit unless such holder has given its prior written consent thereto.

14.3 Amendments Affecting Permitted Mortgagees. Notwithstanding any provision contained herein to the contrary, no modification, addition, amendment or deletion of or to Article 7 or Sections 6.2, 6.4.2 or 8.7 (d) or (e) hereof shall be effective as against the holder of any Permitted Mortgage theretofore made unless such holder has given its prior written consent thereto.

14.4 Amendments to be Made by Declarant. Notwithstanding any provision contained herein to the contrary, Declarant or a successor owner of the Unsold Units may, without the consent of the Unit Owners, amend the By-Laws.

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# EXHIBIT A

## RULES AND REGULATIONS FOR THE RESIDENTIAL UNIT OWNERS OF BOWERY 263 CONDOMINIUM

1. Subject to the rights of Unit Owners with respect to those Common Elements reserved for the exclusive or shared use, the sidewalks, entrances, passages, public halls, elevators, vestibules, corridors and stairways of or appurtenant to the Building shall not be obstructed or used for any purpose other than ingress to and egress from the Units.

2. No article (including, but not limited to, garbage cans, bottles or mats) shall be placed in any of the halls or on any of the staircase or fire tower landings of the Building, nor shall any fire exit thereof be obstructed in any manner. Nothing shall be hung or shaken from any doors, windows, roofs or placed upon the window sills of the Building.

3. Subject to the rights of Unit Owners with respect to those Common Elements reserved for the exclusive or shared use, neither occupants nor their guests shall play in the entrances, passages, public halls, elevators, vestibules, corridors, stairways or on the public roof decks of the Building.

4. Except as otherwise provided in the By-Laws, no public hall or public elevators of the Building shall be decorated or furnished by any Unit Owner in any manner. Except as otherwise provided in the By-Laws, the style, finish and hardware of the exterior side of the corridor doors shall not be altered.

5. Each Unit Owner shall keep his Unit in a good state of preservation and cleanliness, and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance.

6. Other than as required by law, 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 Board or the managing agent thereof, which approval shall not be unreasonably withheld or delayed.

7. No radio, television aerial or satellite dishes shall be attached to or hung from the exterior of the Building and no sign, notice, advertisement or illumination shall be inscribed or exposed on or at any window or other part of the Building except such as are permitted pursuant to the Declaration or By-Laws or shall have been approved in writing by the Board or the managing agent thereof; nor shall anything be projected from any window of a Unit without similar approval.

8. No ventilator, window screens or air-conditioning device shall be installed in any Unit without the prior written approval of the Board, which approval may be granted or refused in the sole discretion of the Board.

9. 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 public authorities having jurisdiction, and the Unit

Owner alone shall be liable for any damage or injury caused by any radio, television or other electrical equipment in such Unit Owner's Unit.

10. No baby carriages, shopping carts, bicycles, scooter and luggage shall be allowed to stand in the public halls, passageways or other public areas of the Building. The aforementioned items shall be allowed in the elevator only in such a manner so as not to cause damage to the Building. Motorcycles, velocipedes or any similar vehicles which require any petroleum motor fuel are strictly prohibited from the Building. The use of roller blades and skateboards in the Building is prohibited.

11. No Unit Owner shall make or permit any disturbing noises or activity in the Building, or do or permit anything to be done therein, which will interfere with the rights, comforts or conveniences of other Unit Owners. No Unit Owner shall play upon or suffer to be played upon any musical instrument, or operate or permit to be operated a phonograph or radio or television set or other loud speaker in such Unit Owner's Unit between 10:00 p.m. and the following 8:00 a.m., if the same shall disturb or annoy other occupants of the Building, and in no event shall practice or suffer to be practiced either vocal or instrumental music between the hours of 10:00 p.m. and the following 8:00 a.m. Construction, repair work or other installation involving noise shall be conducted only on weekdays (Monday through Friday, not including legal holidays) and only between the hours of 8:00 a.m. and 5:00 p.m., unless such construction or repair work is necessitated by an emergency.

