# CONDOMINIUM OFFERING PLAN

# 432PARKAVENUE

**CONDOMINIUM OFFERING PLAN FOR**
**432 PARK CONDOMINIUM**
432 Park Avenue, New York, New York 10016

TOTAL INITIAL OFFERING PRICE OF:

THE 147 RESIDENTIAL UNITS OFFERED FOR SALE IS $2,361,408,800;

THE 59 STORAGE LICENSES OFFERED FOR SALE IS $7,897,125;

THE 18 WINE CELLAR LICENSES OFFERED FOR SALE IS $4,216,950; and

THE 12 OFFICE UNITS OFFERED FOR SALE IS $26,900,000;

FOR AN AGGREGATE TOTAL INITIAL OFFERING PRICE OF $2,400,422,875

**Sponsor**
56th and Park (NY) Owner, LLC
515 Madison Avenue, 41st Floor
New York, New York 10022

**Selling Agent**
Macklowe Properties Sales LLC
767 Fifth Avenue, 21st Floor
New York, New York 10153

**Sales Office**
767 Fifth Avenue, 21st Floor
New York, New York 10153
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(147 Residential Units, 59 Storage Licenses, 18 Wine Cellar Licenses, and 12 Office Units are being offered for sale hereunder. One of the Residential Units, anticipated to be Unit 28M, will be sold to the Residential Board for use as the Resident Manager's Unit. In addition to the Office Units, other Commercial Units known as the Club Unit, Retail Unit A, Retail Unit B, Retail Unit C, and the Garage Unit are included in the Building, but are not offered for sale hereunder; however, the Club Unit will be sold to the Residential Board as described herein.)

Date of Acceptance for Filing: July 17, 2012.
The term of the initial offering of this Plan commenced on July 17, 2012 and expires on July 16, 2013, unless said date is extended in a duly filed amendment.

**SEE PAGE (vii) FOR SPECIAL RISKS TO PURCHASERS**

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

**PURCHASERS FOR THEIR OWN OCCUPANCY MAY NEVER GAIN CONTROL OF THE CONDOMINIUM BOARD OR THE RESIDENTIAL BOARD UNDER THE TERMS OF THIS PLAN. (SEE SPECIAL RISKS SECTION OF THE PLAN.)**

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

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## SPECIAL RISKS TO BE CONSIDERED BY PURCHASERS

### 1. Interim Service Period

Prospective Purchasers are advised that until the later of: (i) twelve months after the First Closing; or (ii) the closing of title to and occupancy of at least fifty percent (50%) of the Residential Units, some of the services and facilities described in the Plan (specifically, Private Residential Dining, some of the elevators, bicycle storage, Storage Closets, Wine Cellars, a full staff of residential personnel, access to parking in the Garage Unit, and the Health Club, including the screening room, the swimming pool, and the locker rooms and sauna and steam facilities) may not be available. However, it is anticipated that at all times after the First Closing, the Residential Section lobby will be attended twenty-four (24) hours a day, seven (7) days a week, and there will be at least one (1) elevator servicing every floor on which there are occupied Residential Units. The interim level of staffing will at all times during this period be commensurate with the levels of occupancy from time to time and adequate to properly maintain the Building. During such interim service period when full services and/or facilities are not available, the Residential Common Charges payable by the Residential Unit Owners may be reduced accordingly to reflect the corresponding diminished expenses of the Residential Section. **In light of Sponsor's unconditional right to rent or lease, rather than sell, the Units offered hereunder, the foregoing fifty percent (50%) closing threshold might never be reached and such services and facilities may never become available.** (See the Section entitled "Description of Property and Improvements" in Part I of the Plan for further discussion.)

### 2. Use Provisions

The Condominium will initially consist of 147 Residential Units; fifty-nine (59) Storage Closets; eighteen (18) Wine Cellars; twelve (12) Office Units; the Club Unit; three (3) Retail Units (referred to as "Retail Unit A", "Retail Unit B" and "Retail Unit C"); the Garage Unit and the Common Elements. Only the Residential Units (and their appurtenant interest in the Common Elements), Storage Licenses and Wine Cellar Licenses (hereinafter described) and Office Units are offered pursuant to this offering plan.

The 147 Residential Units in the Tower are divided into the following categories: (i) 121 Residential Units located on portions of Floors 34 through 45, 48 through 59, 62 through 73, 77 through 88, and 91 through 95 of the Tower; (ii) twenty-five (25) Residential Units specifically designated as Studio Units located on portions of Floors 28 and 29 of the Tower; and (iii) a Residential Unit (anticipated to be Unit 28M) located on Floor 28 of the Tower which will be used as an apartment by the Resident Manager (hereinafter, the "Resident Manager's Unit").

The Residential Units may generally be used only for residential purposes and, subject to compliance with the Declaration, the Condominium By-Laws and the Residential By-Laws, for a lawful home occupation as defined in the Zoning Resolution (a New York City zoning resolution affecting use and occupancy). Residential Unit Owners may, subject to the Residential Board's right of first refusal, rent their Residential Unit pursuant to a lease with a minimum term of one (1) year and a maximum term of two (2) years, in each instance. No transient tenant or short-term paying guest (i.e., a tenant or paying guest in occupancy for a period of less than twelve (12) consecutive months) may be accommodated in any Residential Unit, and only an entire

Residential Unit may be leased. Residents of the Residential Units thus may be comprised of Residential Unit Owners who reside in the Tower, as well as tenants leasing Residential Units from other Residential Unit Owners.

As set forth in more detail in the Declaration and Residential By-Laws, those Residential Units specially designated as Studio Units may be used only as a residence occupied by domestic employees of a Residential Unit Owner, as well as by the Residential Unit Owners, Family Members and non-paying guests of Residential Unit Owners. Occupancy of the Studio Units by non-paying guests shall not exceed three (3) months, unless the prior written consent of the Residential Board is obtained. Except for Sponsor, no Unit Owner may own a Studio Unit independently of a Residential Unit that is not a Studio Unit. In the event a Residential Unit Owner who owns a Studio Unit rents his or her Residential Unit, such Residential Unit Owner must also rent his or her Studio Unit either to the tenant of the Residential Unit (in such case, for a term consistent with the lease to the Residential Unit), or another Residential Unit Owner (in such case, for a term one (1) year). Each Studio Unit will be equipped with a kitchen and bathroom.

The Storage Closets (as hereinafter defined) may only be used for storage purposes, and the Wine Cellars (as hereinafter defined) may only be used for the storage of wine and other beverages, and in no event may either be used as a dwelling space or for the storage of toxic or inflammable items or Combustibles (as such term is defined in the New York City Building Code). No materials which pose a health or safety threat or which otherwise create a nuisance may be stored in the Storage Closets or Wine Cellars. To do so may result in a violation placed against the Building by the Department of Buildings that will be the obligation of the licensee to remove. Notwithstanding the foregoing, Sponsor or its designee shall have the right to use without charge any unlicensed Storage Closets (collectively, the "Unlicensed Storage Closets", and individually, an "Unlicensed Storage Closet") or unlicensed Wine Cellars (collectively, the "Unlicensed Wine Cellars", and individually, an "Unlicensed Wine Cellar") for any lawful purpose or to change the permitted use of any Unlicensed Storage Closets or Unlicensed Wine Cellars, subject, however, to the provisions of Article 6 of the Residential By-Laws which provide, among other things, that no use shall be allowed in the Condominium which interferes with the peaceful possession and proper use of the Condominium by its occupants. The Storage Closets will be located on the Subcellar 2 Level and Subcellar 1 Level of the Building, and the Wine Cellars will be located on the Subcellar 1 Level of the Building.

The Commercial Units in the Building are divided into the following categories: (i) twelve (12) Office Units; (ii) the Club Unit; (iii) three (3) Retail Units; and (iv) the Garage Unit. Sponsor makes no representation whatsoever with respect to the uses to which all or any portion of the Commercial Units or their appurtenant Commercial Limited Common Elements or any public spaces within the Building may be put at any time; nor does Sponsor make any representation with respect to the identity of the owners or users or future owners or users of any of such Units at any time. The Condominium's board of managers (the "Condominium Board") will have no right to restrict or limit any of the uses of, or alterations in or to, the Commercial Units (including the portions thereof facing the street or public area) which are permitted by law and applicable zoning ordinances, except as otherwise set forth in the Declaration, the Condominium By-Laws and the Commercial By-Laws.

Subject to compliance with all Legal Requirements, including, without limitation, the certificate of occupancy for such Unit and any applicable zoning regulations, and except as otherwise provided herein and in the Condominium By-Laws, each Commercial Unit may be used and operated for any legally permitted purpose. It is currently anticipated that the Retail Units will be used for retail purposes (and ancillary uses), the Garage Unit will be used as accessory parking (and ancillary uses), the Office Units will be used as office space (and ancillary uses), and the Club Unit will be used for health club purposes (and ancillary uses) as a Physical Culture Establishment as defined in the Zoning Resolution. Article 8 of the Declaration provides that none of the Commercial Units may be used as a pornography store, massage parlor (except that in the Club Unit massage therapy and spa-type services are permitted provided that any such areas or facilities are maintained in a reputable manner), drug treatment facility or homeless shelter. No income derived from any use of such Commercial Units will constitute income to the Condominium Board, the Residential Board (as defined herein), the Commercial Board (as herein defined), the Residential Unit Owners or the Office Unit Owners (except as may be expressly provided in the Condominium By-Laws or Commercial By-Laws to the contrary or pursuant to separate written agreement by or among the applicable parties). Office Unit Owners may, subject to the Condominium Board's right of first refusal, rent their Office Unit pursuant to a lease with a minimum term of one (1) year, and only an entire Office Unit may be leased.

(See the Sections entitled "Description of the Property and Improvements" and "Rights and Obligations of the Unit Owners and the Boards of Managers" in Part I of the Plan for further discussion.)

## 3. Purchaser Deposits; Defaults by Purchasers; Specific Performance

At the time an agreement for the purchase of either a Residential Unit or an Office Unit (an "Agreement") is executed, the Purchaser thereunder is required to make a payment in an amount equal to fifteen percent (15%) of the purchase price set forth therein (the "Initial Deposit"); and an additional payment equal to ten percent (10%) of such purchase price (the "Additional Deposit") due and payable no later than the earlier to occur of: (x) four (4) months after the date of the Agreement; or (y) fifteen (15) days after Sponsor serves Purchaser with written notice of an amendment to the Offering Plan declaring the same effective, but in no event later than the closing of title to the Unit; provided, however, that with respect to Agreements entered into after the Offering Plan has been declared effective, Sponsor reserves the right to require both the Initial Deposit and the Additional Deposit due and payable upon execution of the Agreement. The Deposit for the purchase of a Storage License or Wine Cellar License is twenty-five percent (25%) of the gross purchase price of the Storage License or Wine Cellar License. The term "Deposit" as used herein refers to both the Initial Deposit and, if the same has been paid at the time in question, the Additional Deposit, as well as in connection with the purchase of a Storage License or Wine Cellar License. Notwithstanding the foregoing, if a Purchaser is a foreign government, a resident representative of a foreign government or other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity), such Purchaser will be required to make an Initial Deposit equal to fifty percent (50%) of the applicable purchase price and will not be required to make an Additional Deposit. All Deposits or advances made by Purchasers prior to closing of each individual transaction will be placed, within five (5) business days after the Agreement is

signed by all necessary parties, or within five (5) business days after receipt, in the case of Deposits or advances made subsequent to the execution of the Agreement, in a segregated special escrow account (the "Escrow Account") of Kramer Levin Naftalis & Frankel LLP, having an office at 1177 Avenue of the Americas, New York, New York 10036. On July 21, 2010, FDIC standard maximum deposit insurance permanently increased from $100,000 to $250,000. Deposits made by a Purchaser in excess of the applicable limit in effect from time to time in the aggregate in connection with a purchase hereunder will not be federally insured.

In the event that a Purchaser fails to close title on the date set for closing or otherwise fails to perform any other obligation under his or her Agreement, and such default is not cured within thirty (30) days after Sponsor gives written notice to such Purchaser of the default, Sponsor, at its option, may: (i) cancel such Agreement and retain as liquidated damages the Deposit made by the Purchaser and any interest earned on the Deposit, as well as any amounts paid by Purchaser for additional work in the Residential Unit, together with interest earned thereon, if any; (ii) alternatively, instead of retaining the Deposit, bring an action against the Purchaser for specific performance, in which event the Purchaser could be compelled to complete the purchase of the Residential Unit; or (iii) exercise all other rights and remedies under the Agreement, at law or equity, in the case of such a default. Additionally, if a Purchaser fails for any reason to close title on the originally scheduled closing date and Sponsor elects not to cancel the Agreement: (a) the closing apportionments to be made at the closing will be made as of midnight of the day preceding the originally scheduled closing date; and (b) the Purchaser will be required to pay to Sponsor an amount equal to 0.05% of the purchase price of the Residential Unit(s) in question for each day that the closing is adjourned.

Notwithstanding anything to the contrary contained herein, if an Agreement is not exempt under ILSA and if a Purchaser loses rights and interest in its Unit as a result of a default or breach of its Agreement which occurs after Purchaser has paid fifteen percent (15%) of the purchase price of its Unit, excluding any interest owed under such Agreement, Sponsor (or Sponsor's successor) shall refund to Purchaser any amount which remains after subtracting (A) fifteen percent (15%) of the purchase price, excluding any interest owed under and disposed of in accordance with such Agreement, or the amount of damages incurred by Sponsor (or Sponsor's successor) as a result of such breach, whichever is greater, from (B) the amount paid by Purchaser with respect to the purchase price of its Unit, excluding any interest paid under such Agreement (which interest shall be disposed of as set forth in the Agreement).

(See the Section entitled "Procedure to Purchase" and "Terms of Sale" in Part I of the Plan for further discussion.)

## 4. No Financing Contingency

A Purchaser may obtain financing from any lending institution or other source, but the Purchaser's obligation to purchase a Unit pursuant to an Agreement shall not be contingent on the Purchaser obtaining such financing, so that a Purchaser will remain obligated under the Agreement whether or not such Purchaser has been able to obtain financing. Neither Sponsor nor Selling Agent makes any representation whatsoever as to the terms or availability of any mortgage or other financing. Prospective Purchasers should be aware that even if a loan commitment is obtained, its term may be limited and it could expire before the closing date, and

Sponsor shall have no liability as a result of any scheduling, rescheduling or adjournment of closing beyond the expiration of a loan commitment. Purchasers should further note that in the current real estate market, banks and other lenders are imposing various restrictions on loans. Such restrictions include requiring that a certain percentage of the apartments in a building be sold before the lender will consider making a loan. Therefore, it may be possible for a Purchaser to experience difficulty obtaining a loan if the percentage of Units purchased is lower than a lender's particular sales minimum. (See the Sections entitled "Procedure to Purchase" and "Terms of Sale" in Part I of the Plan for further discussion.)

## 5. Control by Sponsor; First Annual Residential Meeting

The powers and duties necessary for or incidental to the administration of the affairs of the Condominium will be vested in the Condominium Board. As more particularly set forth in the Declaration, Condominium By-Laws and Residential By-Laws, a separate board of managers for the Residential Section (the "Residential Board"), shall generally have the power and authority to govern the affairs of the Residential Section of the Condominium. Sponsor will be entitled to designate a majority of the members of the Residential Board (and therefore control such Board) for a period until the later to occur of: (i) the fifth anniversary of the first closing of title to a Residential Unit by Sponsor pursuant to an Agreement (the "First Closing"); or (ii) the closing of title to Residential Units representing more than ninety percent (90%), both in number and in aggregate Common Interests, of all Residential Units (the "Initial Control Period").

As more particularly set forth in the Declaration, Condominium By-Laws and Commercial By-Laws, a separate board of managers for the Commercial Section (the "Commercial Board"), shall generally have the power and authority to govern the affairs of the Commercial Section of the Condominium. During the Initial Control Period, Sponsor will be entitled to designate all members of the Commercial Board (and therefore control such Board).

Moreover, during the Initial Control Period, the Residential Board may not, without the prior written consent of Sponsor: (i) make any addition, alteration or improvement to the Residential Limited Common Elements or any Residential Unit (unless required by any applicable Legal Requirements); (ii) assess any Residential Common Charges for the creation of, addition to or replacement of all or any reserve, contingency or surplus fund in respect of the Residential Section; (iii) increase or decrease the number of, or change the kind of, employees initially hired for the Residential Section, as provided for in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" set forth in the Plan; (iv) enter into any service or maintenance contract for work not covered by contracts in existence on the date of the First Closing or otherwise provide services in excess of those referred to in the Offering Plan, except as is required to reflect normal annual increases in operating services; (v) borrow money on behalf of the Residential Section, unless any such borrowing is approved by the owners of Residential Units representing at least seventy-five percent (75%) both in number and aggregate Common Interests of all Residential Units; or (vi) exercise any right of first refusal to lease or purchase a Residential Unit. However, the Residential Board may perform any function or take any action enumerated in subsections (i) through (v) hereinabove without the consent of Sponsor if, and only if, the performance of such function or the carrying out of such action is necessary, and no other alternative is available, either to enable the Residential Board to comply with any Legal Requirements, or to remedy any notice of violation entered against the Residential Section,

or to comply with any proper work order by an insurer of the Residential Section, or for the health and safety (but not the general comfort or welfare) of the occupants of the Residential Section.

Until the first annual residential meeting of the Residential Unit Owners (the "First Annual Residential Meeting"), the Residential Board shall generally consist of five (5) persons designated by Sponsor, all five (5) of which shall also serve as the Residential Section's five (5) designees to the seven (7) member Condominium Board. The Commercial Section shall have the right to designate the remaining two (2) of the seven (7) members of the Condominium Board. (See the Section entitled "The Condominium Board" in Part I of the Plan for further discussion). Until the First Annual Residential Meeting, Sponsor reserves the right to designate fewer than five (5) persons to the Residential Board; however, in such case, Sponsor's designees shall be the only members of the Residential Board and such designees shall collectively hold five (5) of the seven (7) votes on the Condominium Board (in addition to the votes of any representatives of the Commercial Section serving on the Condominium Board who were designated by Sponsor as the owner of a Commercial Unit, as applicable). The First Annual Residential Meeting shall be held not later than thirty (30) days following the later to occur of: (a) the second anniversary of the First Closing; or (b) the closing of title to Residential Units representing at least fifty percent (50%) both in number and aggregate Common Interests of all Residential Units to Purchasers; and at such meeting, the incumbent five (5) member Residential Board designated by Sponsor will resign and a new Residential Board, consisting of five (5) members, will be installed, as described below.

At meetings of the Residential Unit Owners, Sponsor will have the right to vote all of the Common Interests appurtenant to the Residential Units owned by Sponsor as it sees fit. In addition, at elections of members to the Residential Board held at and after the First Annual Residential Meeting, but before the expiration of the Initial Control Period, Sponsor and/or its designee shall have the right to designate four (4) of the five (5) members of the Residential Board, who may be persons related to and/or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners; and Sponsor, such designee and all other Residential Unit Owners shall have the right to elect the remaining one (1) member of the Residential Board who shall not be related to or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners.

At elections of members to the Residential Board held after the expiration of the Initial Control Period, but while Sponsor and/or its designee still owns at least one (1) Residential Unit, Sponsor and/or its designee shall have the right to designate at least one (1) of the five (5) members of the Residential Board, who may be a person related to and/or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners; and Sponsor, such designee and all other Residential Unit Owners shall have the right to elect the remaining members of the Residential Board who shall not be related to or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners. Accordingly, from and after the expiration of the Initial Control Period, at least four (4) of the five (5) members of the Residential Board shall not be designated by or related to or affiliated with Sponsor, its designee or other Unsold Residential Unit Owners; and subject to the foregoing shall be elected by all Residential Unit Owners (including Sponsor, its designee or other Unsold Residential Unit Owner).

Therefore, during this Initial Control Period Sponsor will be able to control the maintenance and operation of, and services to be provided to, the Condominium and the Residential Section; provided, however, that any changes made by Sponsor to Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" and Schedule B-2 – "Projected Budget for First Year of Condominium Operation" set forth in the Plan must provide for the same level of services disclosed in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" and Schedule B-2 – "Projected Budget for First Year of Condominium Operation", respectively. Sponsor will also be able to control the determination of the Common Charges to be paid by all Unit Owners.

The Residential By-Laws do not include a provision that after the expiration of the Initial Control Period a majority of the Residential Board must be Residential Unit Owner-occupants or members of a Residential Unit Owner-occupant's household who are unrelated to Sponsor and its principals. Residential Unit Owner-occupants and non-resident Residential Unit Owners, including Sponsor, may have inherent conflicts on how the Residential Section should be managed because of their different reasons for purchasing, i.e., purchase as a home as opposed to as an investment.

In addition, because Sponsor reserves the unconditional right to rent or lease Units, there is no commitment to sell more Residential Units than the fifteen percent (15%) of such Units necessary to declare the Plan effective and, accordingly, Residential Unit Owners may never gain effective control and management of the Condominium and/or Residential Section, and the First Annual Residential Meeting may never occur.

Sponsor shall have the right, in its sole and absolute discretion, to cause the Residential Board to waive the collection of some or all of the Residential Common Charges from Residential Unit Owners for a period of time prior to full occupancy of the Building (the "Waiver Period"); provided, however, that Sponsor shall be solely responsible for payment of all remaining expenses to operate the Residential Section during the Waiver Period (the "Operating Expenses"). In connection with the Waiver Period, (i) if the collection of Common Charges will be delayed, Sponsor shall file an amendment to the Plan prior to the First Closing indicating that the collection of Common Charges will not commence with the beginning of Condominium operations and the anticipated length of such Waiver Period; (ii) Sponsor shall file an amendment to the Plan disclosing the expiration of the Waiver Period at least thirty (30) days prior to such expiration; (iii) that during any such Waiver Period, Sponsor will timely pay all expenses of the Condominium, including but not limited to insurance premiums and any reserve fund payments required by lenders to the extent otherwise included in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation"; (iv) upon the commencement of the collection of Common Charges, there will not be an assessment for any item set forth in the approved budget for the Condominium; and (v) Sponsor shall remain obligated to update the budget for the Condominium, as provided in the Condominium Documents.

(See the Sections of the Plan entitled "Control By Sponsor", "The Residential Board", "The Condominium Board" and "The Commercial Board" in Part I of the Plan for further discussion.)

## 6. Condominium Board

The Condominium Board shall be comprised of seven (7) members: five (5) members designated by the Residential Board; and two (2) members designated by the Commercial Unit Owners pursuant to the Commercial By-Laws.

The Condominium Board shall have the powers and duties necessary for or incidental to the administration of the affairs of the Condominium. Subject to such authority of the Condominium Board, generally, but subject to the Declaration, Condominium By-Laws and Residential By-Laws provisions governing the same, all determinations which affect only the Residential Section and do not adversely affect any of the Commercial Units, Commercial Unit Owners or the General Common Elements shall be made by the Residential Board. Any dispute between the Residential Board and the Condominium Board as to which entity shall be entitled to make any determination shall be settled by arbitration in the manner provided in the Condominium By-Laws. As more fully set forth (and except as may otherwise be provided) in the Condominium 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.