12. Unit Owners shall have the right to keep and harbor pets in their Units; however, such Unit Owner's right shall be subject to the Board's right to revoke such Unit Owner's right at any time in its sole discretion. Notwithstanding the provisions of the immediately preceding sentence, certain tenants in the Building who have Units leased from Declarant, shall be granted the right to keep and harbor pets in the Building by act of the Board at its first (1st) duly convened meeting. In no event shall any bird, reptile or animal be permitted in the elevators of the Building, or in any of the public portions of the Building, unless carried in a cage 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.

13. Waterclosets and other water apparatus in the Building shall not be used for any purpose other than those for which they were designed, nor shall any sweepings, rubbish, rags or any other article be thrown into the same. Any damage resulting from misuse of any waterclosets or other apparatus in a Unit shall be repaired and paid for by the owner of such Unit.

14. No occupant of the Building shall send any employee of the Condominium or of the Managing Agent thereof out of the Building on any private business.

15. The agents of the Board or the Managing Agent thereof, and any contractor or workman authorized by the Board or the Managing Agent thereof, may enter any room, Unit at any reasonable hour of the day, on at least one (1) day's prior notice to the Unit Owner. Agents of the Board or Managing Agent shall also have the right to enter any unit at any time in the event of an emergency.

16. The Board or the managing agent thereof may retain a passkey to each Unit. If any lock is altered or a new lock is installed, including any elevator lock, the Board or the managing agent thereof shall be provided with a key thereto immediately upon such alteration or installation. If the Unit Owner is not personally present to open and permit an entry to his 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 Board or the managing agent thereof, then the Board or such managing agent or their agents in an emergency, and when specifically authorized (by an officer of the Condominium or an officer of the managing agent) may forcibly enter such Unit without liability for damages or trespass by reason thereof (if during such entry reasonable care is given to such Unit Owner's property).

17. No vehicle belonging to a Unit Owner or to a member of the family or guest, tenant or employee of a Unit Owner shall be left unattended on any sidewalk surrounding the Building or in such manner as to impede or prevent ready access to any entrance to or exit from the Building by another vehicle.

18. The Board or the managing agent thereof may from time to time curtail or relocate any portion of the Common Elements devoted to service purposes in the Building.

19. Complaints regarding the service of the Condominium shall be made in writing to the Board or to the managing agent thereof.

20. Any consent or approval given under these Rules and Regulations may be added to, amended or repealed at any time by resolution of the Board.

21. Clothes and other articles shall not be dried or aired on the Balconies or Terraces of the Building or on any other public area of the Property.

22. Unit Owners shall not cause or permit any unusual or objectionable noises or odors to be produced upon or to emanate from their Units. Smoking is strictly prohibited in all Building Common Areas.

23. No Unit Owner or any of his agents, servants, employees, licensees or visitors shall at any time bring into or keep in his Unit any inflammable, combustible or explosive fluid, material, chemical or substance, except as shall be necessary and appropriate for the permitted uses of such Unit.

24. If any key or keys are entrusted by a Unit Owner or by any member of his family or by his agent, servant, employee, licensee or visitor to an employee of the Condominium or of the managing agent thereof, whether for such Unit Owner's Unit or an automobile, trunk or other item of personal property, the acceptance of the key shall be at the sole risk of such Unit Owner and neither the Board nor the managing agent thereof shall be liable for injury, loss or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

25. Corridor doors shall be kept closed at all times except when in actual use for ingress or egress to and from public corridors.

26. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance of the Building or contents thereof without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Building or which would be in violation of any law. No waste shall be committed in the Common Elements.

27. No group tour 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 Board or its Managing Agent, which consent may be withheld in the Board's sole discretion.

28. In the event that any Unit is used for home occupation purposes which are permitted by law, in no event shall any patients, clients or other invitees be permitted to wait in any lobby, public hallway or vestibule.

29. With respect to any Unit to which there is a Balcony or Terrace appurtenant, the following additional rules and regulations shall apply: All furniture must be "patio/terrace" furniture which is rust-proof. Any planting/landscaping must comply with all Legal Requirements. Plants may not exceed the total weight allowance of 100 pounds and must be planted in water-proof containers so as not to cause water leakage. Any damage caused by the Unit Owner's negligence shall be at such Unit Owner's sole cost and expense. All Balconies or Terraces must be kept clean and free from snow, ice, leaves, and debris and all screens and drains must be kept in good repair. The Unit Owner shall not remove any of the above items by putting them over the Balcony or Terrace walls, but shall remove said items either through the apartment or through drainage where appropriate. No hanging of any items, including but not limited to banners, laundry, decorations, etc., from any Balcony or Terrace wall, structure, railing or other temporary or permanent structure is permitted. No items including, but not limited to, climbing equipment, bikes, pools, children's toys, etc., may be stored on any Balcony or Terrace; any appropriate furniture including table, chair cushions and umbrellas may be left on the Balconies or Terraces only if properly secured. No items can be placed on the Balcony or Terrace parapet wall and/or railing. In no event shall any Unit Owner be permitted to enclose any Balcony or Terrace (except to the extent that such Balcony or Terrace was enclosed by Declarant) or erect any structure on any Balcony or Terrace. No portion of any Balcony or Terrace may be painted, cemented or changed in any fashion from its original appearance. No carpeting may be placed on any Balcony or Terrace. Lighting fixtures may only be plugged into regulation sockets. No satellite dishes may be placed on any Balcony or Terrace. No animals, which include, but are not limited to dogs, cats, birds, are allowed on any Balcony or Terrace. 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 Balconies or 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 Balcony or 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.

30. There will be no barbecuing in the Units, on the Balconies or Terraces, or in the Common Elements (including, without limitation, the Residential Limited Common Elements).

31. In the event that the Condominium Board receives complaints about noise emanating from any of the Units the Board may request that, substantially all (which shall mean at least 50 percent) of the floor area be covered with carpeting or equally effective noise-reducing material (excepting areas similar to kitchens, pantries, bathrooms, maid's rooms, closets, and foyers in such type Unit and also excepting work areas).

32. All Unit Owners and/or tenants shall comply with all requirements of law and regulations of the Condominium regarding recycling of trash. All Unit Owners and/or tenants shall separate their trash into "recyclable" and "non-recyclable" materials. The Condominium may designate from time to time the types of materials which must be separated for recycling, the types of containers or binding to be used by Unit Owners and/or tenants for the disposal of designated recyclable materials, and the locations where designated recyclable materials shall be deposited. The Condominium may also establish other regulations regarding recycling of trash. Any costs incurred by the Condominium in the enforcement against Unit Owners and/or tenants of recycling requirements imposed by law or by the Condominium, including but not limited to, legal fees and fines or penalties imposed on the Condominium by any government agency, shall be payable by the Unit Owner and/or tenant and shall be deemed a fine under the By-Laws.

33. The Condominium Board reserves the right to rescind, alter, waive or add, as to one or more or all occupants, any rule or regulation at any time prescribed for the Unit when, in the judgment of the Condominium Board, the Condominium Board deems it necessary or desirable for the reputation, safety, character, security, care, appearance or interests of the Condominium, or the preservation of good order therein, or the operation or maintenance of the Condominium, or the equipment thereof, or the comfort of Unit Owners, occupants or others in the Condominium. No rescission, alteration, waiver or addition of any rule or regulation in respect of one Unit Owner or other occupant shall operate as a rescission, alteration or waiver in respect of any other Unit Owner or other occupant.

34. Except as permitted under the Declaration and the By-Laws, Unit Owners, their families, guests, servants, employees, agents, visitors or licensees shall not at any time nor for any reason whatsoever enter upon or attempt to enter upon the roof of the Building.

35. The use of radios (including stereos and boom boxes) are not permitted on the Balcony or Terrace or the recreational roof terrace (which is a Residential Limited Common Element) by any Unit Owner, their families, guests, servants, employees, agents, visitors or licensees.

36. The Balconies and Terraces and the recreational roof terrace (which is a Residential Limited Common Element) shall be used for passive recreational use only *(i e.,* walking, reading and quiet personal enjoyment).

37. All visitors must be admitted by the intercom system. Non-residents who are not accompanied by a resident of the Building will not be allowed into the Building without authorization from a resident. Unit Owners are required to register the names of regular or repeat domestic employees with the Board of Managers.