As set forth above, the Residential Section and the Commercial Section will be represented on the Condominium Board, with the Residential Section having the right to designate five (5) of the seven (7) members of the Condominium Board, and two (2) members designated by the Commercial Section pursuant to the Commercial By-Laws. As a result, the members of the Condominium Board representing the Commercial Section will never control a majority vote thereon, and the Residential Section (which will initially and may thereafter be controlled by Sponsor or affiliates of Sponsor) will control a majority of the votes on the Condominium Board. Moreover, it is initially intended that Sponsor may own one (1) or more Commercial Units and may, in such capacity (as set forth in the Commercial By-Laws), have the right to designate additional members to the Condominium Board in addition to the rights reserved to Sponsor with respect to the election and/or designation of members of the Residential Board. Residential Unit Owners and Office Unit Owners shall not be entitled to vote in their individual capacities as Unit Owners at any meeting of the Condominium Board. (See the Section of the Plan entitled "The Condominium Board" in Part I of the Plan for further discussion.)

## 7. Additional Building Work

Construction in general is a complicated process which requires the coordination of numerous concurrent tasks, contractors and suppliers and the balancing of complex mechanical and architectural systems, all of which is subject to unanticipated delays and difficulties and necessarily involves noise, disruption and inconvenience. Thus, for a period of time following the First Closing (through, including and beyond the closing of title to any particular Purchaser's Residential Unit), work should be expected to be undertaken and continue by or on behalf of: (i) Sponsor to complete the balance of the Building; (ii) individual Residential Unit Owners within their Residential Units (to perform custom renovations, etc.); and (iii) the Commercial Unit Owners to complete construction, build-out, furnishing and equipping their Units. During at least the First Year of Condominium Operation, construction workers and related personnel of Sponsor and others will be at the Property from time to time performing construction work,

making adjustments and performing various other tasks related to the completion of construction, fitting out of, and moving into, the Residential Units and other portions of the Building from time to time. Various systems, including, but not limited to, water supply, air conditioning, heating, cooling, gas, electric, ventilating and other systems, and elevators, may require more than a year after any particular Residential Unit closing to complete and may be disrupted temporarily and from time to time (systems constituting Common Elements may require more than a year after any particular Residential Unit closing to complete, but all systems within a Residential Unit that must be completed as a requirement for the issuance of a temporary Certificate of Occupancy covering such Residential Unit will be functioning at the time of closing). Elevators and personnel may be taken out of service and diverted to facilitate construction and exterior hoists may be in place during at least the year following the First Closing, and from time to time thereafter, as needed, in connection with construction being performed in Units by the Unit Owners thereof, Sponsor and/or tenants of such Units. Various other adjustments, to windows and elevators and other systems, may require eighteen (18) months or more after the First Closing to complete. Sponsor may not fully complete the decoration or finishing of the lobby, corridors, elevator finishes and other portions of the Building, including, but not limited to, installing light fixtures, painting, hanging wall coverings or laying carpeting, until that particular floor is fully occupied by Unit Owners or, if additional construction within a Unit is anticipated, for some period thereafter. All of the foregoing work and conditions will create a noisy and otherwise disruptive condition in the Building during the period such work is being performed. Certain portions of the Common Elements may be completed before or after completion of any particular Purchaser's Unit. As a result, certain amenities and benefits anticipated 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 Boards and/or Sponsor may refuse to permit a Residential Unit Owner or Office Unit Owner to perform alterations in a Residential Unit or Office Unit, as the case may be, 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 Boards and/or Sponsor may impose conditions and deadlines upon the planning, performing and completion of such work. No assurance can be given with regard to the accuracy of any projected schedules or completion dates set forth herein or with respect to the duration of any interim service period or periods of potential disruption to the Unit Owners and their tenants or occupants, all such dates and timetables, to the extent provided, being only good faith estimates.

Based upon the current construction schedule, Sponsor presently contemplates that, unless delayed by weather, casualty, labor difficulties (including work stoppages and strikes), late delivery and/or the inability to obtain on a timely basis or otherwise, materials or equipment, governmental restrictions, acts of god or other events beyond its reasonable control: (i) construction of the Building will be sufficiently completed to permit closings of title to Residential Units to begin on or about July, 2015, and (ii) construction of the Building will be sufficiently completed to permit closings of title to all Residential Units subject to executed Agreements for which no default exists on or about December, 2015. 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 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 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 Residential Section Operation is to be delayed by six (6) months or more, Sponsor will amend the Plan to include a revised Residential Section budget with current projections and if: (i) such amended budget exceeds the projected Residential Section budget set forth herein by twenty-five percent (25%) or more; or (ii) the First Closing does not occur within twelve (12) months after July, 2015, the date set forth in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" as the commencement date for the projected First Year of Residential Section 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 twelve (12) month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Deposit and any interest accrued thereon returned. Purchasers' rights as described in the preceding sentence are in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of which shall be deemed to have been waived by all Purchasers. As set forth in the Section entitled "Effective Date" in Part I of the Plan, no closing of title to any Unit offered hereunder will take place prior to the Plan being declared effective.

## 8. Resident Manager's Unit

Unit 28M is anticipated to be used as an apartment by the Resident Manager (the "Resident Manager's Unit"). At or following the First Closing, Sponsor will sell the Resident Manager's Unit to the Residential Board. Based on a purchase price of $4,244,500, in respect of such Resident Manager's Unit, at the Closing to each Residential Unit, the Purchaser thereof, as a closing cost of such Purchaser's Residential Unit, will be required to pay on behalf of the Residential Board, such Purchaser's share of the purchase price of the Resident Manager's Unit determined in proportion to their respective Common Interests, as set forth on Schedule A – "Purchase Prices and Related Information." The taxing authorities are likely to require that each Purchaser's allocable portion of the cost of the Resident Manager's Unit be included in the total consideration deemed to have been paid by such Purchaser to Sponsor; and, at Closing, Purchaser will pay the incremental additional transfer taxes attributable to such additional consideration.

Sponsor reserves the right to convey the Resident Manager's Unit to the Residential Board prior to the date that Closings have occurred for all Residential Units and therefore prior to the payment to Sponsor of 100% of the purchase price therefor. In such case, the balance of the purchase price (after deducting from such purchase price the amounts paid by Purchasers at Closings that have occurred at such time) will be payable by a promissory note (the "Resident Manager's Unit Note") which will secure the payment of the balance due to Sponsor in respect of such payments. The principal balance of the Resident Manager's Unit Note, together with all accrued but unpaid interest, shall be due and payable in installments upon the sale of the remaining Unsold Residential Units. If payment of principal due under the Resident Manager's Unit Note is not made when due, such unpaid amount shall bear interest from the due date until paid at the rate of ten percent (10%) per annum.

There is also no guaranty that the Resident Manager will be residing in the Building at the time of closing of any particular Residential Unit although all Legal Requirements with respect thereto will be complied with. All costs and expenses of the Resident Manager's Unit and repairs thereto, as well as all utilities serving same, shall be expenses of the Residential Board at all times.

(See the Sections entitled "Introduction" and "Schedules and Notes" – Schedule B-1 in Part I of the Plan for further discussion.)

**9. Prohibition Against Advertising**

Purchasers are prohibited from listing their Residential Units for resale with any broker or otherwise advertising, promoting or publicizing the availability of their Residential Units for sale prior to the closing of title thereto.

**10. 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 the Section entitled "Rights and Obligations of Sponsor" in Part I of the Plan for further discussion.)

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

Sponsor will endeavor in good faith to sell, but nevertheless reserves the unconditional right to rent or lease, rather than sell, the Units offered hereunder. As a result, Purchaser may be acquiring a Unit that has been previously occupied, but unless otherwise specifically agreed to in writing by Sponsor and such Purchaser, such Unit will be delivered at closing free and clear of all leases and tenancies. In addition, because Sponsor reserves the unconditional right to rent or lease Units, there is no commitment to sell more Residential Units than the fifteen percent (15%) of such Units necessary to declare the Plan effective and, accordingly, Residential Unit Owners may never gain effective control and management of the Condominium and/or Residential Section, and the First Annual Residential Meeting may never occur. (See the Sections entitled "Introduction", "Procedure to Purchase" and "Rights and Obligations of Sponsor" in Part I of the Plan for further discussion.)

**12. Changes in the Commercial Units**

Sponsor and any successor Commercial Unit Owner will have the right to alter, divide, subdivide and combine portions of its Units subject to the provisions of all applicable Legal Requirements, the Declaration and Condominium By-Laws. Sponsor and any successor Commercial Unit Owner will have the right to use such Unit for a purpose other than its current use. (See the Section entitled "Commercial Units" in Part I of the Plan for further discussion.)

## 13. Transfer Taxes; Mansion Taxes; Closing Costs

Purchasers of Residential Units shall be responsible (as is customary in condominium offerings) for the payment at closing of all New York City Real Property Transfer Taxes and New York State Real Estate Transfer Taxes, notwithstanding that these taxes are by law the primary obligation of the seller. For purposes of calculating the taxes payable, the amounts of such taxes together with any other payments made by a Purchaser in respect of any obligations of Sponsor will be included in the consideration subject to such tax. Purchasers shall also be obligated to pay the so-called "Mansion Tax," currently (as of the filing of this Plan) one percent (1%) of the total consideration paid when such consideration is $1,000,000 or more, which tax by law is the primary obligation of the Purchaser. Sponsor makes no representation regarding the calculation of the Mansion Tax or of the "consideration" upon which the New York State taxing authorities may base the Mansion Tax and shall have no liability with respect thereto. Purchasers should consult with their own counsel and/or tax advisors. (See the Sections entitled "Procedure to Purchase" and "Unit Closing Costs and Adjustments" in Part I of the Plan for further discussion.)

## 14. No Reserve Fund/Working Capital Fund

No reserve fund is being established for the Condominium. Sponsor has elected not to provide for such a reserve fund for capital replacements or repairs, because the Building will be newly constructed. The Boards, each in its discretion, and subject to certain restrictions contained in the Condominium By-Laws, may decide in the future to create a reserve fund by special assessment or by increases in Common Charges. A Working Capital Fund will be established through payments made therefor by each Residential Unit Purchaser to the Residential Board at Closing to be held or used for working capital and for such other appropriate purposes as the Residential Board may determine. Purchasers of Office Units will not make payments at their respective Closings toward such Working Capital Fund. (See the Section entitled "Working Capital Fund" in Part I of the Plan for further discussion.)

## 15. Real Estate Taxes

The estimated real estate taxes payable in respect of each Unit were calculated based on estimates provided by Sponsor's real estate tax attorney with respect to anticipated assessed values and applicable tax rates for: (a) (i) the Residential Units in the aggregate for the projected First Year of Condominium Operation, (ii) the Office Units in the aggregate for the projected First Year of Condominium Operation, (iii) the Retail Units in the aggregate for the projected First Year of Condominium Operation, (iv) the Club Unit for the projected First Year of Condominium Operation, and (v) the Garage Unit for the projected First Year of Condominium Operation, and then (b) among the Units within each applicable group (as the case may be) on the basis of their proportionate Common Interest. Upon determination of individual tax lots and individual assessments for the Units, the New York City tax authorities may allocate taxes among the Units on some other basis or some other basis as among groupings of such Units other than relative Common Interest, and, if so, Units having the same or similar Common Interest may pay different real estate taxes and/or taxes may differ from those set forth on Schedule A. In addition, the New York City tax authorities may assess taxes against the Building in a different manner and in a different amount than that assumed by Sponsor's real estate tax

attorney and, if so, Unit Owners may pay significantly different real estate taxes than those set forth on Schedule A. Sponsor can only estimate, based on reasonable, professional third party expert assumptions, what the real estate taxes for each Unit will be. Only the New York City tax authorities will make this determination upon the filing of tax lots. (See the Sections entitled "Schedules and Notes" – Schedule A and "Real Estate Taxes" in Part I of the Plan for further discussion.)

## 16. Closing Fees and Costs

All legal costs, fees and expenses charged by each Purchaser's attorney shall be the sole responsibility of such Purchaser. In addition, each Purchaser shall also be responsible for payment of the following fees to Sponsor's attorneys, Kramer Levin Naftalis & Frankel LLP ("Sponsor's Counsel"), in connection with the closing of title to such Purchaser's Unit: (i) the sum of $3,000 per Unit to reimburse Sponsor for a portion of its legal fees incurred in connection with the closing of title to the Purchaser's Unit, and for each issuance of a Storage License or Wine Cellar License, the sum of $500 to reimburse Sponsor for a portion of its legal fees in connection with processing the issuance of such Storage License or Wine Cellar License; (ii) if the Purchaser requests the closing to occur other than at the offices of Sponsor's Counsel (or such other place as Sponsor may designate in its closing notice) and Sponsor consents to such change (in its sole discretion), an attendance fee of $500 (closings may not be scheduled to occur outside Manhattan); (iii) if the closing is adjourned through no fault of Sponsor, an additional fee of $300 for each such adjournment to help defray the cost of preparing for and coordinating the new closing; (iv) if Sponsor, in its sole discretion, consents to a Purchaser's request for an assignment of the Agreement, or for the addition, deletion or substitution of names on the Agreement, a fee of $1,500, payable in advance, for preparation of an assignment agreement; (v) $250 for the preparation of ACRIS transfer documents required by the City of New York; (vi) if Purchaser obtains mortgage financing, an additional fee of $700 to Sponsor's Counsel to defray the additional costs associated therewith. Purchaser may be required to pay more than one fee pursuant to the preceding provisions of this paragraph with respect to a single Unit; and (vii) Purchaser shall pay Sponsor's counsel the sum of $600 in connection with the consideration, review and processing of any agreement of exchange or the like which Sponsor is requested to execute in connection with any tax deferred exchange under §1031 of the Internal Revenue Code. Other additional charges may apply. At Sponsor's option (in its sole discretion), any one or more of the foregoing fees to be paid to Sponsor's Counsel shall be paid by Purchaser prior to closing upon notice to Purchaser. (See the Section entitled "Unit Closing Costs and Adjustments" in Part I of the Plan for further discussion.)

## 17. No Warranty

Sponsor shall not be obligated to correct, repair or replace any defects relating to construction of the Units or the Common Elements or in the installation or operation of any appliances, fixtures, or equipment therein, except as expressly provided in this Plan. Sponsor will not warrant the materials or workmanship of any Unit or any of the Common Elements. The Housing Merchant Implied Warranty Law (General Business Law Article 36-B) is not applicable to this offering.

Notwithstanding the foregoing, Sponsor is obligated to complete construction of the Building substantially in accordance with the provisions of this Plan, all applicable Legal Requirements, and the Description of Property and Specifications as set forth as Exhibit 6 in Part II of the Plan. Any conflict between the disclaimer in this Special Risk and Sponsor's obligations described herein shall be resolved in favor of the latter. (See the Section entitled "Rights and Obligations of Sponsor" in Part I of the Plan for further discussion.)

## 18. Insurance

Neither the Condominium Board, the Residential Board nor the Commercial Board, as the case may be, is required to obtain or maintain any insurance with respect to any property contained in any Unit or any liability with respect to occurrences in or about each Unit or the Common Elements, if any, exclusive and/or appurtenant thereto. Consequently, all Residential Unit Owners and Office Unit Owners are required to obtain and maintain: (i) a personal liability policy if such Unit Owner is an individual, or (ii) commercial general liability insurance if such Unit Owner is a corporate entity, against claims for personal injury, death or property damage occurring in, on or about such Unit Owner's Unit and the Limited Common Elements, if any, exclusive and/or appurtenant to his or her Unit affording protection of at least $1,000,000 per occurrence, plus at least $4,000,000 umbrella liability coverage. Further requirements with respect to such insurance are more particularly set forth in the Residential By-Laws and Commercial By-Laws. In addition, all Residential Unit Owners and Office Unit Owners are urged to obtain personal property insurance with respect to the fixtures, furniture, furnishings, betterments and improvements, and other personal property located within their respective Units. Purchasers are also advised that the insurance policies to be maintained by or on behalf of the Condominium Board, Residential Board and/or Commercial Board, as the case may be will be on a "replacement cost" basis and will not cover losses to the extent that "market value" of a Unit may exceed its insured replacement cost. Further, as a result of current fluctuations in the insurance market, the Boards will not be required to obtain or maintain terrorism coverage but may do so, and in such event, the cost thereof shall be a Common Expense as described in the applicable By-Laws. (See the Section entitled "Rights and Obligations of the Unit Owners and the Boards of Managers" in Part I of the Plan for further discussion.)

## 19. Waiver of Diplomatic or Sovereign Immunity

Purchasers will be required to waive expressly any and all immunity from suit by Sponsor, the Condominium Board, the Residential Board and/or the Commercial Board, as applicable. 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 Residential Board or the Commercial Board, as applicable, an amount equal to two (2) years' estimated Common Charges. (See the Sections entitled "Procedure to Purchase" and "Unit Closing Costs and Adjustments" in Part I of the Plan for further discussion.)

## 20. Certificate of Occupancy

If, as of the First Closing, only a temporary Certificate of Occupancy has been issued for the Building, Sponsor will use all reasonable diligence to cause the New York City Department of Buildings to continuously renew the temporary Certificate of Occupancy until a permanent Certificate of Occupancy for the Building has been issued. Sponsor will, at its sole expense, do and perform, or cause to be done and performed, all such work (subject to events and circumstances beyond Sponsor's reasonable control, e.g., casualty, strikes, governmental restrictions, acts of god, etc.), and will supply, or cause to be supplied, all such materials, and will submit or cause to be submitted all such documentation, and shall pay all applicable fees required by the New York City Department of Buildings that shall be necessary in order to cause the temporary Certificate of Occupancy to be continuously renewed until a new permanent Certificate of Occupancy for the Building has been issued. Prospective Purchasers are advised that a permanent Certificate of Occupancy is required for permanent use of the Building, and that a temporary Certificate of Occupancy may be renewed only for a total of two (2) years from the first date of issuance. (See the Section entitled "Rights and Obligations of Sponsor" in Part I of the Plan for further discussion.)

## 21. Terraces

As indicated in the Description of Property and Specifications (Exhibit 6 in Part II of the Plan) and the Floor Plans (Exhibit 7 in Part II of the Plan), there are bi-level mechanical spaces located on Floors 30/31, 46/47, 60/61, 74/75 and 89/90 of the Tower. Such mechanical spaces are open-air and windowless, thereby resulting in terraces on Floors 30, 46, 60, 74 and 89 of the Tower, which are not accessible to Unit Owners (the "No-Access Terraces"). Each such No-Access Terrace is a General Common Element. In addition, the Twelfth Floor Terrace will be located on Floor 12 of the Tower and shall be solely for the use of the occupants of the Residential Section and their guests. (See the Section entitled "Description of the Property and Improvements" in Part I of the Plan for further discussion.)

## 22. Special Windows

The windows on the Tower's west façade in the north half of the Tower are located within 8' of the property line. None of these windows will provide legal light and air for the surrounding rooms for the purpose of permissible occupancy of those rooms. Windows located on the Tower below 118'-5" from grade or 60' above the roof of adjacent building roof (e.g., Floor 4) will be provided with tempered glass and will be protected with sprinklers. If, in the future, the adjacent buildings within 60' are extended in height, the protection of the windows with tempered glass and sprinklers should be extended accordingly, and they may be required to be closed with a solid and rated enclosure or replaced with one hour rated windows. The cost of the required changes will be paid by the owner of the affected Unit. Further, the windows on the Tower's east façade are located at the tax lot line between Lots 42 and 43 of Block 1292. An agreement has been signed with the owner of Lot 42 that provides a perpetual easement for light and air over its property as well as a limitation that such owner will not build higher than the present height of the building on Lot 42. Windows at this tax lot line will be protected with sprinklers and will have safety glass to a height of 60' above the roof of the building on Lot 42 (e.g., Floor 5). The windows of the Club Unit and Office Units will have similar characteristics

and restrictions. These "special windows" are indicated with an asterisk on the Floor Plans set forth as Exhibit 7 in Part II of the Plan. (See "Description of Property and Specifications" as set forth as Exhibit 6 in Part II of the Plan for further discussion.)

## 23. Increase or Decrease in Common Interest

The Common Interest of each of the Units has been determined pursuant to Section 339-i(1)(iv) of the Condominium Act and accordingly based upon a comparison of the floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of common elements for exclusive or shared use and the overall dimensions of the particular Unit. Based upon final specifications, construction conditions and/or "as-built" plans for the Building reflecting relative measurements, areas and uses of portions of the Building, application of such method of allocation of Common Interest may justify a minor increase or decrease in the aggregate Common Interest appurtenant to the Residential Units and a corresponding decrease or increase in the Common Interest appurtenant to the Commercial Units. In such event, the Common Interest appurtenant to each individual Residential Unit would be adjusted (by a minimal amount) pro rata. Sponsor expressly reserves the right, from time to time prior to the First Closing, to effect such a change in the Common Interests and to amend the Plan so as to reflect the same. In no event, however, will the Common Interest of any Residential Unit be increased as a result of any of the foregoing by more than five percent (5%). (See the Section entitled "Rights and Obligations of the Unit Owners and the Boards of Managers" in Part I of the Plan for further discussion.)

## 24. Window Washing and Window Treatments

The Tower will feature a window washing rig for the cleaning of the exterior glass surfaces of windows. The washing and cleaning of interior glass surfaces of windows in the Residential Units and Office Units shall be the responsibility of the respective Residential Unit Owners or Office Unit Owners. All window interiors shall be cleaned a minimum of four (4) times per calendar year, which cleaning can be coordinated through a Sponsor-recommended vendor, whose information will be on file with the Residential Managing Agent. The Condominium Board with respect to all Units, the Residential Board with respect to Residential Units, and the Commercial Board with respect to Office Units may from time to time enforce the responsibility of Unit Owners to wash and clean the interior surfaces of windows located in their respective Units and charge the defaulting Unit Owner therefor. The exterior glass surfaces will be washed, cleaned and replaced at the direction of the Condominium Board and the cost thereof charged as a General Common Expense. Unit Owners are prohibited from cleaning or allowing to be cleaned any window from the outside in violation of Section 202 of the New York State Labor Law, any other applicable Legal Requirements, any insurance policy or requirement or otherwise.

As set forth in the Residential Rules and Regulations, to promote a consistent appearance of the Tower from the outside, each Residential Unit Owner will be required to install and maintain window treatments having a white-colored backing on the sides facing and nearest to the windows in its Residential Unit, which window treatments and backings must conform to any specifications (including a new color) established from time to time by the Residential Board.

(See the Section entitled "Rights and Obligations of the Unit Owners and the Boards of Managers" in Part I of the Plan for further discussion.)

## 25. Additional Units, Storage Closets and Wine Cellars

Sponsor reserves the right to change the number and size of the Units by, among other things, subdividing and reconfiguring the Units and, as the case may be, in connection with such subdivision and reconfiguration, redesignating in an amendment to the Declaration, among other things, a portion of a subdivided Unit of one type (e.g., a Commercial Unit) as a Unit of another type (e.g., Residential). In such event, the Common Interest appurtenant to any diminished Unit will decrease and such reduced Common Interest will be allocated to and/or among the newly created and/or configured Units. Sponsor expressly reserves the right, from time to time prior to the First Closing, to effect such changes and to amend the Plan so as to reflect the same. In the event the Common Interest appurtenant to a Unit is increased in excess of five percent (5%) or there is a reduction in square footage of a Unit in excess of five percent (5%), Sponsor shall offer the materially adversely affected Purchaser(s) the right, for at least fifteen (15) days, to rescind their Agreements and receive a refund of their Deposit, together with all interest earned thereon.

Sponsor also reserves the right to create new Storage Closets and Wine Cellars and sell licenses therefor, and to change the number and size of the Storage Closets and Wine Cellars by, among other things, subdividing and reconfiguring the Storage Closets and Wine Cellars and, in connection with such subdivision and reconfiguration, redesignating in an amendment to the Declaration, among other things, a portion of a subdivided Storage Closet's or Wine Cellar's space. Sponsor expressly reserves the right, from time to time prior to the First Closing, to effect such changes and to amend the Plan so as to reflect the same.

(See the Sections entitled "Commercial Units" and "Changes in Prices and Units: Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses" in Part I of the Plan for further discussion.)

## 26. Availability of Mortgages

Purchasers should note that in the current real estate market, banks and other lenders are imposing various restrictions on purchase financing. Such restrictions include requiring that a certain percentage of apartments in a building or group of buildings be sold before a lender will consider making a loan. Thus, it may be possible for a Purchaser of a Residential Unit to experience difficulty obtaining a loan in the event Sponsor is the owner of a substantial percentage of the Residential Units (e.g., more than fifty percent (50%) or seventy percent (70%)). Moreover, some lenders will not provide financing in a building or group of buildings where an investor other than the original sponsor has an ownership interest of ten percent (10%) or more. Some lenders may also be unwilling to finance the purchase of an Office Unit or a Studio Unit. Further, in the event a Residential Unit Owner seeks to sell its Residential Unit, prospective purchasers may be unable to obtain institutional financing for such purchase as a result of the scenario described herein, regardless of the creditworthiness of the prospective purchaser.

## 27. Sponsor's Use of the Building for Promotional Functions

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

## 28. Development Rights

Sponsor (successor-in-interest to 440 Park Avenue (NY) Owner, LLC) is the owner of: (a) development rights and easements in connection with that certain real estate having a street address of 46 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 43 ("Lot 43") pursuant to a Zoning Lot Development and Easement Agreement dated December 23, 2010, and recorded under CRFN 2011000014567 on January 12, 2011 between Sponsor and Lot 43 Owner (as defined herein); (b) development rights and easements in connection with that certain real estate having a street address of 38 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 46 and a street address of 40 East 57th Street, New York, New York and as formerly set forth on the Tax Map as Block 1292, Lot 145 (now part of Lot 33) pursuant to a Zoning Lot Development and Easement Agreement dated September 29, 2007, and recorded under CRFN 2007000542730 on October 29, 2007 between Dakotah Travel Co. LLC and 440 Park Avenue Associates LLC ("Associates"), as assigned to Sponsor; (c) development rights and easements in connection with that certain real estate having a street address of 48 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 42 pursuant to a Zoning Lot Development Agreement dated as of December 4, 2006, and recorded under CRFN 2006000680850 on December 12, 2006 between Angel Enterprises, L.L.C. and Associates, as assigned to Sponsor; (d) development rights and easements in connection with that certain real estate having a street address of 44 East 57th Street, New York, New York and as formerly set forth on the Tax Map as Block 1292, Tax Lot 44 (now part of Lot 33) pursuant to a Zoning Lot Development Agreement dated as of September 13, 2006, and recorded under CRFN 2006000596371 on October 25, 2006 between 44 East 57th St. Realty Corp., Inc. and Associates, as assigned to Sponsor; and (e) development rights and easements in connection with that certain real estate having a street address of 50 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 41 pursuant to a Zoning Lot Development Agreement dated as of November 2, 2011, and recorded under CRFN 2011000394772 on November 10, 2011 between Sponsor's predecessor-in-interest, as developer, and Sponsor's predecessor-in-interest, as owner.

## 29. Method for Measuring Units

The approximate dimensions of each Residential Unit and each Office Unit will consist of the area measured horizontally from the exterior side of the exterior wall (columns, mechanical, pipes, shafts, shaftways, chases, chaseways and conduits are not deducted from measurement of each Unit) to the centerline of the partitions or concrete walls separating one Unit from another Unit or separating one Unit from the corridor, stairs, elevators and other mechanical equipment spaces or any Common Elements not within a Unit or to the exterior side of the opposite exterior wall. Each Unit consists of the area measured vertically from the top of

the floor (located under the finished flooring and sub-flooring materials) to the underside of the ceiling slab above.

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

The interior room dimensions shown on the Floor Plans for the bathrooms of the Residential Units as shown in Exhibit 7 in Part II of the Plan are only approximate and are measured horizontally from the interior bathroom-side face of the sheetrock on the wall on one side of the bathroom to the interior bathroom-side face of the sheetrock on the opposite wall. Space occupied by the fixtures and finishes installed on the bathroom walls and floors is not taken into consideration in such stated dimensions and will reduce the usable square footage of such rooms. Purchasers are further advised that the dimensions shown on the Floor Plans for the closets in the Residential Units as shown in Exhibit 7 in Part II of the Plan are only approximate and are measured horizontally from the interior closet-side face of the sheetrock on the wall on one side of the closet to the interior closet-side face of the sheetrock on the opposite wall (or closet door, as the case may be). Such dimensions may vary based on actual construction conditions as the precise layout of each closet is anticipated to be modified during the construction process to accommodate the placement of mechanical equipment and structural elements within the walls adjacent to the closets. No such variation shall give rise to any right of rescission, reduction in price or other credit or concession to Purchasers.

The interior room dimensions shown on the Floor Plans for the bedrooms, living rooms, dining rooms, kitchens and other rooms of the Residential Units as well as the Office Units and the rooms of the Health Club as shown in Exhibit 7 in Part II of the Plan are only approximate and are measured horizontally from the interior face of the sheetrock on the wall on one side of the room to the interior side face of the sheetrock on the opposite wall or to the interior face of glass. Space occupied by finishes and window surround is not taken into consideration in such stated dimensions and will reduce the usable square footage of such rooms.

## 30. Reservation of Air/Development Rights

Sponsor has retained and expressly reserves all excess air or developmental rights (collectively, the "Air Rights") otherwise appurtenant to the Property and not used in connection with the original construction of the Building as described in this Plan. As a result, unless Air Rights are separately acquired therefor on behalf of the Condominium or a Unit Owner, as the case may be, any future expansion of the Building by the Condominium Board or of a Unit by any Unit Owner as may otherwise be permitted pursuant to any applicable Legal Requirements, may not be possible or may be limited. Further, as a result of such reservation by Sponsor, Sponsor may transfer or sell such Air Rights to the owner(s) of adjoining properties and in such case such properties may be increased as a result of such transfer or sale.

The Air Rights reserved by Sponsor will not be used to add additional floors to the top of the Building. Except in the case of a sale or transfer for use in connection with other properties, the reserved Air Rights will be used in the Property solely for the purpose of reconfiguring certain areas (e.g., adding mezzanine space, converting mechanical space to space used for other purposes) which, pursuant to the applicable provision of the Zoning Resolution, will require the use of Air Right in excess of those used in connection with the initial construction of the Building in accordance with the Plan. Without limitation, Sponsor expressly reserves the right to create additional Units by adding floor slabs within multi-floor or double-height Units. In the event Sponsor creates such additional Units, Purchasers shall have no right of rescission with respect to their Unit(s). In the event such excess Air Rights are transferred to the owner(s) of adjoining properties, a Unit Owner's views and exposure to light may be affected. However, at the present time, there are no excess Air Rights appurtenant to the Property. (See the Sections entitled "Rights and Obligations of Sponsor" and "Reservation of Air and Development Rights" in Part I of the Plan for further discussion.)

## 31. Parking

It is currently anticipated that the Garage Unit will initially contain parking garage facilities with an entrance drive on East 56th Street. The entrance drive will connect to two (2) enclosed car elevators, which will transport vehicles to and from the Subcellar 2 Level where the Garage Unit is located. While Sponsor or an affiliate may own the Garage Unit (although no such representation is made), to the extent such Garage Unit is leased to a garage operator, the operator of such facility will determine and collect fees based upon rates to be set solely by such operator (subject to any applicable laws) and will establish such rules and regulations governing the availability and priority of spaces and the general operation of the garage facilities as such operator may deem appropriate. The Garage Unit is presently zoned for accessory parking which permits the parking of forty-six (46) passenger vehicles. Such parking spaces shall be available on a first come first served basis. Twenty-nine (29) parking spaces shall be for the exclusive use of the occupants of the Residential Section, and seventeen (17) parking spaces shall be for the exclusive use of tenants or employees of the Commercial Units. The Garage Unit will be valet attended.

Sponsor makes no representation whatsoever regarding the rates to be charged to Residential Unit Owners or the availability of such parking spaces on a monthly, reserved or any other basis. In addition, even to the extent available, no representation is made with respect to the expected date of completion or opening of such facility and as a result, parking may not be available at and for a period of time following the closing of title to any Residential Unit.

Further, Purchasers are advised that in the event of a change in applicable law (including, without limitation, the Zoning Resolution) such that use of the Garage Unit as accessory parking is no longer required, or such designation no longer requires the aforementioned restrictions on the use of the Garage Unit (e.g., permitting use of the Garage Unit as a public parking facility), Sponsor, Project Declarant (as defined herein) and/or the Garage Unit Owner, as applicable, shall have the right to make the Garage Unit available for public parking (or such other newly permitted ) purposes rather than for the exclusive use of occupants of the Residential Section or tenants or employees of the Commercial Section, as the case may be.

## 32. Courtyard; Use of Garden as Public Space

The portion of the Land between the Main Lobby and East 56th Street will be occupied by a private courtyard (the "Courtyard"), which will feature a semi-circular driveway leading from East 56th Street to the Main Lobby and the entry point to the Garage Unit and loading dock area. The portion of the Land to the east of the Courtyard and to the west of the Park Avenue Pavilion will be occupied by a private garden (the "Garden"), which will feature landscaped areas. The Courtyard and the Garden may be separated by a hedge approximately 6' in height. (See the floor plan labeled "First Floor Main Lobby & Retails" as set forth in Exhibit 7 in Part II of the Plan.)

Sponsor intends to dedicate the Garden as a public area. As of the date of this offering, such use has not been approved by the Department of Buildings. Sponsor has submitted an application to the Department of Buildings for approval of such use, and upon receipt of such approval, Sponsor will amend the Offering Plan to this effect. Sponsor makes no representation that it will receive such approval. However, the Courtyard will always remain a private area. In addition, Sponsor may make an application to the Chairperson of the City Planning Commission for certification that qualifies the Garden as a "public plaza." Such certification would generate a floor area bonus for the Property, impose certain design standards, and require that the "public plaza" be open to the public twenty-four (24) hours per day. Without limiting other rights reserved by Sponsor hereunder with respect to the subdivision and combination of Units or otherwise, Sponsor expressly reserves the further right prior to the First Closing to increase the number of Residential Units contained within the Tower by adding floor slabs separating multi-level Units and/or separating the same into separate Units in the event the Chairperson of the City Planning Commission certifies such use of the Garden and such floor area bonus is granted, and in such event, the Common Interest allocation to each of the Units may be modified by Sponsor in an amendment to the Plan to reflect the increased square footage in the aggregate. However, once the Plan has been declared effective, Sponsor shall not, as a result of the certification of such floor area bonus, increase the number of Residential Units offered hereunder if the number of Residential Units as to which executed Agreements are then in effect with Purchasers would, after giving effect to any such increase, constitute fewer than fifteen percent (15%) of total number of Residential Units. In the event Sponsor creates such additional Units, Purchasers shall have no right of rescission with respect to their Unit(s); provided, however, that in the event the Common Interest appurtenant to a Unit is increased in excess of five percent (5%), Sponsor shall offer the materially adversely affected Purchaser(s) the right, for at least fifteen (15) days, to rescind their Agreements and receive a refund of their Deposit, together with all interest earned thereon. In such case, Purchasers shall have no right of rescission in the event the Common Interest appurtenant to a Unit is reduced.

## 33. Interstate Land Sales Full Disclosure Act

Pursuant to the Interstate Land Sales Full Disclosure Act ("ILSA "), 15 U.S.C.A. § 1701 et seq., Sponsor has submitted a proposed statement of record ("Statement of Record") to the U.S. Consumer Financial Protection Bureau ("CFPB") disclosing the offering of the Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses in the Condominium. The Statement of Record has been assigned OILSR 32634-06-2012. Sponsor believes it will be in

compliance with its ILSA filing obligations upon CFPB's approval of the Statement of Record. The Attorney General has not verified or approved the content of the Statement of Record.

The Statement of Record includes a "Property Report," which discloses information regarding the Condominium. Pursuant to ILSA, the form of Purchase Agreement as set forth as Exhibit 1 in Part II of the Plan includes a provision that if a Purchaser does not receive a Property Report in advance of signing the Purchase Agreement, the Purchase Agreement may be cancelled at such Purchaser's option for two (2) years from the date of signing; however, under ILSA, certain circumstances may cause some transactions to be exempt from such requirement and Sponsor makes no representation with respect the applicability of the foregoing matters to any individual Unit or contract.

## 34. Sponsor's Right to Redesignate Retail Unit Space as Additional Office Units

Sponsor expressly reserves the right to create additional Office Units by, among other things, subdividing and reconfiguring the Retail Units and, in connection with such subdivision and reconfiguration, redesignating in an amendment to the Declaration, among other things, a portion of a subdivided Retail Unit's space as an additional Office Unit or Units. Sponsor expressly reserves the right, from time to time prior to the First Closing, to effect such changes and to amend the Plan so as to reflect the same.

## 35. Shared Main Lobby; Residential Board to Control Main Lobby

The Club Unit and the Office Units will be accessed via the Commercial Lobby, which is on the western portion of the Main Lobby of the Tower. Office Unit Owners and their guests and Club members (including individuals who are not Residential Unit Owners) will therefore be permitted to enter the Main Lobby in order to access the Commercial Lobby. However, those Office Unit Owners and Club members who are not Residential Unit Owners will not be permitted to access the Residential Lobby. Guests or tenants of Office Unit Owners shall be prohibited from loitering in either the Commercial Lobby or the Main Lobby, or otherwise using such spaces as a waiting area.

The Residential Board shall control the staffing, insuring, operation, maintenance, alteration, repair, etc. of the Main Lobby; provided, however, that the cost reasonably allocated for all the same shall be shared among all Unit Owners in the manner set forth in the Condominium By-Laws and borne by such Unit Owners as a General Common Expense.

## 36. Supplemental Damping Systems

As a result of the Tower's overall dimensions, supplemental damping systems are located at the top of the Tower to mitigate the lateral movement of the Tower and reduce such movement to levels acceptable in the industry.

## 37. Health Club Membership

The Club Unit will be operated as a health club (as more particularly described in this Plan). All Residential Unit Owners are required to be members of the Health Club. At or following the First Closing, Sponsor will sell the Club Unit to the Residential Board. Based on a

purchase price of $640,000 in respect of the Club Unit, at the Closing to each Residential Unit, the Purchaser thereof, as a closing cost of such Purchaser's Residential Unit, will be required to pay on behalf of the Residential Board, such Purchaser's share of the purchase price of the Club Unit determined in proportion to their respective Common Interests, as set forth on Schedule A – "Purchase Prices and Related Information." The taxing authorities are likely to require that each Purchaser's allocable portion of the cost of the Club Unit be included in the total consideration deemed to have been paid by such Purchaser to Sponsor; and, at Closing, Purchaser will pay the incremental additional transfer taxes attributable to such additional consideration.

Membership to the Health Club will be open on a referral basis to individuals who are not Residential Unit Owners. Such non-Unit Owner members will be required to pay an initiation fee, and all members will be required to pay monthly dues. (See the Subsection entitled "Available Services and Facilities in the Section entitled "Description of the Property and Improvements" in Part I of the Plan for further discussion.)

## 38. Special Allocation of Certain Common Expenses

Each Unit Owner must pay Common Charges to cover the costs of operation and maintenance of the Condominium in accordance with Sections 339(i)(1)(iv) and 339(m) of the New York Condominium Act. The costs of operation and maintenance of the Condominium, including both those directly attributable to the Units and an allocated share of expenses attributable to the Condominium as a whole (such as expenses for insurance, repairs and maintenance of the General Common Elements and various service contracts), will generally be borne by the Unit Owners in proportion to their respective Common Interests. The Commercial Unit Owners, who will receive in certain instances greater or fewer services from the Condominium, will bear an allocated share of the expenses of the Condominium, all as described in Schedule A and Schedule B-2 – "Projected Budget for First Year of Condominium Operation" of the Plan and Article 6 of the Condominium By-Laws. Such allocated share of expenses will result in the non-Commercial Unit Owners having to pay either higher (if fewer services are being provided to the Commercial Unit Owners) or lower (if greater services are being provided to the Commercial Unit Owners) shared expenses of the Condominium. The requirements for amending Article 6 of the Condominium By-Laws do not differ from those otherwise provided in the Condominium By-Laws.

## 39. Recorded Lot Restriction

There is an existing recorded lot restriction at the west side of the Property adjacent to 575 Madison Avenue. The restriction provides for a 7-1/2 feet of air and ventilation space adjacent to 575 Madison Avenue beginning at approximately 54 feet above grade at the bottom of the existing 6$^{th}$ floor windows of 575 Madison Avenue. The Building will comply with this restriction.

## 40. Window Warranties

Residential Unit, Club Unit and Office Unit windows will have a five- (5) year warranty on labor and materials and a ten- (10) year warranty for the paint of the windows.

## 41. Windows Feature Childproof Stops

All operable windows will have a childproof stop limiting the opening of the windows to a maximum of 4 inches. The operable portion will be located in the lower part of the window behind fixed louvers.

## 42. Roofing System Guarantee

The Building's roofing system shall have a ten- (10) year manufacturer's guarantee which guarantee is the longest term of years commercially available for the type of roofing system that is intended to be constructed. At the expiration of the warranty period, if a roof repair is required, the Condominium Board may be required to increase Common Charges or impose a special assessment to cover the cost of same.

## 43. Restriction on Hanging Electronic Equipment

Televisions, audio speakers and other noise generating equipment must not be hung on demising walls separating Residential Units as this could transmit noise from one Residential Unit to the next.

## 44. Treatment of Wood Floors

The Units will be delivered with wood floors, which should not be washed with water and need to be maintained according to the manufacturer's recommendations. Wood is also subject to changes as a result of humidity as well as chipping, scratching and cracking. Sponsor makes no representation or warranty that the wood floors will maintain their appearance after they are subject to wear and tear. Standing water will cause cupping, swelling, and subsequent gapping. Relative humidity should be between thirty-five percent (35%) and sixty-five (65%) to avoid excessive shrinkage, cracking, swelling or cupping.

## 45. Maintenance of Stone Surfaces

Maintenance and cleaning of any stone surfaces by Residential Unit Owners should be done in accordance with the recommendations of the Marble Institute of America.

## 46. Temporary Certificate of Occupancy

A temporary certificate of occupancy indicates that a property is safe for occupancy, but has an expiration date. Temporary certificates of occupancy typically expire ninety (90) days after they are issued. When a temporary certificate of occupancy expires and is not renewed, it may be difficult or impossible to buy insurance or sell or refinance a Unit. Purchasers should seriously consider negotiating a closing based on a permanent certificate of occupancy, not a temporary certificate of occupancy. If purchasing a Unit covered by a temporary certificate of occupancy, Purchasers should consult a licensed architect or engineer to determine what work has to be done in order for the Building to receive a permanent certificate of occupancy. Purchasers are advised to visit the Department of Buildings website for further recommendations when purchasing a Unit that does not have a permanent certificate of occupancy.

## 47. Maintenance Contracts with HVAC Vendors

As more particularly set forth in the Residential By-Laws and Commercial By-Laws, Residential Unit Owners and Office Unit Owners are required to obtain and maintain a maintenance, service and repair contract ("Maintenance Contract") with an HVAC vendor approved by the Residential Board or the Commercial Board, as the case may be, (the "Vendor") qualified to perform maintenance services on the heating, ventilation and air conditioning system and humidification system, if any, located in their Residential Unit or Office Unit (the "HVAC") in accordance with guidelines established, from time to time, by the Residential Board or the Commercial Board, as the case may be. A copy of the Maintenance Contract shall be delivered to the Residential Managing Agent or Condominium Managing Agent, as the case may be. Renewal Maintenance Contracts shall be delivered to the Residential Managing Agent or Condominium Managing Agent, as the case may be, prior to the date on which the then current Maintenance Contract expires.

## 48. Liability Concerning Wine Cellars

All of the Wine Cellars will be located on the Subcellar 1 Level of the Building in a single room serviced by two (2) HVAC units (one (1) on-line and one (1) stand-by) that will set both temperature and humidity and are controlled by one (1) thermostat. The Wine Cellars will be built out by a to-be determined independent company engaged by Sponsor. The temperature range for the room containing the Wine Cellars shall be determined by the Residential Board in consultation with such company. The Residential Board shall have the authority to modify such temperature ranges in its sole discretion. The current design for the climate of the room in which the Wine Cellars are located is 52-57 degrees Fahrenheit with a relative humidity of sixty percent (60%) to seventy percent (70%). All wine and other beverages stored in a Wine Cellar shall be at the licensee's sole risk. Neither Sponsor, the Condominium Board, the Residential Board, nor the Managing Agents shall be liable for any spoilage caused by the failure of the HVAC or any other causes whatsoever.

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# PART I

## A. INTRODUCTION

The land and the building to be situated on the west side of Park Avenue between East 56th Street and East 57th Street and to be known by the street address 432 Park Avenue, New York, New York 10022, together with the appurtenances thereto, will constitute and be known as "432 Park Condominium" (hereinafter, the "Condominium").*

As described more fully in this Plan, the Building constituting the Condominium will initially contain the following mixed-use components: (a) the Tower will contain: (i) 147 Residential Units (of which twenty-five (25) are specially designated as "Studio Units"); (ii) fifty-nine (59) Storage Closets; (iii) eighteen (18) Wine Cellars; (iv) twelve (12) Office Units; (v) the Club Unit; (vi) two (2) Retail Units (referred to as "Retail Unit A" and "Retail Unit B"); and (vii) the Garage Unit; and (b) the Park Avenue Pavilion will contain one (1) Retail Unit (referred to as "Retail Unit C"). The commercial units in the Building refer to the twelve (12) Office Units; the Club Unit; the three (3) Retail Units; and the Garage Unit (collectively the "Commercial Units"). (See the Section entitled "Description of Property and Improvements" in Part I of the Plan for further discussion.)

56th and Park (NY) Owner, LLC ("Sponsor"), a limited liability company organized and existing under the law of the State of Delaware and duly authorized to do business in the State of New York, hereby presents this Offering Plan (the "Plan") for the sale of the Residential Units, Storage Licenses for the Storage Closets, and Wine Cellar Licenses for the Wine Cellars at the Condominium, which, together with the Residential Limited Common Elements, constitute the "Residential Section", as well as the sale of twelve (12) Office Units.

No other portion of the Condominium is offered for sale hereunder. The Club Unit, the three (3) Retail Units and the Garage Unit (all hereinafter described) to be included in the Condominium are not currently offered for sale hereunder. 46 East 57th St. (NY), LLC (the "Lot 43 Owner") is the owner of Lot 43, which is a portion of the Land upon which the Building is being constructed. Pursuant to an agreement between Sponsor and Lot 43 Owner, Lot 43 Owner will be a co-declarant of the Condominium and will, upon creation of the Condominium, be or become the owner of Retail Unit A. Notwithstanding the foregoing, it is anticipated that the Club Unit will be sold to the Residential Board as described herein.