38. The Board of Managers must be notified prior to the commencement of any alteration work. Written approval must be obtained from the Board of Managers before alterations (other than painting, wallpapering and carpeting) may be made to a Unit. After plans have been approved, there is a time limit of four (4) months for the completion of the construction or renovation work unless the time limit is extended by the Board. After receiving written approval for the proposed alteration, and at least two (2) business days prior to the commencement of work, residents are required to inform the Managing Agent in writing of the nature and extent of the work, installation, or proposed repair, the number of personnel involved and the estimated time for completion. Unit Owners will also assume financial responsibility and will indemnify the Condominium for any damage done to any other Unit, or to any Common Element. Construction personnel may work only between the hours of 8:00 a.m. and 5:00 p.m. from Monday through Friday, excluding national holidays. Prior to the commencement of work, Unit Owners are required to provide certificates of insurance for all contractors and subcontractors, naming the condominium and the Managing Agents as additional insureds, as well as any required building permits.

39. No moving company will be permitted to enter the building without first providing the Managing Agent with a Certificate of Insurance.

40. Commercial film, video, and photographic shoots are prohibited in the Building.

**EXHIBIT J**

## STORAGE UNIT LICENSE AGREEMENT

AGREEMENT MADE THIS _____ day of _____, 2010 (this "Agreement") by and between the Residential Board of Bowery 263 Condominium (the "Licensor"), having an office at care of _____, and _____ (the "Licensee"), having an address at 263 Bowery, New York, New York 10002;

WHEREAS, pursuant to that certain condominium declaration and by-laws for the condominium known as Bowery 263 Condominium (hereinafter "Condominium") dated _____, 2010, recorded on _____ as CRFN: _____ (collectively the "Declaration") for the property having the street address 263 Bowery, New York, New York 10002 (the "Property"), the Property was submitted to a condominium regime;

WHEREAS, in accordance with the terms of the Declaration, Licensor is responsible for the administration of the Condominium, including, without limitation the "Storage Bins" located in the Building as such term is more particularly defined and described in the Declaration;

WHEREAS, Licensee, owns or simultaneously herewith, Licensee is acquiring a Residential Unit in the Condominium and;

WHEREAS, Licensee desires the right to the exclusive use of the Storage Bin No. _____ (the "Bin") for so long as Licensee owns a Residential Unit in the Condominium.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the parties hereto agree as follows:

1. Subject to and in accordance with the terms and conditions of this Agreement, Licensor hereby grants to Licensee, its successors and assigns and Licensee hereby accepts from Licensor, a license (the "License") to use the Bin during the term hereof for storage of Licensee's personal property and the property of occupants of the Unit (the "Permitted Users") and for no other purpose. Licensee shall not store any (i) animals or food, (ii) inflammable, combustible, explosive or other dangerous items, (iii) items which have an objectionable odor or which may spoil or decay or (iv) valuable items. Licensee shall not (a) interfere with another tenant of Licensor, (b) store any property in the Building outside of the Bin, (c) allow any other person to use the Bin except in accordance with the terms hereof, or (d) deface, damage or alter the Bin, the Building or Licensor's equipment. Licensee shall keep the Bin locked and shall provide Licensor with a duplicate key. Licensee acknowledges that it is Licensee's responsibility to safeguard the keys and Licensee is fully responsible for whoever has possession of the keys.

2. The term of this License shall commence on date first set forth above, and shall continue on a month to month basis thereafter until Licensee gives written notice of termination, or unless otherwise terminated, as provided herein. This License shall automatically terminate in the event that Licencee no longer owns a Residential Unit in the Condominium. In the event this Agreement is terminated, Licensee shall vacate and surrender possession of the Bin, broom

clean, in the condition as existed prior to the commencement of this Agreement. Any property not removed from the Bin at expiration or other termination of this Agreement shall be considered abandoned and may, at Licensor's option, be retained as Licensor's property or disposed of at Licensee's cost and without any liability to Licensee. Licensee's obligation to observe or perform this covenant shall survive the expiration or other termination of this Agreement.