The purpose of the Plan is to set forth in detail all material terms of the offering by Sponsor of the Residential Units, Storage Licenses for the Storage Closets, Wine Cellar Licenses for the Wine Cellars, and the Office Units offered hereby. Sponsor may amend the Plan from time to time by filing an amendment with the Department of Law, a copy of which amendment will be served on all Purchasers of Units pursuant to executed Agreements who are not in default, and to all Unit Owners and any other Offerees as may be required by applicable law or regulation.

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

The Plan is presented in two (2) parts (in one volume) which together constitute the entire Plan. Part I of the Plan sets forth a general description of the offering and the rights and obligations of Sponsor and the Unit Owners. Part II contains the basic documents necessary to create the Condominium and to otherwise effectuate the provisions of the Plan. Also included in Part II is a detailed physical description of the Property and certifications by Sponsor, Sponsor's architect and Sponsor's financial experts. In addition to the Plan, Sponsor has filed separately with the Department of Law certain exhibits to the Plan which are presented as Parts A (Certifications), B (General), C (Engineering) and D (Other Information).

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

The Condominium will be organized pursuant to Article 9-B of the Real Property Law of the State of New York, as amended, commonly known as and hereinafter referred to as the "Condominium Act". The Condominium is subject to and will comply with all statutes and regulations applicable to condominiums in the State of New York.

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

## 1. The Property

Sponsor acquired: (i) title to Tax Lots 33, 44, 45, 145 and 46, of Block 1292 (the "Sponsor's Land"); and (ii) development rights appurtenant to the properties located at Tax Lots 41 and 42, of Block 1292. Lot 43 Owner is the fee title owner of Tax Lot 43 of Block 1292 ("Lot 43"; which, together with Sponsor's Land, is hereinafter referred to as the "Land"). Subsequently, the City Surveyor merged Tax Lots 44 and 145 into Lot 33. Together, the foregoing several adjoining owned parcels of land together with, as applicable, the appurtenant air rights, consist of approximately 34,470 square feet combined, located at 432 Park Avenue, New York, New York (the "Property").

Sponsor has demolished the improvements on the Land and is constructing two (2) new structures thereon (the Tower and the Park Avenue Pavilion, which together comprise the "Building"), which, as more specifically described herein, upon completion of construction will constitute the Condominium and include:

(a) 147 Residential Units, consisting of: (i) 121 Residential Units located on portions of Floors 34 through 45, 48 through 59, 62 through 73, 77 through 88, and 91 through 95 of the Tower; (ii) twenty-five (25) Residential Units specifically designated as Studio Units located on portions of Floors 28 and 29 of the Tower; and (iii) a Residential Unit (anticipated to be Unit 28M) located on Floor 28 of the Tower which will be used as an apartment by the Resident Manager (hereinafter, the "Resident Manager's Unit"), together with the entrance and residential lobby on the Ground Floor at East 56th Street and certain other Common Elements, which will be operated as a luxury condominium apartment building;

(b) Fifty-nine (59) storage closets ("Storage Closets") located in the Subcellar 2 Level and Subcellar 1 Level, Storage Licenses to which are being sold by Sponsor hereunder (subject to the Sponsor's right to create, pursuant to a duly filed amendment, additional Storage Closets and to offer Storage Licenses to which for sale);

(c) Eighteen (18) wine cellars ("Wine Cellars") located in the Subcellar 1 Level, Wine Cellar Licenses to which are being sold by Sponsor hereunder (subject to the Sponsor's right to create, pursuant to a duly filed amendment, additional Wine Cellars and to offer Wine Cellar Licenses to which for sale);

(d) Twelve (12) office units ("Office Units") located principally on portions of Floors 18 through 20 of the Tower, which Sponsor currently anticipates will initially be used for office purposes (and ancillary uses);

(e) Retail Unit A (anticipated to be assigned address 46 East 57th Street, although no representation is made with respect thereto), located principally on portions of the Cellar Level through Floor 5 of the Tower and on that portion of the Land known as Lot 43, which Sponsor currently anticipates will initially be used for retail purposes (and ancillary uses), although no representation or warranty is made with respect to such initial or any subsequent uses of Retail Unit A or with respect to who the owner or tenant(s) of Retail Unit A may be at any time, except that Lot 43 Owner will, upon creation of the Condominium, be or become the owner of Retail Unit A;

(f) Retail Unit B (which is anticipated to have frontage along East 57th Street), located principally on portions of the Cellar Level and the Ground Floor through Floor 5 of the Tower, which Sponsor currently anticipates will initially be used for retail purposes (and ancillary uses), although no representation or warranty is made with respect to such initial or any subsequent uses of Retail Unit B or with respect to who the owner or tenant(s) of Retail Unit B may be at any time;

(g) Retail Unit C (Park Avenue Pavilion), located on the Cellar Level and in a stand-alone structure (above grade) situated principally on a portion of the Land located on the northwest corner of Park Avenue and East 56th Street, and connected to the Tower underground at the Cellar Level (the "Park Avenue Pavilion"). Sponsor currently anticipates Retail Unit C will initially be used for retail purposes (and ancillary uses), although no representation or warranty is made with respect to such initial or any

subsequent uses of Retail Unit C or with respect to who the owner or tenant(s) of Retail Unit C may be at any time;

(h) The Garage Unit, located at the Subcellar 2 Level of the Tower, which Sponsor currently anticipates will initially be used as accessory parking (and ancillary uses). No representation or warranty is made with respect to such initial or any subsequent uses of the Garage Unit or with respect to who the owner or tenant(s) of the Garage Unit may be at any time;

(i) The Club Unit, a commercial unit intended to be used as a Physical Culture Establishment as defined in the Zoning Resolution and operated as a social health club (referred to herein as the Health Club), featuring a fitness center (including exercise equipment, a swimming pool, whirlpool, sauna, steam room and locker rooms), library, conference room and screening room, located principally on portions of Floors 12, 14, 15 and 16 of the Tower and for the use of Residential Section residents and other members;

(j) Facilities will include a private restaurant located on Floor 12 of the Tower (the "Residential Restaurant"), as well as a terrace on Floor 12 of the Tower (the "Twelfth Floor Terrace"), both of which are for the exclusive use of occupants of the Residential Section and their guests; and

(k) Various utility and service areas located throughout the Building.

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: (i) construction of the Building will be sufficiently completed to permit closings of title to Residential Units to begin on or about July, 2015, and (ii) construction of the Building will be sufficiently completed to permit closings of title to all Residential Units subject to executed Agreements for which no default exists on or about December, 2015. 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 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 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 Residential Section Operation is to be delayed by six (6) months or more, Sponsor will amend the Plan to include a revised Residential Section budget with current projections and if: (i) such amended budget exceeds the projected Residential Section budget set forth herein by twenty-five percent (25%) or more; or (ii) the First Closing does not occur within twelve (12) months after July, 2015, the date set forth in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" as the commencement date for the projected First Year of Residential Section 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 twelve (12) month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Deposit and any interest accrued thereon returned. Purchasers' rights as described in the preceding sentence are in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of which shall be deemed to have been waived by all Purchasers. As set forth in the Section entitled "Effective Date" in Part I of the Plan, no closing of title to any Unit offered hereunder will take place prior to the Plan being declared effective.

As set forth in more detail in the Section entitled "Changes in Prices and Units: Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses" in Part I of the Plan, Sponsor reserves the right to change the number of Residential Units, Office Units, Storage Closets and Wine Cellars from time to time by subdividing and/or combining Residential Units, Office Units, Storage Closets and Wine Cellars or otherwise, even after the Condominium is created, except with respect to a Residential Unit or Office Unit (or Storage Closet or Wine Cellar) as to which a binding Agreement (or Storage License or Wine Cellar License) has been entered into and remains in effect unless the Purchaser (or licensee) thereof consents in writing to such change.

(See the Section entitled "Description of Property and Improvements" in Part I of the Plan for further a detailed description of the Property.)

As of the filing of this Plan, Sponsor and Lot 43 Owner obtained a land loan (the "Land Loan") pursuant to that certain loan and security agreement (the "Land Loan Agreement") as between Sponsor and Lot 43 Owner, collectively as borrower, and iSTAR CP Investment Fund LLC, a Delaware limited liability company (together with its successors and assigns, "Land Loan Lender"), in the amount of $100,000,000. The proceeds of the Land Loan are to be used to repay certain indebtedness, to create an interest reserve and tax reserve, to pay closing costs and to make certain distributions in connection with the Land, but in no event shall such proceeds or advances be used to pay for any "Improvements" or to pay any "Cost of Improvement", as such terms are defined in Sections 2(4) and 2(5), respectively, of the New York Lien Law. The Maturity Date means the Initial Maturity Date (November 8, 2012), First Extended Maturity Date (May 8, 2013, if extended in accordance with the terms of the Land Loan Agreement) or the Second Extended Maturity Date (November 8, 2013, if extended in accordance with the terms of the Land Loan Agreement) or such earlier date as the Land Loan is prepaid in full or accelerated (as such terms are defined therein). Pursuant to terms of the Land Loan Agreement, no tract map, parcel map, condominium plan, condominium declaration, or plat of subdivision will be recorded with respect to the Property without Land Loan Lender's consent, which consent shall not be unreasonably withheld or delayed.

Sponsor has not yet received a mortgage commitment to finance the construction of the Building. Sponsor will amend the Offering Plan to disclose certain terms of such commitment once construction financing has been secured.

## 2. Features of Condominium Ownership

The ownership of a Unit is similar in many respects to the ownership of a private home. Each Unit Owner is the fee owner of his or her Unit outright and is entitled to exclusive possession of that Unit. Each such Unit Owner also owns, in common with the owners of all other Units, an undivided interest in the General Common Elements which, as more particularly set forth herein and in the Declaration, include all parts of the Property other than the Units themselves (and the Limited Common Elements), including, without limitation, the Land and the roofs, foundations and supports of the Building, and all areas, equipment or facilities for the common use of the Units or the Unit Owners. Each Residential Unit Owner will also have certain rights with respect to certain Common Elements (i.e., the Residential Limited Common Elements) which may be exclusive of all other Unit Owners or of Unit Owners who are not Residential Unit Owners (e.g., the common hallways exclusively serving the Residential Units), as the case may be.

Use and occupancy of all Units is governed by the Declaration, the Condominium By-Laws and applicable Legal Requirements; and with respect to the Residential Units, also by the Residential By-Laws and the provisions of this Plan; and with respect to the Office Units, also by the Commercial By-Laws and the provisions of this Plan. Use of other portions of the Building may be subject to additional by-laws and/or rules and regulations applicable thereto (e.g., the Commercial By-Laws with respect to the Commercial Units).

As more particularly set forth in the Declaration, Condominium By-Laws and Residential By-Laws, a Residential Unit may generally be used only for residential purposes and, subject to compliance with the Declaration, the Condominium By-Laws and the Residential By-Laws, for a lawful home occupation as defined in the Zoning Resolution (a New York City zoning resolution affecting use and occupancy). Residential Unit Owners may, subject to the Residential Board's right of first refusal, rent their Residential Unit pursuant to a lease with a minimum term of one (1) year and a maximum term of two (2) years, in each instance. No transient tenant or short-term paying guest (i.e., a tenant or paying guest in occupancy for a period of less than twelve (12) consecutive months) may be accommodated in any Residential Unit, and only an entire Residential Unit may be leased. Residents of the Residential Units thus may be comprised of Residential Unit Owners who reside in the Tower, as well as tenants leasing Residential Units from other Residential Unit Owners.

As set forth in more detail in the Declaration and Residential By-Laws, those Residential Units specially designated as Studio Units may be used only as a residence occupied by domestic employees of a Residential Unit Owner, as well as the Residential Unit Owners, Family Members and non-paying guests of Residential Unit Owners. Occupancy of the Studio Units by non-paying guests shall not exceed three (3) months, unless the prior written consent of the Residential Board is obtained. Except for Sponsor, no Unit Owner may own a Studio Unit without also owning a Residential Unit that is not a Studio Unit. In the event a Residential Unit Owner who owns a Studio Unit rents his or her Residential Unit, such Residential Unit Owner must also rent his or her Studio Unit either to the tenant of the Residential Unit (in such case, for a term consistent with the lease to the Residential Unit), or another Residential Unit Owner (in such case, for a term one (1) year). Each Studio Unit will be equipped with a kitchen and bathroom.

The Storage Closets may only be used for storage purposes, and the Wine Cellars may only be used for the storage of wine and other beverages, and in no event may either be used as a dwelling space or for the storage of toxic or inflammable items or Combustibles (as such term is defined in the New York City Building Code). No materials which pose a health or safety threat or which otherwise create a nuisance may be stored in the Storage Closets or Wine Cellars. To do so may result in a violation placed against the Building by the Department of Buildings that will be the obligation of the licensee to remove. Notwithstanding the foregoing, Sponsor or its designee shall have the right to use without charge any Unlicensed Storage Closets or Unlicensed Wine Cellars for any lawful purpose or to change the permitted use of any Unlicensed Storage Closets or Unlicensed Wine Cellars, subject, however, to the provisions of Article 6 of the Residential By-Laws which provide, among other things, that no use shall be allowed in the Condominium which interferes with the peaceful possession and proper use of the Condominium by its occupants. The Storage Closets will be located on the Subcellar 2 Level and Subcellar 1 Level of the Tower, and the Wine Cellars will be located on the Subcellar 1 Level of the Tower.

The Commercial Units in the Building are divided into the following categories: (i) twelve (12) Office Units; (ii) the Club Unit; (iii) three (3) Retail Units; and (iv) the Garage Unit. Sponsor makes no representation whatsoever with respect to the uses to which all or any portion of the Commercial Units or their appurtenant Commercial Limited Common Elements or any public spaces within the Building may be put at any time; nor does Sponsor make any representation with respect to the identity of the owners or users or future owners or users of any of such Units at any time. As more particularly set forth in the Declaration, Condominium By-Laws and Commercial By-Laws, the Commercial Units may be used for any lawful purpose, including, without limitation, for retail, hotel, restaurant, banking, commercial, office, storage, garage, residential (to the extent the certificate of occupancy is amended to permit such use), fitness facility and utility purposes (and ancillary uses of any of 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 Units (including the portions thereof facing the street or public area) which are permitted by law and applicable zoning ordinances, except as otherwise set forth in the Declaration, Condominium By-Laws and the Commercial By-Laws.

Subject to compliance with all Legal Requirements, including, without limitation, the certificate of occupancy for such Unit and any applicable zoning regulations, and except as otherwise provided herein and in the Condominium By-Laws, each Commercial Unit may be used and operated for any legally permitted purpose. It is currently anticipated that the Retail Units will be used for retail purposes (and ancillary uses), the Garage Unit will be used as accessory parking (and ancillary uses), the Office Units will be used as office space (and ancillary uses), and the Club Unit will be used for health club purposes (and ancillary uses) as a Physical Culture Establishment as defined in the Zoning Resolution. Article 8 of the Declaration provides that none of the Commercial Units may be used as a pornography store, massage parlor (except that in the Club Unit massage therapy and spa-type services are permitted provided that any such areas or facilities are maintained in a reputable manner), drug treatment facility or homeless shelter. No income derived from any use of such Commercial Units will constitute income to any Board or any Unit Owner (except as may be expressly provided in the Condominium By-Laws or Commercial By-Laws to the contrary or pursuant to separate written agreement by or among the applicable parties). Office Unit Owners may, subject to the

Condominium Board's right of first refusal, rent their Office Unit pursuant to a lease with a minimum term of one (1) year, and only an entire Office Unit may be leased.

The Residential Board does not have the right to approve or disapprove Purchasers. Subject to certain exceptions, the Residential Board has a right of first refusal with respect to sales or leases of Residential Units. There is no limit on the number of Residential Unit Owners who may purchase a Residential Unit for investment, rather than personal occupancy, purposes. As such there may always be a substantial percentage of Residential Unit Owners who are non-residents of the Condominium.

In addition, because Sponsor reserves the unconditional right to rent or lease Units, there is no commitment to sell more Residential Units than the fifteen percent (15%) of such Units necessary to declare the Plan effective and, accordingly, Residential Unit Owners may never gain effective control and management of the Condominium and/or Residential Section, and the First Annual Residential Meeting may never occur.

Each Unit Owner must pay Common Charges to cover the costs of operation and maintenance of the Condominium in accordance with Sections 339(i)(1)(iv) and 339(m) of the New York Condominium Act. The costs of operation and maintenance of the Condominium, including both those directly attributable to the Units and an allocated share of expenses attributable to the Condominium as a whole (such as expenses for insurance, repairs and maintenance of the General Common Elements and various service contracts), will generally be borne by the Unit Owners in proportion to their respective Common Interests. The Commercial Unit Owners, who will receive in certain instances greater or fewer services from the Condominium, will bear an allocated share of the expenses of the Condominium, all as described in Schedule A and Schedule B-2 – "Projected Budget for First Year of Condominium Operation" of the Plan and Article 6 of the Condominium By-Laws. The estimated Common Charges for each Residential Unit and Office Unit for the projected First Year of Condominium are set forth in Schedule A.

Operation of the Condominium overall will be vested in the Condominium Board which will be elected by or on behalf of the Unit Owners and/or designated by Sponsor or otherwise as described in the Plan and the Condominium By-Laws, Residential By-Laws and Commercial By-Laws. As more particularly set forth in the Condominium By-Laws, the Condominium Board will determine the amounts of General Common Expenses for the Condominium as a whole, and the allocation of General Common Expenses among the Commercial Section and the Residential Section. As more particularly set forth in the Residential By-Laws, the Residential Board will determine the amounts of Residential Common Expenses for the Residential Section (which will include that portion of the Condominium's General Common Expenses allocated by the Condominium Board to the Residential Section as well as additional Common Expenses arising solely out of the operation of the Residential Section as determined by the Residential Board) and the allocation of Residential Common Expenses among the Residential Units in the Residential Section. Residential Unit Owners will pay Common Charges to the Residential Board only. The Residential Board will be required to pay to the Condominium Board those portions of General Common Charges allocated by the Condominium Board to the Residential Section, before application for any other purpose. As more particularly set forth in the Commercial By-Laws, the Commercial Board will determine the amounts of Commercial

Common Expenses for the Commercial Units (which will include that portion of the Condominium's General Common Expenses allocated by the Condominium Board to the Commercial Units as well as additional Common Expenses, if any, arising solely out of the operation of the Commercial Limited Common Elements as determined by the Commercial Board) and the allocation of Commercial Common Expenses among the Commercial Units. Commercial Unit Owners will pay Common Charges to the Commercial Board only. The Commercial Board will be required to pay to the Condominium Board those portions of General Common Charges allocated by the Condominium Board to the Commercial Units, before application for any other purpose.

Residential Unit Owners and Office Units Owners may decorate the interior of their Units in any way that they desire, subject to compliance with the Declaration, Condominium By-Laws and other applicable By-Laws, Rules and Regulations and applicable Legal Requirements and will be responsible for maintaining, repairing and painting their Units and for complying with Legal Requirements applicable to their Units, all at their own expense.

As set forth in the Residential Rules and Regulations, to promote a consistent appearance of the Tower from the outside, each Residential Unit Owner will be required to install and maintain window treatments having a white-colored backing on the sides facing and nearest to the windows in its Residential Unit, which window treatments and backings must conform to any specifications (including a new color) established from time to time by the Residential Board.

Residential Unit Owners must obtain the consent of the Residential Board before altering their Residential Units in any way, subject to the further applicable provisions of the Residential By-Laws. The rights of the Commercial Unit Owners to decorate or alter their Units are provided in the Declaration, Condominium By-Laws and Commercial By-Laws and in any event are subject to applicable Legal Requirements.

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

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

In the opinion of Sponsor's Counsel, an individual Residential Unit Owner who itemizes deductions generally will be entitled under current law to deduct from his or her gross income for Federal income tax purposes, subject to an overall limitation on itemized deductions as set forth in section 68 of the Code:

(a) real estate taxes assessed against his or her Residential Unit and paid by the Residential Unit Owner to the local authority. No deduction for real estate taxes is permitted for purposes of the Federal alternative minimum tax; and

(b) interest paid by him or her on (i) acquisition indebtedness incurred with respect to his or her Residential Unit to the extent that such indebtedness, when added to the amount of acquisition indebtedness incurred with respect to a second qualified residence (if any), does not exceed $1,000,000 ($500,000 in the case of a married individual filing a separate return) and (ii) home equity indebtedness with respect to such Residential Unit to the extent that such indebtedness, when added to the amount of home equity indebtedness incurred with respect to a second qualified residence (if any), does not exceed $100,000 ($50,000 in the case of a married individual filing a separate return), provided that such Residential Unit is a qualified residence. A "qualified residence" generally is a person's principal residence and one other residence selected by the taxpayer.

(c) Sponsor's Counsel expresses no opinion with respect to any deductions in connection with the Office Units or any other Commercial Unit.

(See the Sections entitled "Income Tax Deductions to Unit Owners and Tax Status of Condominium" and "Opinions of Counsel" in Part I of the Plan for further discussion.)

The Condominium Board will be responsible for maintaining casualty and liability insurance (excluding terrorism and mold coverage), with respect to the entire Building (including each Unit but excluding fixtures, furniture, furnishings, decorations, appliances and other personal property not constituting part of the Unit), together with all service machinery contained therein, in accordance with the provisions of the Condominium By-Laws. (See the Section entitled "Rights and Obligations of the Unit Owners and the Boards of Managers" in Part I of the Plan for a more complete discussion.) Neither the Condominium Board nor the Residential Board or the Commercial Board, as the case may be, is required to obtain or maintain any insurance with respect to any property contained in any Unit or any liability with respect to occurrences in or about each Unit or the Common Elements appurtenant thereto. Consequently, all Residential Unit Owners and Office Unit Owners are required to obtain and maintain: (i) a personal liability policy if such Unit Owner is an individual, or (ii) commercial general liability insurance if such Unit Owner is a corporate entity, against claims for personal injury, death or property damage occurring in, on or about such Unit Owner's Unit and the Limited Common Elements, if any, exclusive and/or appurtenant to his or her Unit. In addition, all Residential Unit Owners and Office Unit Owners are urged to obtain casualty insurance with respect to the fixtures, furniture, furnishings, betterments and improvements, and other personal property located within their respective Units. Purchasers are also advised that the insurance policies to be maintained by or on behalf of the Condominium Board, Residential Board and/or Commercial Board, as the case may be, will be on a "replacement cost" and will not cover losses to the extent that "market value" of a Unit may exceed its insured replacement cost. Further, as a result of current fluctuations in the insurance market, the Boards will not be required to obtain or maintain terrorism coverage but may do so, and in such event, the cost thereof shall be a Common Expense as described in the applicable By-Laws.

## 3. Offering of Units for Sale

Sponsor hereby offers the 147 Residential Units and twelve (12) Office Units for sale under the Plan. The Club Unit, the three (3) Retail Units, and the Garage Unit to be included in the Condominium are not being offered for sale hereunder. No representation or warranty (other than as expressly set forth in this Plan) is made as to who the owner or tenant(s) of such Units may be or the uses to which such Units may be put at any time; and no income derived from any use of such Commercial Units will constitute income to any Board or any Unit Owner (except as may be expressly provided in the Condominium By-Laws or Commercial By-Laws to the contrary or pursuant to separate written agreement by or among the applicable parties).

At or following the First Closing, Sponsor will sell the Club Unit to the Residential Board. Based on a purchase price of $640,000 in respect of the Club Unit, at the Closing to each Residential Unit, the Purchaser thereof, as a closing cost of such Purchaser's Residential Unit, will be required to pay on behalf of the Residential Board, such Purchaser's share of the purchase price of the Club Unit determined in proportion to their respective Common Interests, as set forth on Schedule A – "Purchase Prices and Related Information."

There are no limitations on who may purchase the Units offered for sale hereunder, except that Storage Licenses and Wine Cellar Licenses may only be purchased by Residential Unit Owners and may thereafter be licensed only to Residential Unit Owners, and except for Sponsor, no Unit Owner may own a Studio Unit without also owning a Residential Unit that is not a Studio Unit. However, Sponsor hereby reserves the right at any time and from time to time for any reason whatsoever, without the consent of any Board, any Unit Owner or mortgagee, to refuse to approve and execute an Agreement for any Unit; provided, however, that Sponsor shall not discriminate against any person because of race, creed, color, gender, sexual orientation, disability, age, marital status or national origin, or as otherwise prohibited by applicable Legal Requirements.

The prices for the Residential Units, Storage Licenses, Wine Cellar Licenses and Office Units offered under the Plan are listed on Schedule A, entitled "Schedule of Offering Prices and Related Information for the Anticipated First Year of Condominium Operation – July 1, 2015 – June 30, 2016." THESE PRICES HAVE BEEN SET BY SPONSOR AND ARE NOT SUBJECT TO REVIEW OR APPROVAL BY THE DEPARTMENT OF LAW OR ANY OTHER GOVERNMENTAL AGENCY.

Sponsor will endeavor in good faith to sell, but nevertheless reserves the unconditional right, to rent or lease, rather than sell, the Units offered hereunder. As a result, Purchaser may be acquiring a Unit that has been previously occupied, but, unless otherwise specifically agreed to in writing by Sponsor and such Purchaser, such Unit will be delivered at closing free and clear of all leases and tenancies. In addition, because Sponsor reserves the unconditional right to rent or lease Units, there is no commitment to sell more Residential Units than the fifteen percent (15%) of such Units necessary to declare the Plan effective and, accordingly, Residential Unit Owners may never gain effective control and management of the Condominium and/or Residential Section, and the First Annual Residential Meeting may never occur.

In the event Sponsor makes a bulk sale of the Residential Units (a sale involving the transfer of ten (10) or more Residential Units in the Condominium), the transferee is entitled to and bound by those additional rights and obligations (including the aforementioned representation regarding good faith efforts to sell Units) applicable to a "sponsor" as more fully described in the Plan, and subject to applicable regulations of the Department of Law.

The estimated Common Charges for each Unit for the projected First Year of Condominium Operation are also set forth in said Schedule A. In addition to the payment of Common Charges, each Unit Owner will be responsible for the payment of the real estate taxes which will be separately assessed against such Unit (although the Condominium By-Laws, Residential By-Laws and Commercial By-Laws provide for a limited period of time following the recording of the Declaration when the Units may not be separately assessed), and interest and amortization payments on the mortgage, if any, which such Purchaser may obtain. Further, Unit Owners may be responsible for additional charges for services which they choose to use at their option. (See the Section entitled "Description of the Property and Improvements" in Part I of the Plan for further discussion.)

Schedule A sets forth the estimate for the amount of real estate taxes which will be payable with respect to each Residential Unit and Office Unit in respect of the 2016/2017 tax year (the first full year that taxes are anticipated to be assessed for the fully constructed Property, as opposed to the first year of condominium operation (during which the Property is anticipated to still be undergoing construction)). (See Note (8) to Schedule A hereof with respect to the basis of such estimate.)

Sponsor hereby expressly reserves any rights or transferable development rights benefitting the Property. (See the Section entitled "Reservation of Air and Development Rights" in Part I of the Plan for further discussion.)

**4. Offering of Storage Licenses and Wine Cellar Licenses**

Sponsor hereby offers Purchasers of Residential Units the opportunity to purchase the rights to: (a) one (1) of the fifty-nine (59) Storage Closets pursuant to a license agreement (each such license being a "Storage License"), and (b) one (1) of the eighteen (18) Wine Cellars pursuant to a license agreement (each such license being a "Wine Cellar License"). The form of Storage License to be used for licensing the use of such Storage Closets to individual Residential Unit Owners is set forth as Exhibit 16 in Part II of the Plan, and the form of Wine Cellar License to be used for licensing the use of such Wine Cellars to individual Residential Unit Owners is set forth as Exhibit 17 in Part II of the Plan. The Storage Closets are located in the Subcellar 2 Level and Subcellar 1 Level of the Tower, and the Wine Cellars are located in the Subcellar 1 Level of the Tower.

The price for each Storage License and Wine Cellar License is listed on Schedule A. THESE PRICES HAVE BEEN SET BY SPONSOR AND ARE NOT SUBJECT TO REVIEW OR APPROVAL BY THE DEPARTMENT OF LAW OR ANY OTHER GOVERNMENTAL AGENCY.

If at any time the licensee of a Storage Closet or Wine Cellar sells its Residential Unit, it shall simultaneously assign its license of the Storage Closet or Wine Cellar to the purchaser of such Residential Unit or to another owner of a Residential Unit, failing which, the Residential Board shall have the right to terminate the license of the Storage Closet or Wine Cellar and take possession of the same, without compensation to the licensee.

Sponsor shall offer the Storage Licenses and Wine Cellar Licenses to Purchasers of Residential Units on a first-come, first-served basis until such time as all of the Storage Licenses and Wine Cellar Licenses have been purchased. Sponsor reserves the right to limit Purchasers to one (1) Storage License and one (1) Wine Cellar License per Residential Unit purchased. Storage Licenses and Wine Cellar Licenses will only be sold by Sponsor to Purchasers of Residential Units. Prospective Purchasers shall be required to deliver a deposit in the amount of twenty-five percent (25%) of the purchase price of the Storage License or Wine Cellar License upon execution of an Agreement.

Holders of Storage Licenses, excluding Sponsor with respect to Unlicensed Storage Closets, will be required to pay a monthly license maintenance fee to the Residential Board in an amount equal to $1 per month per square foot of such Storage Closet, which amount shall, following the First Closing, be subject to biannual increases based upon the CPI Increase Factor in effect on the date of the First Closing. Holders of Wine Cellar Licenses, excluding Sponsor with respect to Unlicensed Wine Cellars, will be required to pay a monthly license maintenance fee to the Residential Board in an amount equal to $1 per month per square foot of such Wine Cellar, which amount shall, following the First Closing, be subject to biannual increases based upon the CPI Increase Factor in effect on the date of the First Closing. Further, the license fees are otherwise also subject to change from time to time as the Residential Board deems necessary or appropriate.

## 5. Units Not Offered For Sale Hereunder

The Club Unit, the three (3) Retail Units, and the Garage Unit to be included in the Condominium are not being offered for sale hereunder; however, title to the Club Unit will be conveyed from Sponsor to the Residential Board at or following the First Closing pursuant to the terms set forth herein. Sponsor will not be permitted to sell any other Unit(s) not being offered hereunder to the general public without either amending the Plan, filing a separate offering plan for such Unit(s) or having issued a no-action letter from the Department of Law in respect of such Unit(s).

## 6. Certain Definitions

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

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

Boards: The Condominium Board, the Residential Board and the Commercial Board, collectively, or as the context may otherwise require.

Building: The Tower and the Park Avenue Pavilion, and other improvements to be located on the Land and commonly known as 432 Park Avenue, New York, New York.

By-Laws: The Condominium By-Laws, the Residential By-Laws and the Commercial By-Laws, collectively, or as the context may otherwise require.

City Register's Office: The New York County office of the City Register's Office, Land Records Division, NYC Department of Finance.

Commercial Board: The board of managers for the Commercial Section.

Commercial By-Laws: The by-laws governing the operation of the Commercial Section, the form of which is set forth as Exhibit 13 in Part II of the Plan.

Commercial Common Charges: Assessments payable to the Commercial Board by the Commercial Unit Owners, pro rata, in accordance with their respective Commercial Common Interests (except as otherwise provided in the Declaration, the Condominium By-Laws or the Commercial By-Laws) for the purpose of meeting the Commercial Common Expenses, including without limitation, each Commercial Unit Owner's share of General Common Charges as allocated by the Condominium Board to the Commercial Section or Commercial Units.

Commercial Common Expenses: Those costs and expenses in connection with the repair, maintenance, replacement, restoration, care, upkeep and operation of, and any alteration, addition or improvement to, the Commercial Limited Common Elements and the business and affairs of the Commercial Units as determined by the Commercial Board, plus a portion of the General Common Expenses of the Condominium as allocated to the Commercial Section by the Condominium Board in accordance with the Condominium By-Laws.

Commercial Common Interest: The Common Interest appurtenant to each Commercial Unit in proportion to the Common Interest appurtenant to all Commercial Units in the aggregate and whenever in this Plan (or in the Condominium By-Laws or Commercial By-Laws) it is stated that a certain percentage of Common Interest of all Commercial Unit Owners is required, such percentage shall be of the Commercial Common Interest of all such Commercial Unit Owners.

Commercial Limited Common Elements: Those Common Elements which serve or benefit exclusively one (1) or more of the Commercial Units or the Commercial Unit Owners as more particularly described in the Declaration.

Commercial Rules and Regulations: The rules and regulations of the Commercial Section, if any, that may be made and amended in accordance with the Commercial By-Laws from time to time.

Commercial Section: The Commercial Units and Commercial Limited Common Elements.

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

Commercial Units: The Units designated as an Office Unit, Club Unit, Retail Unit and Garage Unit in the Declaration, as the same may be subdivided or combined in accordance with the Declaration, Condominium By-Laws and Commercial By-Laws, as applicable.

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

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

Condominium: 432 Park Condominium.

Condominium By-Laws: The by-laws governing the overall operation of the Condominium, the form of which is set forth as Exhibit 11 in Part II of the Plan.

Condominium Managing Agent: The managing agent for the Condominium from time to time. It is anticipated that the Condominium Managing Agent will initially be Cooper Square Realty, Inc., a management firm engaged in the management of luxury residential and mixed use buildings in New York City, pursuant to a management agreement, as more fully described in the Section entitled "Management Agreement and Other Contracts" in Part I of the Plan.

CPI Increase Factor: An increase proportionate to any increase in the cost of living from the date of the initial recording of the Declaration, as reflected by the change in the Consumer Price Index (CPI-U; All Items; 1982-84 = 100 standard reference base period) for New York, New York (or the smallest measured area including New York, New York), as published by the Bureau of Labor Statistics, United States Department of Labor or, if the same ceases to be published, a commonly used substitute therefor reasonably selected by the Condominium Board.

Declaration: The instrument creating the Condominium, the form of which is set forth as Exhibit 10 in Part II of the Plan.

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

Family Member: A spouse, domestic partner, child, parent or adult sibling of a Residential Unit Owner, or a trust for the benefit of any one or more of the foregoing and/or one or more minor children of any of the foregoing.

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

First Year of Commercial Section Operation. The twelve- (12) month period commencing on the date of the First Closing, currently anticipated to be the period from July 1, 2015 to June 30, 2016.

First Year of Condominium Operation. The twelve- (12) month period commencing on the date of the First Closing, currently anticipated to be the period from July 1, 2015 to June 30, 2016.

First Year of Residential Section Operation. The twelve- (12) month period commencing on the date of the First Closing, currently anticipated to be the period from July 1, 2015 to June 30, 2016.

Floor Plans: The floor plans of the Building which will be filed with, and approved by, the Tax Map Unit, Land Records Division, NYC Department of Finance and recorded in the City Register's Office at the time the Declaration is recorded. The Floor Plans will show the locations of the Units and the Common Elements in the Building.

General Common Charges: Assessments payable to the Condominium Board by or on behalf of the Unit Owners for the purpose of meeting General Common Expenses. The Residential Common Charges payable by each Residential Unit Owner will include a proportionate share (among all Residential Unit Owners) of the portion of General Common Expenses allocated by the Condominium Board to the Residential Section. (The Residential Board will pay such General Common Charges to the Condominium Board on behalf of all Residential Unit Owners.) The Commercial Common Charges payable by each Commercial Unit Owner will include a proportionate share (among all Commercial Unit Owners) of the portion of General Common Expenses allocated by the Condominium Board to the Commercial Units. (The Commercial Board will pay such General Common Charges to the Condominium Board on behalf of all Commercial Unit Owners.)

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

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

General Rules and Regulations: The rules and regulations of the Condominium, if any, that may be made and amended in accordance with the Condominium By-Laws from time to time.

Initial Control Period: The period ending upon the later to occur of: (a) the fifth anniversary of the First Closing; or (b) the closing of title to Residential Units representing more

than ninety percent (90%), both in number and in aggregate Common Interests, of all Residential Units.

Land: The land situated on the west side of Park Avenue between East 56th Street and East 57th, New York, New York, comprising the parcel commonly known as 432 Park Avenue, New York, New York, as further and more particularly described in the Declaration.

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

Managing Agents: The Condominium Managing Agent and the Residential Managing Agent, collectively, or as the context may otherwise require.

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

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

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

Office Unit Power of Attorney: The Office Unit Owner power of attorney, the form of which is set forth as Exhibit 3 in Part II of the Plan.

Park Avenue Pavilion: That structure principally containing Retail Unit C, located principally on a portion of the Land located on the northwest corner of Park Avenue and East 56th Street, and connected to the Tower at the Cellar Level, and which, together with the Tower, comprises the Building.

Permitted Encumbrances: Those matters encumbering title to a Unit offered hereunder subject to which a Purchaser agrees to take title, as more particularly itemized on "Schedule A" annexed to the form of Agreement (Exhibit 1 in Part II of the Plan) as the same may be revised from time to time.

Permitted Mortgage: A mortgage of a Residential Unit(s) or Office Unit(s) permitted to be placed thereon pursuant to the provisions of the Condominium By-Laws, Residential By-Laws or Commercial By-Laws, as applicable.

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

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

Purchaser: A purchaser of one (1) or more of the Residential Units or Office Units offered hereunder pursuant to an Agreement.

Residential Board: The board of managers for the Residential Section.

Residential By-Laws: The by-laws governing the operation of the Residential Section, the form of which is set forth as Exhibit 12 in Part II of the Plan.

Residential Common Charges: Assessments payable to the Residential Board by the Residential Unit Owners, pro rata, in accordance with their respective Residential Common Interests (except as otherwise provided in the Declaration, the Condominium By-Laws or the Residential By-Laws) for the purpose of meeting the Residential Common Expenses, including without limitation, each Residential Unit Owner's share of General Common Charges as allocated by the Condominium Board to the Residential Section.

Residential Common Expenses: Those costs and expenses in connection with the repair, maintenance, replacement, restoration, care, upkeep and operation of, and any alteration, addition or improvement to, the Residential Limited Common Elements and the business and affairs of the Residential Section as determined by the Residential Board, plus a portion of the General Common Expenses of the Condominium as allocated to the Residential Section by the Condominium Board in accordance with the Condominium By-Laws.

Residential Common Interest: The Common Interest appurtenant to each Residential Unit in proportion to the Common Interest appurtenant to all Residential Units in the aggregate and whenever in this Plan (or in the Condominium By-Laws or Residential By-Laws) it is stated that a certain percentage of Common Interest of all Residential Unit Owners is required, such percentage shall be of the Residential Common Interest of all such Residential Unit Owners.

Residential Limited Common Elements: Those Common Elements which serve or benefit exclusively one (1) or more of the Residential Units or the Residential Unit Owners as more particularly described in the Declaration.

Residential Managing Agent: The managing agent of the Residential Section from time to time. It is anticipated that the Residential Managing Agent will initially be Cooper Square Realty, Inc., a management firm engaged in the management of luxury residential and mixed use buildings in New York City, pursuant to a management agreement, as more fully described in the Section entitled "Management Agreement and Other Contracts" in Part I of the Plan.

Residential Restaurant: The private restaurant located on Floor 12 for use solely by occupants of Residential Units and their guests.

Residential Rules and Regulations: The rules and regulations of the Residential Section, the initial form of which is annexed to the Residential By-Laws (Exhibit 12 in Part II of the Plan), as the same may be amended in accordance with the Residential By-Laws from time to time.

Residential Section: The Residential Units and Residential Limited Common Elements (including the Storage Closets and Wine Cellars).

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

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

Residential Unit Power of Attorney: The Residential Unit Owner power of attorney, the form of which is set forth as Exhibit 2 in Part II of the Plan.

Sales Office: The sales office for the Units offered hereunder, at a location to be designated by Selling Agent from time to time. The Sales Office will initially be located at 767 Fifth Avenue, 21st Floor, New York, New York.

Selling Agent: Macklowe Properties Sales LLC, having an address at 767 Fifth Avenue, 21st Floor, New York, New York.

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

Sponsor's Office: The office of Sponsor located at 515 Madison Avenue, 41st Floor, New York, New York or any other office regularly maintained by Sponsor in the City of New York.

Storage Closet: The fifty-nine (59) storage closets located on the Subcellar 2 Level and Subcellar 1 Level of the Tower, which will be made available for the exclusive use of certain of the Residential Unit Owners and which constitute Residential Limited Common Elements, and licenses for which are being offered for sale hereunder by Sponsor.

Storage License: The licenses being offered for sale hereunder by Sponsor in respect of a Storage Closet. The form of Storage License to be used for licensing the use of such Storage Closets to individual Residential Unit Owners is set forth as Exhibit 16 in Part II of the Plan.

Studio Unit: The twenty-five (25) Residential Units specially designated in the Declaration as Studio Units located on portions of Floors 28 and 29 of the Tower, which except for Sponsor, no Unit Owner may own without also owning a Residential Unit that is not a Studio Unit, and as subject to the use restrictions more particularly described in the Declaration, Condominium By-Laws and Residential By-Laws.

Studio Unit Owner: An owner of any Studio Unit at the time in question, who except for Sponsor, must also own at all times a Residential Unit that is not specially designated in the Declaration as a Studio Unit.

Title Company: First American Title Insurance Company (633 Third Avenue, New York, New York 10017, New York, New York, Attention: Matthew C. Cahill; (212) 850-0646), or such other or additional company/ies designated by Sponsor in an amendment to this Plan. Purchasers may obtain title insurance from the Title Company or, without incurring additional fees from Sponsor, from any other title company of Purchaser's choosing.

Tower: That structure that will feature eighty-four (84) stories above grade, with a Subcellar 2 Level, Subcellar 1 Level and Cellar Level below grade, located principally in the center portion of the Land, and connected to the Park Avenue Pavilion at the Cellar Level, and which, together with the Park Avenue Pavilion, comprises the Building.

Twelfth Floor Terrace: The terrace located on Floor 12 of the Tower for exclusive (shared) use by occupants of Residential Units and their guests.

Unit: Any space designated as a Residential Unit (including a Studio Unit), Office Unit, Club Unit, Retail Unit or Garage Unit in the Declaration, consisting, generally, of the relevant condominium unit in the Building and an appurtenant undivided interest in the General Common Elements and, with respect to the Residential Units, the Residential Limited Common Elements, and, with respect to the Commercial Units, the Commercial Limited Common Elements. All or any of such Units are collectively referred to as the "Units."

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

Unsold Office Units: Any Office Unit owned or retained, by way of lease or any other arrangement by which management and/or financial responsibility is retained, by Sponsor or any of its designees as the holder of one (1) or more Unsold Office Units; any Office Unit that is acquired, individually or collectively, by a principal of Sponsor or a group of which Sponsor or one or more of its principals is a member; or an Office Unit that is acquired, individually or collectively, by either the holder of a Permitted Mortgage given by Sponsor or the designee of a holder of such a Permitted Mortgage. All or any of such Office Units are collectively referred to as the "Unsold Office Units."

Unsold Residential Units: Any Residential Unit owned or retained, by way of lease or any other arrangement by which management and/or financial responsibility is retained, by Sponsor or any of its designees as the holder of one (1) or more Unsold Residential Units; any Residential Unit that is acquired, individually or collectively, by a principal of Sponsor or a group of which Sponsor or one or more of its principals is a member; or a Residential Unit that is acquired, individually or collectively, by either the holder of a Permitted Mortgage given by Sponsor or the designee of a holder of such a Permitted Mortgage. All or any of such Residential Units are collectively referred to as the "Unsold Residential Units."

Unsold Units: Unsold Residential Units and/or Unsold Office Units, as the context may require.

Wine Cellar: The eighteen (18) wine cellars located on the Subcellar 1 Level of the Tower, which will be made available for the exclusive use of certain of the Residential Unit Owners and which constitute Residential Limited Common Elements, and licenses for which are being offered for sale hereunder by Sponsor.

Wine Cellar License: The licenses being offered for sale hereunder by Sponsor in respect of a Wine Cellar. The form of Wine Cellar License to be used for licensing the use of such Wine Cellars to individual Residential Unit Owners is set forth as Exhibit 17 in Part II of the Plan.

Zoning Resolution: Zoning Resolution of The City of New York, effective as of December 15, 1961, as the same has been and hereafter may be amended from time to time.

All other capitalized terms used in Part I of the Plan which are not separately defined in Part I shall have the meanings ascribed thereto in the Declaration, Condominium By-Laws, Residential By-Laws or Commercial By-Laws, as the case may be. Unless the context otherwise requires, words used in the singular include the plural and vice versa, and a reference herein to any one gender, masculine, feminine or neuter, includes the other two.

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## B. DESCRIPTION OF THE PROPERTY AND IMPROVEMENTS

The following is a general description of the Property, including the Land, Building, Units and Common Elements, as well as certain facilities and services anticipated to be provided at the Condominium. For a more detailed physical description of the Property, see "Description of Property and Specifications" as set forth as Exhibit 6 in Part II of the Plan.

### 1. The Building, the Tower and the Park Avenue Pavilion

The Building is comprised of the Tower and the Park Avenue Pavilion, and is located on the Land, situated on the west side of Park Avenue between East 56th Street and East 57th Street, and consists of Block 1292, Lots 33, 43, 45 and 46 on the Tax Map of the Borough of Manhattan. The Tower, which contains the Main Lobby, Residential Units, Retail Unit A, Retail Unit B, the Club Unit and the Office Units, is located principally in the center portion of the Land. The Park Avenue Pavilion, which contains Retail Unit C, is located principally on a portion of the Land located on the northwest corner of Park Avenue and East 56th Street. The Tower and Park Avenue Pavilion are connected underground at the Cellar Level.

The Building will contain 147 Residential Units; fifty-nine (59) Storage Closets; eighteen (18) Wine Cellars; twelve (12) Office Units; the Club Unit; three (3) Retail Units; and the Garage Unit. The Tower lobby will be located on the Ground Floor of the Tower, set back from East 56th Street (the "Main Lobby"). The Main Lobby will provide: (i) access to the Residential Section lobby, which includes the elevators (and surrounding area) servicing the Residential Section, the mail room, and a concierge (the "Residential Lobby"); and access to the elevator and surrounding area servicing the Club Unit and Office Units (the "Commercial Lobby").