3. Licensee shall indemnify and save harmless Licensor and Licensor's agents against and from any and all liability, loss, damage and expense (including, without limitation, attorney fees and expenses) arising from injury to person or property occasioned by failure of the Licensee to comply with any provision in this Agreement, or due wholly or in part to any act, default or omission of the Licensee or of any person using the Bin, or by the Licensor, its agents, servants or contractors when acting as agent for the Licensee as herein provided.

4. Neither Licensor nor its agents or employees shall be liable for any theft or damage to any property stored in the Bin unless due to gross negligence of the Licensor. Licensee stores property in the Bin at Licensee's own risk, including, without limitation, the possibility that the Bin mat be damp or have water infiltration. Licensor undertakes only to act as a licensor, and under no circumstances shall the Licensor or its agents be deemed to act as Licensee's bailee.

5. Licensee represents that it has made a thorough inspection of the Bin and agrees to take same in its condition "as is" as of the commencement of this Agreement. Licensee shall, throughout the term of this Agreement, take good care of the Bin. Licensee shall repair all damage to the Building and the Bin by the moving of its property, furniture, or equipment.

6. Licensor shall not provide any services to the Bin, except lighting on the floor in which the Bin is located and elevator service. Licensee shall have access to the Bin only from 9:00 A.M. to 10:00 P.M., seven days a week.

7. This Agreement shall inure to the benefit of the Licensor's successors and assigns and may not be modified except by writing signed by the party to be charged.

8. If Licensee shall default in fulfilling any of its covenants or obligations hereunder, in addition to any other rights and remedies available to Licensor, Licensor may (i) deny access to the Bin until Licensee cures such default, or (ii) terminate this Agreement by giving of written notice to Licensee, whereupon this Agreement shall terminate on the date set forth in such notice.

9. Licensee shall, at all times, use the Bin only in a manner which is in full compliance with all present and future laws, orders, rules and regulations of all state, federal, municipal and local governments, departments, commissions and boards (including the New York Board of Fire Underwriters or any similar body) asserting jurisdiction therefor, or any direction of any public officer pursuant to law, including, without limitation, the police and fire departments of the City of New York, which may require the removal or destruction of items stored in the Bin. Licensee, its servants, employees, agents, visitors and licensees shall observe

faithfully, and comply strictly with the Declaration and any and all rules and regulations for the Building as Licensor or its agents may from time to time adopt.

10. Licensor or its agents shall have the right (but not the obligation) to open the Bin in an Emergency at any time, and, at other reasonable times, to inspect and examine the same and to make such repairs, replacements and improvements as Licensor shall deem necessary or desirable to the Bin or any portion of the Building, all without any liability to Licensee whatsoever as a result thereof.

11. The failure of Licensor to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this Agreement or of any of the rules or regulations adopted by Licensor, shall not prevent a subsequent act which would have originally constituted a violation from having all the force and effect of an original violation.

12. Notwithstanding anything to the contrary set forth herein, in the event Licensee desires to assign this Agreement, such assignment shall comply with the then requirements of Licensor to effectuate such assignment, including, without limitation, the obligation to enter into a new license agreement with the assignee, Licensee may permit use of the Bin by others than the Permitted Users only with the consent of Licensor.

13. All capitalized terms used in this Agreement not defined herein shall have the same meanings ascribed to them in the Declaration.

14. This Agreement shall inure to the benefit of and be binding upon the heirs, executors, successors and assigns of the Licensee.

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

LICENSOR:

RESIDENTIAL CONDOMINIUM BOARD OF BOWERY 263 CONDOMINIUM

By: _____

LICENSEE:

_____

_____

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**EXHIBIT K**

# CERTIFICATIONS

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# SPONSOR'S CERTIFICATION

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

Re: 263 Bowery
New York, New York

Gentlemen:

We are the Sponsor and the principals of Sponsor of the condominium offering plan for the captioned property.

We have read the Offering Plan. We have investigated the facts set forth in the Offering Plan and the underlying facts. We have exercised due diligence to form a basis for this certification. We jointly and severally certify that the Offering Plan does, and that documents submitted hereafter by us which amend or supplement the Offering Plan will:

(i) set forth the detailed terms of the transaction and be complete, current and accurate;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;

(iii) not omit any material fact;

(iv) not contain any untrue statement of a material fact;

(v) not contain any fraud, deception, concealment, suppression, false pretense or fictitious or pretended purchase or sale;

(vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(vii) not contain any representation or statement which is false, where we: (a) knew the truth, (b) with reasonable effort could have known the truth, (c) made no reasonable effort to ascertain the truth, or (d) did not have knowledge concerning the representations or statement made.