The portion of the Land between the Main Lobby and East 56th Street will be occupied by a private courtyard (the "Courtyard"), which will feature a semi-circular driveway leading from East 56th Street to the Main Lobby and the entry point to the Garage Unit and loading dock area. The portion of the Land to the east of the Courtyard and to the west of the Park Avenue Pavilion will be occupied by a private garden (the "Garden"), which will feature landscaped areas. The Courtyard and the Garden may be separated by a hedge approximately 6' in height. (See the floor plan labeled "First Floor Main Lobby & Retails" as set forth in Exhibit 7 in Part II of the Plan.)

Sponsor intends to dedicate the Garden as a public area. As of the date of this offering, such use has not been approved by the Department of Buildings. Sponsor has submitted an application to the Department of Buildings for approval of such use, and upon receipt of such approval, Sponsor will amend the Offering Plan to this effect. Sponsor makes no representation that it will receive such approval. However, the Courtyard will always remain a private area. In addition, Sponsor may make an application to the Chairperson of the City Planning Commission for certification that qualifies the Garden as a "public plaza." Such certification would generate a floor area bonus for the Property, impose certain design standards, and require that the "public plaza" be open to the public twenty-four (24) hours per day. Without limiting other rights reserved by Sponsor hereunder with respect to the subdivision and combination of Units or otherwise, Sponsor expressly reserves the further right prior to the First Closing to increase the number of Residential Units contained within the Tower by adding floor slabs separating multi-

level Units and/or separating the same into separate Units in the event the Chairperson of the City Planning Commission certifies such use of the Garden and such floor area bonus is granted, and in such event, the Common Interest allocation to each of the Units may be modified by Sponsor in an amendment to the Plan to reflect the increased square footage in the aggregate. However, once the Plan has been declared effective, Sponsor shall not, as a result of the certification of such floor area bonus, increase the number of Residential Units offered hereunder if the number of Residential Units as to which executed Agreements are then in effect with Purchasers would, after giving effect to any such increase, constitute fewer than fifteen percent (15%) of total number of Residential Units. In the event Sponsor creates such additional Units, Purchasers shall have no right of rescission with respect to their Unit(s); provided, however, that in the event the Common Interest appurtenant to a Unit is increased in excess of five percent (5%), Sponsor shall offer the materially adversely affected Purchaser(s) the right, for at least fifteen (15) days, to rescind their Agreements and receive a refund of their Deposit, together with all interest earned thereon. In such case, Purchasers shall have no right of rescission in the event the Common Interest appurtenant to a Unit is reduced.

The Tower will include the Residential Restaurant and the Twelfth Floor Terrace, which shall be solely for the use of the occupants of the Residential Section and their guests. Building management support spaces, the compactor room, and plumbing, mechanical, electrical rooms and other service areas will be located in portions of the Subcellar 2 Level, Subcellar 1 Level, Cellar Level, and Floors 2, 5, 18, 20, 30, 31, 46, 47, 60, 61, 74, 75, 89, 90 and 96 through 101 of the Tower, and other parts of the Building. Further, there is a mass damper on the top of the Tower.

The Office Units, located principally on portions of Floors 18 through 20 of the Tower, are currently anticipated to initially be used for office purposes (and ancillary uses); Retail Unit A, located principally on portions of the Cellar Level through Floor 5 of the Tower, is currently anticipated to initially be used for retail purposes (and ancillary uses); Retail Unit B, located principally on portions of the Cellar Level and Ground Floor through Floor 5 of the Tower, is currently anticipated to initially be used for retail purposes (and ancillary uses); Retail Unit C, located on the Cellar Level and in the Park Avenue Pavilion, which is a stand-alone structure (above grade), located principally on a portion of the Land located on the northwest corner of Park Avenue and East 56$^{th}$ Street, and connected to the Tower underground at the Cellar Level, is currently anticipated to initially be used for retail purposes (and ancillary uses); the Garage Unit, located at the Subcellar 2 Level of the Tower, is currently anticipated to initially be used as accessory parking (and ancillary uses); and the Club Unit, a social health club, featuring a fitness center (including exercise equipment, a swimming pool, whirlpool, sauna, steam room and locker rooms), library, conference room and screening room, located principally on portions of Floors 12, 14, 15 and 16 of the Tower and for the use of Residential Section residents and other members, is currently anticipated to initially be used for social and health club purposes (and ancillary uses) as a Physical Culture Establishment as defined in the Zoning Resolution.

Notwithstanding any of the foregoing, no representation or warranty is made with respect to such initial or any subsequent uses of any Commercial Unit or with respect to who the owner or tenant(s) of any Commercial Unit may be at any time.

The Tower, which as of the initial filing date of this Plan is under construction, will feature eighty-four (84) stories above grade, with a Subcellar 2 Level, Subcellar 1 Level and Cellar Level below grade. It is anticipated that the total height of the Tower from the Ground Floor finished floor elevation to the top of the main roof enclosure will be approximately 1,396.7 inches. For the purposes of marketing, no floor has been designated "6" through "11", "13", "17", "21" through "26", "32", "33" and "76", though construction necessitates a consecutive numbering of floors. Therefore, two different methods of numbering floors exist. Purchasers should refer to the Description of Property and Specifications set forth as Exhibit 6 in Part II of the Plan for further details. The Park Avenue Pavilion, which as of the initial filing date of this Plan is under construction, will feature three (3) stories above grade, and will be connected underground to the Tower at the Cellar Level. The height of the Park Avenue Pavilion will be 85'.

The Tower structural system is comprised primarily of concrete shear walls, a perimeter column/beam tube system, and slab frames across the width of the Tower and parallel to the length. Outrigger braces or walls are provided intermittently throughout the height of the Tower to provide additional lateral bracing. The Ground Floor of the Tower, Retail Units A and B and the Park Avenue Pavilion shall be primarily steel framed with composite concrete over metal deck slabs. The exterior walls of the Tower are comprised primarily of an aluminum curtain wall system and exposed reinforced concrete. The exterior façade of the Retail Units A and B and the Park Avenue Pavilion will feature an aluminum curtain wall and glass storefronts. All exterior wall assemblies, roofs and terraces shall have insulation values in compliance with the New York State Energy Code and fire resistance ratings in compliance with the New York City Building Code.

Construction of the Building, including the individual Units, will be completed substantially in accordance with the Plans and Specifications, and otherwise in accordance with the Zoning Resolution and the Building Code of The City of New York. However, Sponsor reserves the right to amend or modify, in any way, the Plans and Specifications (including, without limitation, changing materials, appliances, equipment, fixtures and other construction details) and substitute in place of any materials, appliances, equipment and fixtures set forth therein or in Exhibit 6 in Part II of the Plan, items of substantially equal or better quality, provided, however, that any material change affecting the Residential Section shall be set forth in an amendment to the Plan, that any necessary approval of any governmental authority having jurisdiction is first obtained, and that no such amendments, modifications or substitutions may be made if the same would materially adversely affect any Purchaser under an Agreement which has been countersigned by Sponsor and returned to the Purchaser unless the same is dictated by construction conditions at the Property (such as coordination of Building systems, conflicts with structural members or elements, conforming with Legal Requirements, unforeseen events, etc. and, in all cases, in good faith, reasonably necessary due to factors not within Sponsor's reasonable control, and where no practicable alternative (in the exercise of sound construction management practices) exists), and in such event, Sponsor will, in the amendment disclosing such change and delivered to the Purchasers, offer any materially adversely affected Purchaser(s) the right, for at least fifteen (15) days, to rescind their Agreements and receive a refund of their Deposit, together with all interest earned thereon. (Any such changes that are not both material and adverse will not give rise to a right of rescission.)

The location in the Building, and the size, layout and approximate square footages of the Units offered hereunder are shown on the Floor Plans set forth as Exhibit 7 in Part II of the Plan. Such Floor Plans are subject to the rights of Sponsor or its designee 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 the Section of entitled "Changes in Prices and Units: Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses" in Part I of the Plan; provided, however, that any material change (for example, a reduction in square footage in excess of five percent (5%)) shall be set forth in an amendment to the Plan, and no material adverse change will be made in the size (i.e., decrease), configuration or layout of a Unit for which an Agreement 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 Agreements and receive a refund of their Deposit, together with all interest earned thereon.

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

The Building incorporates 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 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 Boards 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 high-rise residential or mixed-use 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: (i) construction of the Building will be sufficiently completed to permit closings of title to Residential Units to begin on or about July, 2015, and (ii) construction of the Building will be sufficiently completed to permit closings of title to all Residential Units subject to executed Agreements for which no default exists on or about December, 2015. 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 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 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 Residential Section Operation is to be delayed by six (6) months or more, Sponsor will amend the Plan to include a revised Residential Section budget with current projections and if: (i) such amended budget exceeds the projected Residential Section budget set forth herein by twenty-five percent (25%) or more; or (ii) the First Closing does not occur within twelve (12) months after July, 2015, the date set forth in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" as the commencement date for the projected First Year of Residential Section 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 twelve (12) month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Deposit and any interest accrued thereon returned. Purchasers' rights as described in the preceding sentence are in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of which shall be deemed to have been waived by all Purchasers. As set forth in the Section entitled "Effective Date" in Part I of the Plan, no closing of title to any Unit offered hereunder will take place prior to the Plan being declared effective.

## 2. Residential Units

The Tower will include a total of 147 Residential Units, consisting of: (i) 121 Residential Units located on portions of Floors 34 through 45, 48 through 59, 62 through 73, 77 through 88, and 91 through 95 of the Tower; (ii) twenty-five (25) Residential Units specifically designated as Studio Units located on portions of Floors 28 and 29 of the Tower; and (iii) a Residential Unit (anticipated to be Unit 28M) located on Floor 28 of the Tower which will be used as the Resident Manager's Unit.

The Residential Units vary in size from one-bedroom apartments with approximately 1,416 square feet to six-bedroom apartments with approximately 8,255 square feet. The Studio Units are studio apartments that vary in size from approximately 342 square feet to 615 square feet and include a kitchen and bathroom. Detailed descriptions of the Residential Units and Studio Units are set forth in Part II of the Plan as Exhibit 6 (Description of Property), Exhibit 7 (Floor Plans), and Exhibit 10 (Declaration). Exhibit 6 also includes a detailed description of the fixtures, finishes, appliances and equipment included in each Residential Unit and Studio Unit.

There will be no modifications, special work performed or items of personal property included for any Residential Unit unless set forth in the Agreement for such Residential Unit. Moreover, Sponsor shall not be obligated to correct and shall have no liability or responsibility to any Purchaser for, and no Purchaser shall be entitled to any reduction in or credit against the purchase price of his or her Residential Unit or be otherwise relieved from performing his or her obligations under the Agreement as a result of minor or insubstantial inaccuracy or error in the floor plans for such Residential Unit as set forth in Part II of the Plan as Exhibit 7.

As set forth in more detail in the Declaration and Residential By-Laws, those Residential Units specially designated as Studio Units may be used only as a residence occupied by domestic employees of a Residential Unit Owner, as well as the Residential Unit Owners, Family Members and non-paying guests of Residential Unit Owners. Occupancy of the Studio Units by non-paying guests shall not exceed three (3) months, unless the prior written consent of the Residential Board is obtained. Except for Sponsor, no Unit Owner may own a Studio Unit without also owning a Residential Unit that is not a Studio Unit. In the event a Residential Unit Owner who owns a Studio Unit rents his or her Residential Unit, such Residential Unit Owner must also rent his or her Studio Unit either to the tenant of the Residential Unit (in such case, for a term consistent with the lease to the Residential Unit), or another Residential Unit Owner (in such case, for a term one (1) year). Each Studio Unit will be equipped with a kitchen and bathroom.

**3. Commercial Units**

In addition to the Residential Units, the Condominium will initially include the following Commercial Units: (i) twelve (12) Office Units; (ii) the Club Unit; (iii) three (3) Retail Units (referred to as "Retail Unit A", "Retail Unit B" and "Retail Unit C" (Retail Unit A and Retail Unit B are located within the podium of the Tower, and Retail Unit C is located within the Park Avenue Pavilion); and (iv) the Garage Unit.

No income derived from any use of such Commercial Units will constitute income to any Board or any Unit Owner (except as may be expressly provided in the Condominium By-Laws or Commercial By-Laws to the contrary or pursuant to separate written agreement by or among the applicable parties). In addition, subject to all applicable zoning regulations and the Declaration, Condominium By-Laws and Commercial By-Laws, the Commercial Units may be sold, leased or subleased by the Unit Owners thereof, or subdivided by such Unit Owners into two (2) or more separate units and such subdivided units sold or leased. The Commercial Units may be used for any lawful purpose, including, without limitation, for retail, hotel, restaurant, banking, commercial, office, storage, garage, residential (to the extent the certificate of occupancy is amended to permit such use), fitness facility and utility purposes (and ancillary uses of any of the foregoing). The Condominium Board or Commercial Board will have no right to restrict or limit any of the uses of, or alterations in or to, the such Commercial Units (including the portions thereof facing the street or public area) which are permitted by law and applicable zoning ordinances, except as otherwise set forth in the Declaration, the Condominium By-Laws and the Commercial By-Laws.

The Office Units, located principally on portions of Floors 18 through 20 of the Tower, are currently anticipated to initially be used for office purposes (and ancillary uses); Retail Unit A, located principally on portions of the Cellar Level through Floor 5 of the Tower, is currently anticipated to initially be used for retail purposes (and ancillary uses); Retail Unit B, located principally on portions of the Cellar Level and Ground Floor through Floor 5 of the Tower, is currently anticipated to initially be used for retail purposes (and ancillary uses); Retail Unit C, located on the Cellar Level and in the Park Avenue Pavilion, which is a stand-alone structure (above grade), located principally on a portion of the Land located on the northwest corner of Park Avenue and East 56$^{th}$ Street, and connected to the Tower underground at the Cellar Level, is currently anticipated to initially be used for retail purposes (and ancillary uses); the Garage

Unit, located at the Subcellar 2 Level of the Tower, is currently anticipated to initially be used as accessory parking (and ancillary uses); and the Club Unit, a social health club, featuring a fitness center (including exercise equipment, a swimming pool, whirlpool, sauna, steam room and locker rooms), library, conference room and screening room, located principally on portions of Floors 12, 14, 15 and 16 of the Tower and for the use of Residential Section residents and other members, is currently anticipated to initially be used for social and health club purposes (and ancillary uses) as a Physical Culture Establishment as defined in the Zoning Resolution.

Sponsor expressly reserves the right to create additional Office Units by, among other things, subdividing and reconfiguring the Retail Units and, in connection with such subdivision and reconfiguration, redesignating in an amendment to the Declaration, among other things, a portion of a subdivided Retail Unit's space as an additional Office Unit. Sponsor expressly reserves the right, from time to time prior to the First Closing, to effect such changes and to amend the Plan so as to reflect the same.

Further, while it is anticipated that the Club Unit will contain a health club facility open to the public, Sponsor makes no representation or warranty regarding the use of such space. As of the filing of this Plan, Sponsor has been issued a building permit by the Department of Buildings, and such permit lists the permitted use of the Club Unit as a Physical Culture Establishment as defined in the Zoning Resolution, which use has been approved by the New York City Board of Standards and Appeals (the "BSA").

At or following the First Closing, Sponsor will sell the Club Unit to the Residential Board. At the Closing to each Residential Unit, the Purchaser thereof, as a closing cost of such Purchaser's Residential Unit, will be required to pay such Purchaser's share of the purchase price of the Club Unit determined in proportion to their respective Common Interests, as set forth on Schedule A – "Purchase Prices and Related Information." Health Club members will pay monthly fees in respect of Health Club membership.

The Club Unit and the Office Units will be accessed via the Commercial Lobby, which is on the western portion of the Main Lobby of the Tower. Office Unit Owners and Health Club members (including individuals who are not Residential Unit Owners) will therefore be permitted to enter the Main Lobby in order to access the Commercial Lobby. However, those Office Unit Owners and Health Club members who are not Residential Unit Owners will not be permitted to access the Residential Lobby. Guests or tenants of Office Unit Owners shall be prohibited from loitering in either the Commercial Lobby or the Main Lobby, or otherwise using such spaces as a waiting area.

(See the Section entitled "Commercial Units" in Part I of the Plan for further discussion.)

**4. Storage Closets and Wine Cellars**

There will be a total of fifty-nine (59) Storage Closets located in the Subcellar 2 Level and Subcellar 1 Level of the Tower, and eighteen (18) Wine Cellars located in the Subcellar 1 Level of the Tower. The Storage Closets vary in size from 35 square feet to 79 square feet, and the Wine Cellars vary in size from 35 square feet to 84 square feet. Sponsor reserves the right to change the number and size of the Storage Closets and Wine Cellars by, among other things,

subdividing and reconfiguring the Storage Closets and Wine Cellars and, in connection with such subdivision and reconfiguration, redesignating in an amendment to the Declaration, among other things, a portion of a subdivided Storage Closet's or Wine Cellar's space. Sponsor expressly reserves the right, from time to time prior to the First Closing, to effect such changes and to amend the Plan so as to reflect the same.

Purchasers of Residential Units will have the opportunity to purchase from Sponsor the rights to a Storage Closet pursuant to a Storage License (please refer to Exhibit 16 of Part II of the Plan for the form of Storage License) and a Wine Cellar pursuant to a Wine Cellar License (please refer to Exhibit 17 of Part II of the Plan for the form of Wine Cellar License). Storage Licenses and Wine Cellar Licenses may only be purchased by and sold only to Residential Unit Owners. If at any time the licensee of a Storage Closet or Wine Cellar sells its Residential Unit, it shall simultaneously assign its license of the Storage Closet and/or Wine Cellar to the purchaser of such Residential Unit or to another owner of a Residential Unit, failing which, the Residential Board shall have the right to terminate the license of the Storage Closet and/or Wine Cellar and take possession of the same, without compensation to the licensee.

The Storage Closets may only be used for storage purposes, and the Wine Cellars may only be used for the storage of wine and other beverages, and in no event may either be used as a dwelling space or for the storage of toxic or inflammable items or Combustibles (as such term is defined in the New York City Building Code). No materials which pose a health or safety threat or which otherwise create a nuisance may be stored in the Storage Closets and Wine Cellars. To do so may result in a violation placed against the Building by the Department of Buildings that will be the obligation of the licensee to remove. Notwithstanding the foregoing, Sponsor or its designee shall have the right to use without charge any Unlicensed Storage Closets and Unlicensed Wine Cellars for any lawful purpose or to change the permitted use of any Unlicensed Storage Closets and Unlicensed Wine Cellars, subject, however, to the provisions of Article 6 of the Residential By-Laws which provide, among other things, that no use shall be allowed in the Condominium which interferes with the peaceful possession and proper use of the Condominium by its occupants.

Each licensee shall be liable for all damage arising out of such licensee's use or misuse of its Storage Closet or Wine Cellar. Neither the Sponsor, nor its respective agents or employees shall be liable for any theft or damage to any property stored in the Storage Closets and Wine Cellars. Each licensee shall indemnify and hold Sponsor and its respective directors, officers, partners, parent and subsidiary and affiliated companies, agents and employees, harmless from and against any and all liabilities, claims, causes of action, damages, lawsuits, penalties, judgments, and liens, together with any related costs and expenses, including but not limited to reasonable legal fees, asserted against or sustained by any of them in connection with any act, omission, or negligence of a licensee or a licensee's family, servants, employees, agents, guests and invitees in connection with the purchase of a Storage License or Wine Cellar License.

All of the Wine Cellars will be located on the Subcellar 1 Level of the Building in a single room serviced by two (2) HVAC units (one (1) on-line and one (1) stand-by) that will set both temperature and humidity and are controlled by one (1) thermostat. The Wine Cellars will be built out by a to-be determined independent company engaged by Sponsor. The temperature range for the room containing the Wine Cellars shall be determined by the Residential Board in

consultation with such company. The Residential Board shall have the authority to modify such temperature ranges in its sole discretion. The current design for the climate of the room in which the Wine Cellars are located is 52-57 degrees Fahrenheit with a relative humidity of sixty percent (60%) to seventy percent (70%). All wine and other beverages stored in a Wine Cellar shall be at the licensee's sole risk. Neither Sponsor, the Condominium Board, the Residential Board, nor the Managing Agents shall be liable for any spoilage caused by the failure of the HVAC or any other causes whatsoever.

## 5. Terraces

As indicated in the Description of Property and Specifications (Exhibit 6 in Part II of the Plan) and the Floor Plans (Exhibit 7 in Part II of the Plan), there are bi-level mechanical spaces located on Floors 30/31, 46/47, 60/61, 74/75 and 89/90 of the Tower. Such mechanical spaces are open-air and windowless, thereby resulting in terraces on Floors 30, 46, 60, 74 and 89 of the Tower, which are not accessible to Unit Owners (the "No-Access Terraces"). Each such No-Access Terrace is a General Common Element. In addition, the Twelfth Floor Terrace will be located on Floor 12 of the Tower and shall be solely for the use of the occupants of the Residential Section and their guests. (See the Section entitled "Description of the Property and Improvements" in Part I of the Plan for further discussion.)

## 6. Common Elements

As is set forth in more detail in the Declaration, the Common Elements consist of the Land, together with all easements, rights and privileges appurtenant thereto (except as otherwise expressly provided in the Declaration) and all parts of the Building other than the Units themselves, including, generally, the foundations, roofs and supports of the Tower and Park Avenue Pavilion and all other parts of the Tower and Park Avenue Pavilion and all apparatus, installations, systems, equipment and facilities therein for the common use of the Units and Unit Owners or which are necessary or convenient for the existence, maintenance or safety of the Property. The Common Elements are divided into the following separate categories: (a) the General Common Elements, which are, generally, those Common Elements which serve or benefit all the Units or Unit Owners; (b) the Residential Limited Common Elements, which are, generally, those Common Elements which serve or benefit exclusively the Residential Units or the Residential Unit Owners; and (c) the Commercial Limited Common Elements, which are, generally, those Common Elements which serve or benefit exclusively the Commercial Units or the Commercial Unit Owners. The Common Elements cannot be divided or partitioned, except as provided in the New York Condominium Act. A Unit Owner's interest in the Common Elements shall not be separated from the Unit to which it appertains. For a detailed description of the Common Elements, see Article 7 of the Declaration (Exhibit 10 in Part II of the Plan) and the Description of Property and Specifications (Exhibit 6 in Part II of the Plan).

### a. General Common Elements

The General Common Elements consist of all Common Elements other than the Residential Limited Common Elements or Commercial Limited Common Elements, and include, among other things, the following: (i) the Land, together with all easements, rights and privileges appurtenant thereto (except as otherwise expressly provided in the Declaration); (ii) all

structural elements, foundations, foundation walls, roofs (except as otherwise expressly provided in the Declaration), footings, columns, girders, beams, supports, interior load-bearing walls, floor slabs (but not flooring material) and ceilings (when they contain Common Element mechanical systems and are made of two hour fire rated construction); (iii) the cooling tower; (iv) all halls, passages and corridors, storage rooms, housekeeping areas, mechanical and other utility rooms, all fire staircases, landings, lobbies and stairs, areas and spaces located in the Building, which are not Residential Limited Common Elements, Commercial Limited Common Elements or included in any Unit; (v) any ventilation system consisting of pumps, motors, ductwork, fans and controls, steam and condensate return piping, serving or benefiting any combination of the Residential Units and the Commercial Units; (vi) hot water and chilled or condenser water systems serving or benefiting any combination of the Residential Units and the Commercial Units; (vii) all enclosing walls and doors and all mechanical equipment and associated piping and controls and all utilities and mechanical and electrical transfers and equipment serving or benefiting any combination of the Residential Units and the Commercial Units; (viii) all electrical risers, feeders, lines and equipment, including incoming service, main switchgear and distribution panelboards, conduits, wires, meters, transformers and panelboards serving or benefiting any combination of the Residential Units and the Commercial Units, excluding, however, all such items located within a Unit and serving only that Unit; (ix) all plumbing fixtures, equipment for distribution of cold water and equipment for producing and distributing hot and chilled water, including pumps, valves, pressure reducers, meters and water heaters and chillers, excluding, however, all such items located within a Unit and serving only that Unit; (x) all storm and sanitary sewer equipment and pipes (including vent lines, ejectors, interceptors, filters and valves), excluding, however, all such items located within a Unit and serving only that Unit; (xi) all electric service rooms, gas, steam and water meter rooms, Building storage rooms, workrooms, washrooms, locker rooms, telephone rooms and other service, mechanical and utility rooms serving or benefiting any combination of the Residential Units and the Commercial Units; (xii) all elevators (including both passenger and service elevators) which are for the use of all or any combination of the Residential Units and the Commercial Units (but excluding the elevators traversing only space within a Commercial Unit) in each case including the shafts, elevator equipment, elevator pits and entrances and appurtenant facilities; (xiii) all other facilities of the Building (including shafts, pipes, wires, ducts, vents, flues, cables, conduits and lines) which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of any combination of the Residential Units and the Commercial Units; (xiv) whether or not specifically identified as part of the General Common Elements (or identified at all) on the Floor Plans, all other parts of the Property either existing for the common use of any combination of the Residential Units and the Commercial Units, or their respective Unit Owners or that are necessary or convenient for the existence, maintenance, operation or safety of the Property; (xv) all emergency generator rooms, elevator pit/runbys, compactor room, uniform room, workshops, maintenance storage, maintenance offices, locker rooms, engine room, pump room, electrical vault and all mechanical equipment serving same, all to the extent not located within a Commercial Unit; (xvi) all loading/receiving areas, elevators and Main Lobby (excluding those spaces identified as the Residential Lobby and Commercial Lobby), egress stairs and corridors and all associated mechanical equipment serving same; and the exterior space at the Tower and Park Avenue Pavilion entries consisting of any stairs, railings, lighting and other electrical equipment, marquees and ornamental fixtures, planters and other freestanding structures; excluding, in all instances, such of these as only serve the Residential

Units or Residential Unit Owners, and excluding such of these as are located within a Commercial Unit; (xvii) the Tower's service entrance located on the Ground Floor of the Tower and facing East 56th Street between Park Avenue and Madison Avenue; (xviii) the Courtyard and the Garden; (xix) the No-Access Terraces; (xx) enclosing walls and doors surrounding mechanical equipment; all utilities and mechanical and electrical transfers and equipment used for all or any combination of the Residential Units and the Commercial Units; (xxi) with respect to any roof of the Building, egress stairs, elevator machine rooms, house tank rooms and their enclosing walls and doors and all mechanical equipment serving same, excluding in all instances the Twelfth Floor Terrace; (xxii) smoke detection, alarm system, and sprinkler system; telephone system and cable television system existing for the common use of any combination of the Residential Units and the Commercial Units, except as located within an individual Unit; (xxiii) all security monitors and equipment and other security facilities serving or benefiting all or any combination of the Residential Units and the Commercial Units; (xxiv) the installations, equipment, apparatus, facilities, exterior walls, interior walls, doors, partitions, floors, roofs, ceilings, hallways, lobbies, corridors and vestibules that enclose or service any one of the Units but are not part of such Unit (the storefront of a Commercial Unit, however, shall be deemed to be a part of such Unit and shall not constitute a General Common Element); and (xxv) whether or not specifically identified as part of the General Common Elements (or identified at all) on the Floor Plans, all other parts of the Property and all equipment existing in the Tower or Park Avenue Pavilion or on the Property (other than those areas and items specifically identified on the Floor Plans as part of a Unit and/or the Residential Limited Common Elements or Commercial Limited Common Elements) the common use of and/or benefit from which is necessary or convenient for the existence, maintenance, operation or safety of the Property. The Common Elements cannot be divided or partitioned, except as provided in the New York Condominium Act. A Unit Owner's interest in the Common Elements shall not be separated from the Unit to which it appertains.

**b. Residential Limited Common Elements**

The Residential Limited Common Elements consist of the following: (i) to the extent shown on the Floor Plans as Residential Limited Common Elements, the Residential Lobby; (ii) 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 Tower which exclusively serve or benefit the Residential Units and are not part of any Unit; (iii) four (4) passenger elevators (PE-1, PE-2, PE-3 and PE-4), and the one (1) service elevator (SE-1) in each case including the shafts, elevator equipment, elevator pits and entrances and appurtenant facilities (specifically excluding elevators which traverse only portions of a Commercial Unit), service entrances and accessways to service elevators, all located on the Ground Floor; (iv) those stairs and stairways in the Tower shown on the Floor Plans as Residential Limited Common Elements (and excluding those stairs, stairways and fire stairways in the Tower shown on the Floor Plans as constituting part of another Common Element or Unit); (v) the Residential Restaurant; (vi) the Twelfth Floor Terrace; (vii) the Storage Closets located on the Subcellar 2 Level and Subcellar 1 Level of the Tower; (viii) the Wine Cellars located on the Subcellar 1 Level of the Tower; (ix) all Building storage rooms, locker rooms, telephone rooms and other service, mechanical and utility rooms not located in a Commercial Unit which serve or benefit only the Residential Units; (x) all windows appurtenant to or otherwise serving or benefiting only the Residential Units; (xi) all security monitors and equipment and other security facilities

serving or benefiting only the Residential Units; and (xii) whether or not specifically identified as part of the Residential Limited Common Elements (or identified at all) on the Floor Plans, all other parts of the Property and all telecommunications equipment and all other systems, installations and facilities (including shafts, pipes, wires, ducts, vents, flues, cables, conduits and lines) and Equipment in the Tower or on the Property (other than those areas and/or items specifically identified on the Floor Plans or herein as part of a Unit and/or the General Common Elements or Commercial Limited Common Elements), which serve or benefit or are necessary or convenient or existing for the common use, existence, maintenance, operation or safety of the Residential Units, or any combination of the Residential Units or the respective Unit Owners thereof.

**c. Commercial Limited Common Elements**

The Commercial Limited Common Elements consist of the following: (i) to the extent shown on the Floor Plans as Commercial Limited Common Elements, the Commercial Lobby; (ii) 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 Commercial Units and are not part of any Unit; (iii) three (3) elevators (RPE-1, RSE-2 and ASE-1) and two (2) lifts (TL-1 and CL-1) in each case including the shafts, elevator equipment, elevator pits and entrances and appurtenant facilities, service entrances and accessways to service elevators; (iv) those stairs and stairways in the Building shown on the Floor Plans as Commercial Limited Common Elements (and excluding those stairs, stairways and fire stairways in the Building shown on the Floor Plans as constituting part of another Common Element or Unit); (v) all Building storage rooms, locker rooms, telephone rooms and other service, mechanical and utility rooms not located in a Residential Unit which serve or benefit only the Commercial Units; (vi) all windows appurtenant to or otherwise serving or benefiting only the Commercial Units; (vii) all security monitors and equipment and other security facilities serving or benefiting only the Commercial Units; and (viii) whether or not specifically identified as part of the Commercial Limited Common Elements (or identified at all) on the Floor Plans, all other parts of the Property and all telecommunications equipment and all other systems, installations and facilities (including shafts, pipes, wires, ducts, vents, flues, cables, conduits and lines) and Equipment in the Building or on the Property (other than those areas and/or items specifically identified on the Floor Plans or herein as part of a Unit and/or the General Common Elements or Residential Limited Common Elements), which serve or benefit or are necessary or convenient or existing for the common use, existence, maintenance, operation or safety of the Commercial Units, or any combination of the Commercial Units or the respective Unit Owners thereof.

**7. Available 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 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.

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

(1) Doorman: A doorman will be on duty in the Residential Lobby twenty-four (24) hours per day, seven (7) days per week.

(2) Concierge: There will be a concierge on duty in the Residential Lobby and available twenty-four (24) hours per day, seven (7) days per week. It is anticipated that the concierge will assist residents with services such as arranging for professional laundry and dry cleaning, tailoring and alterations, shoe repair, housekeeping services, reservations and bookings for car and limousine services, restaurant reservations, referrals to spa and beauty services providers, referrals to clerical services, dog walking and pet boarding services, babysitting referrals, reserving theater, sporting and entertainment tickets, catering and party services and the like. At no per-use cost, the concierge will accept deliveries of packages and store them temporarily until picked up by the Residential Unit Owner or occupant. Purchasers are advised that not all of these services may be offered and those that are offered may not be available at all times.

(3) Elevator Service:

(a) Residential Elevators: There will be two (2) automatic passenger elevators servicing the Ground Floor through Floor 95, and two (2) automatic passenger elevators servicing the Ground Floor through Floor 84.

(b) Service Elevator: The service elevator will be available to Residential Unit Owners by prior arrangement with the Resident Manager and otherwise in accordance with established policies.

Purchasers should refer to the Description of Property and Specifications set forth as Exhibit 6 in Part II of the Plan for further details concerning the passenger and service elevators, as well as elevators servicing the Office Units, Garage Unit, Club Unit, Retail Units and the Park Avenue Pavilion.

(4) Twelfth Floor Terrace: The Twelfth Floor Terrace, will be located on the roof of Retail Units A and B, and will be accessible by elevator and stairs from Floor 12. The Twelfth Floor Terrace will be furnished with tables and chairs.

(5) Bicycle Storage: There will be bicycle storage in the Subcellar 1 Level of the Tower that can accommodate approximately eighty-one (81) bicycles. Accommodations for seventy-four (74) bicycles are allocated for the exclusive use of the occupants of the Residential Section, and accommodations for seven (7) bicycles are allocated for the exclusive use of tenants or employees of the Commercial Units. Bicycle storage will be available to Residential Unit Owners on a first come first served basis, although the Residential Board may implement Rules and Regulations with respect thereto.

(6) Communications: Residential Units and the concierge desk in the Residential Lobby will communicate via telephone. Occupants of each Residential Unit will be able to communicate directly with the concierge and/or lobby regarding the admission of guests and visitors. Further, the Building will be wired for cable and/or fiber optic television and Internet service.

(7) Building Staff: It is anticipated that the Residential Section will initially be staffed with, in addition to the Resident Manager, various service employees. See Notes to Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" for more detail.

(8) Refuse Disposal: There will be access to at least one (1) refuse chute and recycling bins in the service area of each floor of the Tower, except that refuse chutes will be located within certain Residential Units, and recycling bins will not be located on those Tower floors that contain either one (1) or two (2) Residential Units. In such cases, Building staff will arrange to collect any recyclable items. (See "Description of Property and Specifications" as set forth as Exhibit 6 in Part II of the Plan for further discussion.)

(9) Laundry: Each Residential Unit will contain a washer and dryer. Further, there will be a laundry facility located in the Subcellar 2 Level of the Tower.

(10) Smoke and Carbon Monoxide Detectors/Sprinklers: A combination smoke and carbon monoxide detector will be provided in each Residential Unit in compliance with Law. Additionally, the Building will be fully sprinklered in compliance with Law.

(11) Mail: All incoming mail will be delivered to the Building by the United States Postal Service and deposited by its personnel in locked mail boxes in the mailroom located in the Residential Lobby. Sponsor reserves the right to eliminate mailboxes from the design of the Building and to have mail delivered to Unit Owners by building staff.

**b. The Club at 432 Park Avenue**

The Club Unit will contain the Club at 432 Park Avenue (the "Health Club"). All Residential Unit Owners are required to be members of the Health Club. At or following the First Closing, Sponsor will sell the Club Unit to the Residential Board. Based on a purchase price of $640,000 in respect of the Club Unit, at the Closing to each Residential Unit, the Purchaser thereof, as a closing cost of such Purchaser's Residential Unit, will be required to pay on behalf of the Residential Board, such Purchaser's share of the purchase price of the Club Unit determined in proportion to their respective Common Interests, as set forth on Schedule A – "Purchase Prices and Related Information."

The affairs of the Health Club shall be governed by a three- (3) person committee of or designated by the Residential Board (the "Health Club Committee"). The Health Club Committee shall be responsible for overseeing membership and operation of the Health Club.

Membership will be mandatory for all Residential Unit Owners ("Owner Members"). Each Owner Member shall have the right to designate any adult Family Member residing in the Residential Unit as an "Associate Owner Member". Associate Owner Members shall have the

same rights as Owner Members with respect to use of the Health Club. Family Members residing in the Residential Unit who are under the age of sixteen (16) shall be permitted access to the Health Club so long as they are accompanied by an Owner Member at all times. Owner Members will be required to pay monthly dues on a per Residential Unit basis in an amount to be determined by the Health Club Committee. In the event a Residential Unit Owner is an entity, such entity shall be required to designate one (1) representative of such entity as its Owner Member.

Membership to the Health Club shall be conditioned upon the ownership of a Residential Unit. Thus, upon the resale of a Residential Unit, the seller's Health Club membership shall be deemed transferred to the new Residential Unit Owner. In the event a Residential Unit Owner leases his or her Residential Unit, the Health Club membership shall be deemed transferred to the lessee for the term of the lease; provided, however, that the Owner Members shall still be entitled to use same, though Associate Members' membership shall be suspended for such time. In the event a lessee is an entity, such entity shall be required to designate one (1) representative of such entity as its Owner Member equivalent.

Membership will also be open to individuals who are not Residential Unit Owners ("Non-Owner Members"). In order to become a Non-Owner Member, an individual must be sponsored by an Owner Member, who must complete a questionnaire and write a letter of recommendation for the candidate. Further, a second Owner Member must endorse the candidate and complete a questionnaire. The candidate will then be required to complete an application, have a credit check performed, and be interviewed by the Health Club Committee. Non-Owner Members will be required to pay an initiation fee and monthly dues, the amounts of which are to be determined by the Health Club Committee.

Each Residential Unit will receive a specified number of guest passes to be determined annually by the Health Club Committee. Non-Owner Members will also receive a specified number of guest passes to be determined annually by the Health Club Committee. Guests must be accompanied in the Health Club by their host member at all times.

The hours of operation for the Health Club are intended to be from 5:30AM to 9:30PM Monday through Friday, and 8:00AM to 8:00PM on weekends.

In the event a Residential Unit Owner is then in arrears, beyond any applicable grace period, in the payment of Residential Common Charges or any other amounts required by the Residential Board, the Health Club Committee shall have the authority to suspend the memberships associated with such Residential Unit Owner's Residential Unit.

All members of the Health Club will be provided two (2) means of identification ("IDs") that will be contain a computer chip programmed to allow for strict control of access to Health Club facilities. Each Health Club member's ID will be programmed to allow for access to all Health Club facilities and those portions of the Tower such member is permitted access to. The foregoing is subject to the Health Club Committee's right to revise the Health Club's policy for security access.

The Health Club is located principally on portions of Floors 12, 14, 15 and 16 of the Tower. The main reception area for Health Club members to check-in is located on Floor 16. Floor 12 features a lounge and restrooms. On Floor 14 there are various specialty fitness areas including separate rooms each dedicated to weight training, yoga and cardiovascular equipment, as well as a children's play area, a screening room and multi-purpose rooms. Floor 15 contains mechanical equipment and is not accessible to Health Club members. Floor 16 features a swimming or lap pool, whirlpool, and men's and women's locker rooms with saunas and steam facilities. Appropriate linen and supply storage is provided.

The Health Club can be accessed by elevator in two ways. From the Main Lobby, there is a separate elevator located in the Commercial Lobby on the western side of the Main Lobby. Building staff will direct Non-Owner Members and their guests to the Commercial Lobby. In addition, Owner Members and their guests will be able to use any of the elevators servicing the Residential Section to access the Health Club by swiping an ID in such elevators.

Further, while it is anticipated that the Club Unit will contain a health club facility open to the public, Sponsor makes no representation or warranty regarding the use of such space. As of the filing of this Plan, Sponsor has been issued a building permit by the Department of Buildings, and such permit lists the permitted use of the Club Unit as a Physical Culture Establishment as defined in the Zoning Resolution, which use has been approved by the BSA.

All policies with respect to use and operation of the Health Club shall be subject to review and revision by the Health Club Committee from time to time, subject however to compliance with applicable Legal Requirements.

**c. Private Residential Dining**

The Residential Restaurant located on Floor 12 will feature private dining exclusively for the Residential Unit Owners and their guests. Sponsor anticipates that the Residential Board will enter into a contract with a to-be determined catering service to provide private dining to Residential Unit Owners ("Private Residential Dining") (a) which is expected to begin: (i) six (6) months after the First Closing, or (ii) at such time as Sponsor has conveyed title to fifty percent (50%) of the Residential Units, whichever is later, and (b) which is expected to end: (i) one (1) year after the date set forth in (a), or (ii) at such time as Sponsor has conveyed title to ninety percent (90%) of the Residential Units, whichever is earlier (such initial period is referred to as the "Initial Private Residential Dining Period").

Private Residential Dining will be operated out of the kitchen located on Floor 12 of the Tower adjacent to the Residential Restaurant. Residential Unit Owners will be able to be served meals in the Residential Restaurant or have meals delivered to their Residential Units during posted hours. The individuals providing Private Residential Dining will not be employees of the Condominium. Service and staffing provided in connection with Private Residential Dining is intended to reflect the preferences of the Residential Unit Owners and occupancy levels of the Residential Units.

To the extent that the Initial Private Residential Dining Period occurs within First Year of Residential Section Operation, the net cost to operate the Private Residential Dining is set forth

in "Schedule B-1 – Projected Budget for First Year of Residential Section Operation" and is included in the Residential Common Charges. Residential Unit Owners who avail themselves of Private Residential Dining will be charged additional fees for such services at rates established by the Residential Board from time to time. These fees will be billed by the Residential Board on a monthly basis and will constitute Residential Common Charges. It is customary that operating losses occur in the operation of optional services similar to Private Residential Dining. As a result, Sponsor agrees to subsidize any operating losses incurred during the Initial Private Residential Dining Period in excess of $500,000. The Residential Board will be responsible for 100% of any operating losses in subsequent periods. It is customary in the operation of similar facilities to assess each Unit Owner an annual charge to reduce annual operating deficits. Because there is not yet established a pattern of usage for Private Residential Dining, it is difficult to determine the amount of deficits that may occur. Therefore, each Residential Unit Owner (excluding Resident Manager's Unit) will be required at Closing to pay to the Condominium an assessment for the Initial Private Residential Dining Period in the amount of $2,000. Future assessments to cover operating losses, if any, will be determined by the Residential Board. The assessment will in no way limit or reduce Sponsor's obligation described above.

In addition, each Residential Unit Owner will be required to purchase a minimum of $1,200 of Private Residential Dining service each year (not including gratuities and applicable taxes), which minimum amount will be billed by the Residential Board on a semi-annual basis and will constitute Residential Common Charges. Therefore, each owner of a Residential Unit will be required at Closing to pre-pay for Private Residential Dining service. All amounts pre-paid on account of Private Residential Dining are on a "use it or lose it basis" and may not be carried-over from one billing period to the other. The Residential Board has the right to increase or decrease the assessment and/or the minimum purchase requirement for Private Dining Service and the timing of payment in any given year.

**d. Optional Housekeeping Service**

A housekeeping service may be available on a part-time or full-time basis from an independent concessionaire for Residential Unit Owners. Such service shall be coordinated through the concierge for the Residential Section or by the Residential Unit Owner's direct arrangement with the concessionaire. It is anticipated that the rates charged for such housekeeping service will be set by the service provider at approximately equivalent to those charged for similar services at other similar premier quality locations elsewhere in New York City. Such charges will be payable directly to the concessionaire by the Residential Unit Owners using such service.

**e. General Provisions Concerning Services and Facilities**

No representation or warranty is made as to the continued operation or existence of any of the foregoing services or facilities to the extent the same are provided or controlled by the Residential Board or Condominium Board once Sponsor is not in control of such Board. Neither Sponsor nor any Board, shall have any liability with respect to the amount of the fees charged therefor.

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 Residential Board, the Managing Agents or other party providing the service. However, all services required by law will be provided at all times. Neither Sponsor, the Managing Agents, the Selling Agent, nor any 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 Agents, the Selling Agent, or the applicable Board, as the case may be.

The Residential Board has complete discretion in determining how the Residential Limited Common Element 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 such facilities, or the amount of the fees charged therefor.

Although Sponsor anticipates that many of the services described above will be available at the time of the First Closing, prospective Purchasers should note that some of these services may not be available until eighteen (18) months after the First Closing (specifically, Private Residential Dining, some of the elevators, bicycle storage, Storage Closets, Wine Cellars, a full staff of residential personnel, access to parking in the Garage Unit, and the Health Club, including the screening room, the swimming pool, and the locker rooms and sauna and steam facilities). In addition, certain of the amenities described in the Plan may not be arranged or available until after such interim period. However, it is anticipated that at all times after the First Closing, the lobby will be attended twenty-four (24) hours per day, seven (7) days per week, and there will be at least one (1) elevator servicing every floor on which there are occupied Residential Units. The interim level of staffing will at all times during this period be commensurate with the levels of occupancy from time to time and adequate to properly maintain the Building. Purchasers are also advised that during such period and beyond, various systems, including, but not limited to, water supply, air conditioning, heating, cooling, ventilating and elevators, may be incomplete and may be disrupted temporarily and from time to time. (See the Special Risks above entitled "Interim Service Period" and "Additional Building Work" for further discussion.)

Purchasers are further advised to note that construction in general is a complicated process which requires the coordination of numerous concurrent tasks, contractors and suppliers and the balancing of complex mechanical and architectural systems, all of which is subject to unanticipated delays and difficulties and necessarily involves noise, disruption and inconvenience. Thus, for a period of time following the First Closing (through, including and beyond the closing of title to any particular Purchaser's Residential Unit), work should be expected to be undertaken and continue by or on behalf of: (i) Sponsor to complete the balance of the Building; (ii) individual Residential Unit Owners within their Residential Units (to perform custom renovations, etc.); and (iii) the Commercial Unit Owners to complete construction, build-out, furnishing and equipping their Units. During at least the First Year of Condominium Operation, construction workers and related personnel of Sponsor and others will

be at the Property from time to time performing construction work, making adjustments and performing various other tasks related to the completion of construction, fitting out of, and moving into, the Residential Units and other portions of the Building from time to time. Various systems, including, but not limited to, water supply, air conditioning, heating, cooling, gas, electric, ventilating and other systems, and elevators, may require more than a year after any particular Residential Unit closing to complete and may be disrupted temporarily and from time to time (systems constituting Common Elements may require more than a year after any particular Residential Unit closing to complete, but all systems within a Residential Unit that must be completed as a requirement for the issuance of a temporary Certificate of Occupancy covering such Residential Unit will be functioning at the time of closing). Elevators and personnel may be taken out of service and diverted to facilitate construction and exterior hoists may be in place during at least the year following the First Closing, and from time to time thereafter, as needed, in connection with construction being performed in Units by the Unit Owners thereof, Sponsor and/or tenants of such Units. Various other adjustments, to windows and elevators and other systems, may require eighteen (18) months or more after the First Closing to complete. Sponsor may not fully complete the decoration or finishing of the lobby, corridors, elevator finishes and other portions of the Building, including, but not limited to, installing light fixtures, painting, hanging wall coverings or laying carpeting, until that particular floor is fully occupied by Unit Owners or, if additional construction within a Unit is anticipated, for some period thereafter. All of the foregoing work and conditions will create a noisy and otherwise disruptive condition in the Building during the period such work is being performed. Certain portions of the Common Elements may be completed before or after completion of any particular Purchaser's Unit. As a result, certain amenities and benefits anticipated 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 Boards and/or Sponsor may refuse to permit a Residential Unit Owner or Office Unit Owner to perform alterations in a Residential Unit or Office Unit, as the case may be, 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 Boards and/or Sponsor may impose conditions and deadlines upon the planning, performing and completion of such work. No assurance can be given with regard to the accuracy of any projected schedules or completion dates set forth herein or with respect to the duration of any interim service period or periods of potential disruption to the Unit Owners and their tenants or occupants, all such dates and timetables, to the extent provided, being only good faith estimates.