We understand that we have primary responsibility for compliance with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Attorney General in Part 20 and such other laws and regulations as may be applicable.

This certification is made under the penalty of perjury for the benefit of all persons to whom this offer is made. We understand the violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

D.N.P. 336 CONVENT AVENUE LLC

By:_____
Eyal Devidas, Senior Manager

_____
Eyal Devidas

_____
Yaniv Cohen

Sworn to before me this
26th day of March 2010

_____
Notary Public

LAURA DENNISON
Notary Public, State of New York
No. 01DE4967990
Qualified in Kings County
Commission Expires June 11, 2010

## CERTIFICATION OF SPONSOR'S ARCHITECT

STATE OF NEW YORK )
) ss:
COUNTY OF New York)

Re: 263 Bowery, New York, NY

The sponsor of the offering plan to convert the captioned property to condominium ownership retained our firm, Karl Fischer, Architect, to prepare a report describing the construction of the referenced property (the "Report"). We prepared the plans and specifications for the Property and the architect's report dated September 16, 2010, a copy of which is intended to be incorporated into the offering plan so that prospective purchasers may rely upon it.

We are licensed architects in the State in which the property is located.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to this Report.

We have read the entire Report. Furthermore, we have investigated the facts set forth in the Report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

We certify that the Report:

(i) sets forth in narrative form the description and/or physical condition of the entire property as it will exist upon completion of renovation and/or construction, provided that renovation and/or construction is in accordance with the plans and specifications that we examined;

(ii) in our professional opinion affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the description and/or physical condition of the property as it will exist upon completion of renovation and/or construction, provided that renovation and/or construction is in accordance with the plans and specifications that I examined;

(iii) does not omit any material fact;

(iv) does not contain any untrue statement of 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 owed 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 the profitability or price of the offering. This statement is not intended as a guarantee or warranty of the physical condition of the property.




Sworn to before me this
22nd day of September, 2010.

Notary Public

LAUREN A GONZALES
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GO6222596
Qualified in Kings County
My Commission Expires May 24, 2014




Real Estate Management & Brokerage Services
Licensed Broker | ID # 10491200104

**David A. Goldoff** | President

**CERTIFICATION OF SPONSOR'S EXPERT CONCERNING ADEQUACY OF BUDGET PURSUANT TO SECTION 20.4 (d) OF THE REGULATIONS ISSUED PURSUANT TO GENERAL BUSINESS LAW, ARTICLE 23-A AS AMENDED**

Tuesday, May 25, 2010

New York State Department of Law
120 Broadway, 23rd Floor
New York, New York 10271
Attn: Real Estate Financing Bureau

Re: Bowery 263 Condominium
263 Bowery
New York, New York

I, D. Goldoff hereby certifies as follows:

The sponsor of the Condominium Offering Plan for the referenced property retained our firm to prepare Schedule B to the Offering Plan containing projections of income and expenses of Condominium operation for the fiscal year July 1, 2010 through June 30, 2011.

The principals of Camelot Realty have been engaged in the management of residential and commercial real estate for more than 10 years. The principals have managed more than 40 buildings. The undersigned principal is a licensed Real Estate Broker in the State of New York.

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 Schedule B.

We have reviewed the Schedule and investigated the facts set forth in the Schedule and the facts underlying it with due diligence in order to form a basis for this certification. We also have relied on our experience in managing residential and mixed-use buildings.




Real Estate Management & Brokerage Services
Licensed Broker | ID # 10491200104

**David A. Goldoff** | President

We certify that the projection in the 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 fiscal year July 1, 2010 through June 30, 2011.

We certify that Schedule B:

(i) sets forth in detail the projection of income and expenses of Condominium operation for the fiscal year July 1, 2010 through June 30, 2011;

(ii) affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the projected operation of the condominium during the fiscal year July 1, 2010 through June 30, 2011;

(iii) does not omit any material facts;

(iv) does not contain any untrue statement of a material fact;

(v) do 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 that 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 the knowledge concerning the representations 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 so that prospective purchasers may rely on it. This statement is not intended as a guarantee or warranty of the income and expenses for the operation of the Condominium during the fiscal July 1, 2010 through June 30, 2011.

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Real Estate Management & Brokerage Services
Licensed Broker | ID # 10491200104

**David A. Goldoff** | President

This Certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that the violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

By: David Goldoff
Name: DAVID GOLDOFF
Title: PRESIDENT

Sworn to before me this
25th day of May, 2010

Keysi A. Reynoso
Notary Public

KEYSI A. REYNOSO
Notary Public, State of New York
Qualified in New York County
Reg. No. 01RE6177717
My Commission Expires Nov. 19, 2011

State of New York }
County of New York } ss.

117 East 60th Street || Att: Second Floor || New York, NY 10022
Tel: (212) 206-9939 or (212) 460-8000 x 125 || Fax: (212) 206-9949 || Efax: (866) 239-8063
www.camelotrealtygroup.com || info@camelotrealtygroup.biz

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Real Estate Management & Brokerage Services
Licensed Broker | ID # 10491200104

**David A. Goldoff** | President

**CERTIFICATION OF SPONSOR'S EXPERT CONCERNING ADEQUACY OF COMMON CHARGES PAYABLE BY THE COMMERCIAL UNIT OWNERS PURSUANT TO SEC 20.4 (e) OF THE REGULATIONS ISSUED PURSUANT TO GENERAL BUSINESS LAW, ARTICLE 23-A AS AMENDED**

May, 25th, 2010

New York State Department of Law
Bureau of Real Estate Financing
120 Broadway, 23rd Floor
Brooklyn, New York

Re: Bowery 263 Condominium
263 Bowery
New York, New York

The Sponsor of the Condominium Offering Plan for the captioned property retained us to review Schedule B which includes projections of common charges payable by the owners of the commercial units. We are licensed Real Estate Brokers in the State of New York and have more than 10 years of experience in the management of investment and residential properties.

We understand that we are responsible for complying with Article 23-A of the General Business Law and regulations promulgated by the office of the Attorney General in Part 20 insofar as they are applicable to the commercial units listed in Schedule B.

We have reviewed the Schedule as it impacts upon the commercial units and investigated the facts underlying it with due diligence in order to form a basis for this certification. We have also relied on our experience in managing and owning residential buildings. We have __ years of experience managing investment properties.

We certify that the projections in Schedule B for common charges payable by the owner of the commercial units appear reasonable and adequate under existing circumstances to meet the anticipated operating expenses fairly attributed to such commercial units for the projected first year of condominium operation, and that the allocation of common charges attributable to the commercial units also reflects special or exclusive use or availability or

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Licensed Broker | ID # 10491200104

**David A. Goldoff** | President

exclusive control of particular common areas.

We certify that the estimates in Schedule B for the common charges payable by the owners of the commercial units:

(i) set forth in detail the projected common charges for the commercial units for the first full year of condominium operation;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the common charges payable by the owners of the commercial unit(s);

(iii) do not omit any material facts;

(iv) do not contain any untrue statement of a material fact;

(v) do not contain any fraud, deception, concealment, or suppression;

(vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances.

(vii) do not contain any representation or statement which is false, where we:

a. knew the truth;

b. with reasonable effort could have known the truth;

c. made no reasonable effort to ascertain the truth; or

d. did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by the Sponsor. We understand that a copy of this certification is intended to be incorporated into the Offering Plan. This statement is not intended as a guarantee or warranty of the common charges fairly attributable to the commercial units for the first year of condominium operation.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal

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Licensed Broker | ID # 10491200104

**David A. Goldoff** | President

penalties of the General Business Law and Penal Law.

By: [signature]
Name: DAVID GOLDOFF
Title: PRESIDENT

Sworn to before me this
25 day of May, 2010

[signature]
Notary Public

KEYSI A. REYNOSO
Notary Public, State of New York
Qualified in New York County
Reg. No. 01RE6177717
My Commission Expires Nov. 19, 2011

State of New York )
County of New York ) ss.:

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