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

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## C. LOCATION AND AREA INFORMATION

### 1. Location and Services

The Condominium is situated at 432 Park Avenue, New York, New York, on the west side of Park Avenue on a portion of the block between East 56th Street and East 57th Street. In the immediate vicinity of the Property exists an array of prestigious cooperative buildings, luxury condominiums, and numerous brownstones, as well as many excellent shopping and dining options.

There are numerous cultural institutions and recreational facilities in the vicinity of the Property including: the Museum of Modern Art, Carnegie Hall, the Frick Collection, the Metropolitan Museum of Art, and the Whitney Museum of American Art. Nearby, Central Park spans 843 acres in the center of Manhattan, and is a favorite destination for both native New Yorkers and tourists alike. Famous establishments within its borders include the Central Park Zoo and the Central Park Boathouse. Central Park is also home to baseball fields, tennis courts, ice rinks, theaters, lakes and bridges.

Transportation to and from the Building, and throughout New York City, is readily available by taxi, limousine, private automobile, subway or bus. In addition to the Garage Unit in the Building, a number of commercial parking garages are located nearby.

The Building is nearby many of the Manhattan's world-class retailers and restaurants. Major shopping institutions nearby include Barney's, Bloomingdale's, Bergdorf Goodman, Longchamp, David Yurman, BCBG Maxazria, Nicole Miller, Hermes, Dolce & Gabbana, Cole Haan, Calvin Klein and Polo Ralph Lauren. Nearby dining options are similarly impressive, including top Zagat-rated restaurants such as Daniel, L'Atelier de Joel Robuchon, David Burke Townhouse, and Philippe.

In addition to the world-class universities located in the New York City area, noted schools in the neighborhood or nearby include several elite preparatory schools such as The Allen-Stevenson School, Birch Wathen Lenox School, The Browning School, The Buckley School, The Chapin School, The Dalton School, The Hewitt School, The Heschel School and Lycee Francais de New York, as well as a number of nursery and pre-kindergarten schools such as All Souls School, Epiphany Community Nursery School, Horace Mann Nursery School, Park Avenue Christian Church Day School and Park East Day School. The Building is located in Public School District No. 2, although Sponsor makes no guarantee or representation as to which school a child residing at the Building may actually attend.

There are a variety of houses of worship in the immediate area that serve various religious denominations. Some of them include, but are not limited to: Temple Emanu-El, Fifth Avenue Synagogue, Edmond Safra Synagogue, Central Presbyterian Church, Church of Saint Vincent Ferrer, and Saint Thomas Church.

Lenox Hill Hospital is located at 100 East 77th Street, and Manhattan Eye, Ear and Throat Hospital is located at 210 East 64th Street.

The nearest public library branch is the New York Public Library, located at 127 East 58th Street. The Property is located in the Midtown North Police Precinct. Precinct headquarters are at 306 West 54th Street. Fire protection is provided from the firehouse situated on West 58th Street. The zip code for the Property is 10022, which is the Lenox Hill North Postal Office, located at 909 Third Avenue, Suite 400, New York, New York.

## 2. Zoning

The Condominium is located in an area zoned C5-2.5 and C5-3 under the Zoning Resolution, which permits residential, community facility and commercial uses. The intended use of the Building as described in accordance with the provisions of this Plan will be in compliance with the current requirements of the Zoning Resolution. A copy of the zoning regulations and variances with respect to the Project is on file at the Sponsor's office.

The portion of the Land between the Main Lobby and East 56th Street will be occupied by a private courtyard (the "Courtyard"), which will feature a semi-circular driveway leading from East 56th Street to the Main Lobby and the entry point to the Garage Unit and loading dock area. The portion of the Land to the east of the Courtyard and to the west of the Park Avenue Pavilion will be occupied by a private garden (the "Garden"), which will feature landscaped areas. The Courtyard and the Garden may be separated by a hedge approximately 6' in height. (See the floor plan labeled "First Floor Main Lobby & Retails" as set forth in Exhibit 7 in Part II of the Plan.)

Sponsor intends to dedicate the Garden as a public area. As of the date of this offering, such use has not been approved by the Department of Buildings. Sponsor has submitted an application to the Department of Buildings for approval of such use, and upon receipt of such approval, Sponsor will amend the Offering Plan to this effect. Sponsor makes no representation that it will receive such approval. However, the Courtyard will always remain a private area. In addition, Sponsor may make an application to the Chairperson of the City Planning Commission for certification that qualifies the Garden as a "public plaza." Such certification would generate a floor area bonus for the Property, impose certain design standards, and require that the "public plaza" be open to the public twenty-four (24) hours per day. Without limiting other rights reserved by Sponsor hereunder with respect to the subdivision and combination of Units or otherwise, Sponsor expressly reserves the further right prior to the First Closing to increase the number of Residential Units contained within the Tower by adding floor slabs separating multi-level Units and/or separating the same into separate Units in the event the Chairperson of the City Planning Commission certifies such use of the Garden and such floor area bonus is granted, and in such event, the Common Interest allocation to each of the Units may be modified by Sponsor in an amendment to the Plan to reflect the increased square footage in the aggregate. However, once the Plan has been declared effective, Sponsor shall not, as a result of the certification of such floor area bonus, increase the number of Residential Units offered hereunder if the number of Residential Units as to which executed Agreements are then in effect with Purchasers would, after giving effect to any such increase, constitute fewer than fifteen percent (15%) of total number of Residential Units. In the event Sponsor creates such additional Units, Purchasers shall have no right of rescission with respect to their Unit(s); provided, however, that in the event the Common Interest appurtenant to a Unit is increased in excess of five percent (5%), Sponsor shall offer the materially adversely affected Purchaser(s) the right, for at least

fifteen (15) days, to rescind their Agreements and receive a refund of their Deposit, together with all interest earned thereon. In such case, Purchasers shall have no right of rescission in the event the Common Interest appurtenant to a Unit is reduced.

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## D. SCHEDULES AND NOTES

## SCHEDULE A

[SCHEDULE A BEGINS ON THE FOLLOWING PAGE]

**SCHEDULE A**
**432 PARK CONDOMINIUM**
**OFFERING PRICES AND RELATED INFORMATION FOR**
**ANTICIPATED FIRST YEAR OF CONDOMINIUM OPERATION – JULY 1, 2015 to JUNE 30, 2016**

| | (1) | (2) | (3) | (4) | (4) | (5) | (6) | (7) | (7A) | (8) | (8A) | (9) | (10) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| UNIT | BEDROOMS / BATHROOMS / POWDER RM / LIBRARY | APPROX. UNIT SQUARE FOOTAGE | OFFERING PRICE | PERCENTAGE OF COMMON INTEREST | PROPORTIONATE SHARE OF AGGREGATE RESIDENTIAL SECTION COMMON INTEREST | ALLOCATION OF RESIDENT MANAGER'S UNIT PURCHASE | ALLOCATION OF CLUB UNIT PURCHASE PRICE | EST. ANNUAL COMMON CHARGES | EST. MONTHLY COMMON CHARGES | EST. ANNUAL R.E. TAXES | EST. MONTHLY R.E. TAXES | EST. TOTAL ANNUAL CARRYING COSTS | EST. TOTAL MONTHLY CARRYING COSTS |
| 28A | 0/1/0/0 | 548 | $1,638,000 | 0.1039% | 0.1357% | 5,332 | 871 | 14,226.65 | 1,185.55 | 14,834 | 1,236 | 29,060 | 2,422 |
| 28B | 0/1/0/0 | 613 | $1,839,000 | 0.1166% | 0.1523% | 5,987 | 978 | 15,972.41 | 1,331.03 | 16,654 | 1,388 | 32,626 | 2,719 |
| 28C | 0/1/0/0 | 384 | $1,152,000 | 0.0731% | 0.0954% | 3,750 | 613 | 10,005.55 | 833.80 | 10,433 | 869 | 20,438 | 1,703 |
| 28D | 0/1/0/0 | 421 | $1,263,000 | 0.0801% | 0.1046% | 4,111 | 672 | 10,969.63 | 914.14 | 11,438 | 953 | 22,407 | 1,867 |
| 28E | 0/1/0/0 | 421 | $1,263,000 | 0.0801% | 0.1046% | 4,111 | 672 | 10,969.63 | 914.14 | 11,438 | 953 | 22,407 | 1,867 |
| 28F | 0/1/0/0 | 384 | $1,152,000 | 0.0731% | 0.0954% | 3,750 | 613 | 10,005.55 | 833.80 | 10,433 | 869 | 20,438 | 1,703 |
| 28G | 0/1/0/0 | 815 | $1,845,000 | 0.1170% | 0.1528% | 6,006 | 981 | 16,024.52 | 1,335.38 | 16,708 | 1,392 | 32,733 | 2,728 |
| 28H | 0/1/0/0 | 535 | $1,605,000 | 0.1018% | 0.1329% | 5,225 | 853 | 13,940.03 | 1,161.67 | 14,535 | 1,211 | 28,475 | 2,373 |
| 28J | 0/1/0/0 | 603 | $1,809,000 | 0.1147% | 0.1498% | 5,889 | 962 | 15,711.85 | 1,309.32 | 16,382 | 1,365 | 32,094 | 2,675 |
| 28K | 0/1/0/0 | 379 | $1,137,000 | 0.0721% | 0.0942% | 3,701 | 605 | 9,875.27 | 822.94 | 10,297 | 858 | 20,172 | 1,681 |
| 28L | 0/1/0/0 | 342 | $1,026,000 | 0.0651% | 0.0850% | 3,340 | 546 | 8,911.20 | 742.60 | 9,291 | 774 | 18,203 | 1,517 |
| 28M | 2/2/0/0 | 1,306 | $3,918,000 | 0.2485% | 0.3245% | N/A | N/A | 34,029.31 | 2,835.78 | 35,481 | 2,957 | 69,511 | 5,793 |
| 29A | 0/1/0/0 | 548 | $1,692,600 | 0.1039% | 0.1357% | 5,332 | 871 | 14,226.65 | 1,185.55 | 14,834 | 1,236 | 29,060 | 2,422 |
| 29B | 0/1/0/0 | 613 | $1,900,300 | 0.1166% | 0.1523% | 5,987 | 978 | 15,972.41 | 1,331.03 | 16,654 | 1,388 | 32,626 | 2,719 |
| 29C | 0/1/0/0 | 384 | $1,190,400 | 0.0731% | 0.0954% | 3,750 | 613 | 10,005.55 | 833.80 | 10,433 | 869 | 20,438 | 1,703 |
| 29D | 0/1/0/0 | 421 | $1,305,100 | 0.0801% | 0.1046% | 4,111 | 672 | 10,969.63 | 914.14 | 11,438 | 953 | 22,407 | 1,867 |
| 29E | 0/1/0/0 | 421 | $1,305,100 | 0.0801% | 0.1046% | 4,111 | 672 | 10,969.63 | 914.14 | 11,438 | 953 | 22,407 | 1,867 |
| 29F | 0/1/0/0 | 384 | $1,190,400 | 0.0731% | 0.0954% | 3,750 | 613 | 10,005.55 | 833.80 | 10,433 | 869 | 20,438 | 1,703 |
| 29G | 0/1/0/0 | 815 | $1,906,500 | 0.1170% | 0.1528% | 6,006 | 981 | 16,024.52 | 1,335.38 | 16,708 | 1,392 | 32,733 | 2,728 |
| 29H | 0/1/0/0 | 535 | $1,658,500 | 0.1018% | 0.1329% | 5,225 | 853 | 13,940.03 | 1,161.67 | 14,535 | 1,211 | 28,475 | 2,373 |
| 29J | 0/1/0/0 | 603 | $1,869,300 | 0.1147% | 0.1498% | 5,889 | 962 | 15,711.85 | 1,309.32 | 16,382 | 1,365 | 32,094 | 2,675 |
| 29K | 0/1/0/0 | 379 | $1,174,900 | 0.0721% | 0.0942% | 3,701 | 605 | 9,875.27 | 822.94 | 10,297 | 858 | 20,172 | 1,681 |
| 29L | 0/1/0/0 | 351 | $1,088,100 | 0.0668% | 0.0872% | 3,428 | 560 | 9,145.70 | 762.14 | 9,536 | 795 | 18,682 | 1,557 |
| 29M | 0/1/0/0 | 351 | $1,088,100 | 0.0668% | 0.0872% | 3,428 | 560 | 9,145.70 | 762.14 | 9,536 | 795 | 18,682 | 1,557 |
| 29N | 0/1/0/0 | 380 | $1,178,000 | 0.0723% | 0.0944% | 3,711 | 606 | 9,901.33 | 825.11 | 10,324 | 860 | 20,225 | 1,685 |
| 29P | 0/1/0/0 | 595 | $1,844,500 | 0.1132% | 0.1478% | 5,811 | 949 | 15,503.40 | 1,291.95 | 16,165 | 1,347 | 31,668 | 2,639 |
| 34A | 2/2/1/0 | 1,814 | $6,360,000 | 0.3451% | 0.4507% | 17,715 | 2,894 | 47,265.82 | 3,938.82 | 49,283 | 4,107 | 96,549 | 8,046 |
| 34B | 2/2/1/0 | 1,795 | $6,300,000 | 0.3415% | 0.4460% | 17,530 | 2,863 | 46,770.76 | 3,897.56 | 48,767 | 4,064 | 95,537 | 7,961 |
| 34C | 2/2/1/0 | 2,100 | $7,360,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 34D | 1/1/1/0 | 1,422 | $4,960,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.82 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 35C | 2/2/1/0 | 2,100 | $7,430,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 35D | 1/1/1/0 | 1,422 | $5,010,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.82 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 36A | 2/2/1/0 | 1,814 | $6,450,000 | 0.3451% | 0.4507% | 17,715 | 2,894 | 47,265.82 | 3,938.82 | 49,283 | 4,107 | 96,549 | 8,046 |
| 36B | 2/2/1/0 | 1,795 | $6,400,000 | 0.3415% | 0.4460% | 17,530 | 2,863 | 46,770.76 | 3,897.56 | 48,767 | 4,064 | 95,537 | 7,961 |
| 36C | 2/2/1/0 | 2,100 | $7,500,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 36D | 1/1/1/0 | 1,422 | $5,050,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.82 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 37C | 2/2/1/0 | 2,100 | $7,530,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 37D | 1/1/1/0 | 1,422 | $5,075,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.82 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 38A | 2/2/1/0 | 1,814 | $6,535,000 | 0.3451% | 0.4507% | 17,715 | 2,894 | 47,265.82 | 3,938.82 | 49,283 | 4,107 | 96,549 | 8,046 |
| 38B | 2/2/1/0 | 1,795 | $6,475,000 | 0.3415% | 0.4460% | 17,530 | 2,863 | 46,770.76 | 3,897.56 | 48,767 | 4,064 | 95,537 | 7,961 |
| 38C | 2/2/1/0 | 2,100 | $7,575,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 38D | 1/1/1/0 | 1,422 | $5,100,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.82 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 39C | 2/2/1/0 | 2,100 | $7,600,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 39D | 1/1/1/0 | 1,422 | $5,125,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.82 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 40A | 2/2/1/0 | 1,814 | $6,575,000 | 0.3451% | 0.4507% | 17,715 | 2,894 | 47,265.82 | 3,938.82 | 49,283 | 4,107 | 96,549 | 8,046 |
| 40B | 2/2/1/0 | 1,795 | $6,510,000 | 0.3415% | 0.4460% | 17,530 | 2,863 | 46,770.76 | 3,897.56 | 48,767 | 4,064 | 95,537 | 7,961 |
| 40C | 2/2/1/0 | 2,100 | $7,625,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 40D | 1/1/1/0 | 1,422 | $5,140,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.82 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |

| | (1) | (2) | (3) | (4) | (4) | (5) | (6) | (7) | (7A) | (8) | (8A) | (9) | (10) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| UNIT | BEDROOMS / BATHROOMS/ POWDER RM/ LIBRARY | APPROX. UNIT SQUARE FOOTAGE | OFFERING PRICE | PERCENTAGE OF COMMON INTEREST | PROPORTIONATE SHARE OF AGGREGATE RESIDENTIAL SECTION COMMON INTEREST | ALLOCATION OF RESIDENT MANAGER'S UNIT PURCHASE | ALLOCATION OF CLUB UNIT PURCHASE PRICE | EST. ANNUAL COMMON CHARGES | EST. MONTHLY COMMON CHARGES | EST. ANNUAL R.E. TAXES | EST. MONTHLY R.E. TAXES | EST. TOTAL ANNUAL CARRYING COSTS | EST. TOTAL MONTHLY CARRYING COSTS |
| 41C | 2/2/1/0 | 2,100 | $7,700,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 41D | 1/1/1/0 | 1,422 | $5,175,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.92 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 42A | 2/2/1/0 | 1,814 | $6,650,000 | 0.3451% | 0.4507% | 17,715 | 2,894 | 47,265.82 | 3,938.82 | 49,283 | 4,107 | 96,549 | 8,046 |
| 42B | 2/2/1/0 | 1,795 | $6,600,000 | 0.3415% | 0.4460% | 17,530 | 2,863 | 46,770.76 | 3,897.56 | 48,767 | 4,064 | 95,537 | 7,961 |
| 42C | 2/2/1/0 | 2,100 | $7,750,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 42D | 1/1/1/0 | 1,422 | $5,200,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.92 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 43C | 2/2/1/0 | 2,100 | $7,825,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 43D | 1/1/1/0 | 1,422 | $5,275,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.92 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 44A | 2/2/1/0 | 1,814 | $6,850,000 | 0.3451% | 0.4507% | 17,715 | 2,894 | 47,265.82 | 3,938.82 | 49,283 | 4,107 | 96,549 | 8,046 |
| 44B | 2/2/1/0 | 1,795 | $6,800,000 | 0.3415% | 0.4460% | 17,530 | 2,863 | 46,770.76 | 3,897.56 | 48,767 | 4,064 | 95,537 | 7,961 |
| 44C | 2/2/1/0 | 2,100 | $7,950,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 44D | 1/1/1/0 | 1,422 | $5,350,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.92 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 45C | 2/2/1/0 | 2,100 | $8,150,000 | 0.3996% | 0.5217% | 20,508 | 3,350 | 54,717.88 | 4,559.82 | 57,053 | 4,754 | 111,771 | 9,314 |
| 45D | 1/1/1/0 | 1,422 | $5,500,000 | 0.2706% | 0.3533% | 13,887 | 2,268 | 37,051.92 | 3,087.65 | 38,633 | 3,219 | 75,685 | 6,307 |
| 48A | 2/2/1/0 | 1,789 | $7,100,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 48B | 3/3/0/0 | 2,224 | $8,900,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 48C | 2/3/1/0 | 3,576 | $14,590,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 49A | 2/2/1/0 | 1,789 | $7,150,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 49B | 3/3/0/0 | 2,224 | $9,050,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 49C | 2/3/1/0 | 3,576 | $14,740,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 50A | 2/2/1/0 | 1,789 | $7,200,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 50B | 3/3/0/0 | 2,224 | $9,450,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 50C | 2/3/1/0 | 3,576 | $15,740,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 51A | 2/2/1/0 | 1,789 | $7,250,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 51B | 3/3/0/0 | 2,224 | $9,550,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 51C | 2/3/1/0 | 3,576 | $15,890,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 52A | 2/2/1/0 | 1,789 | $7,300,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 52B | 3/3/0/0 | 2,224 | $9,650,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 52C | 2/3/1/0 | 3,576 | $16,040,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 53A | 2/2/1/0 | 1,789 | $7,350,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 53B | 3/3/0/0 | 2,224 | $9,750,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 53C | 2/3/1/0 | 3,576 | $16,190,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 54A | 2/2/1/0 | 1,789 | $7,400,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 54B | 3/3/0/0 | 2,224 | $9,850,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 54C | 2/3/1/0 | 3,576 | $16,340,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 55A | 2/2/1/0 | 1,789 | $7,450,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 55B | 3/3/0/0 | 2,224 | $9,900,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 55C | 2/3/1/0 | 3,576 | $16,490,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 56A | 2/2/1/0 | 1,789 | $7,500,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 56B | 3/3/0/0 | 2,224 | $10,000,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 56C | 2/3/1/0 | 3,576 | $16,640,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 57A | 2/2/1/0 | 1,789 | $7,550,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 57B | 3/3/0/0 | 2,224 | $10,100,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 57C | 2/3/1/0 | 3,576 | $16,790,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 58A | 2/2/1/0 | 1,789 | $7,600,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 58B | 3/3/0/0 | 2,224 | $10,250,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 58C | 2/3/1/0 | 3,576 | $16,940,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |
| 59A | 2/2/1/0 | 1,789 | $7,650,000 | 0.3404% | 0.4445% | 17,471 | 2,854 | 46,614.42 | 3,884.53 | 48,604 | 4,050 | 95,218 | 7,935 |
| 59B | 3/3/0/0 | 2,224 | $10,500,000 | 0.4232% | 0.5526% | 21,719 | 3,548 | 57,948.84 | 4,829.07 | 60,422 | 5,035 | 118,370 | 9,864 |
| 59C | 2/3/1/0 | 3,576 | $17,250,000 | 0.6804% | 0.8885% | 34,923 | 5,705 | 93,176.73 | 7,764.73 | 97,153 | 8,096 | 190,329 | 15,861 |

| | (1) | (2) | (3) | (4) | (4) | (5) | (6) | (7) | (7A) | (8) | (8A) | (9) | (10) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| UNIT | BEDROOMS / BATHROOMS/ POWDER RM/ LIBRARY | APPROX. UNIT SQUARE FOOTAGE | OFFERING PRICE | PERCENTAGE OF COMMON INTEREST | PROPORTIONATE SHARE OF AGGREGATE RESIDENTIAL SECTION COMMON INTEREST | ALLOCATION OF RESIDENT MANAGER'S UNIT PURCHASE | ALLOCATION OF CLUB UNIT PURCHASE PRICE | EST. ANNUAL COMMON CHARGES | EST. MONTHLY COMMON CHARGES | EST. ANNUAL R.E. TAXES | EST. MONTHLY R.E. TAXES | EST. TOTAL ANNUAL CARRYING COSTS | EST. TOTAL MONTHLY CARRYING COSTS |
| 62A | 3 / 4 / 0 / 0 | 4,004 | $22,500,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 62B | 3 / 4 / 1 / 0 | 4,034 | $23,600,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 63A | 3 / 4 / 0 / 0 | 4,004 | $23,000,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 63B | 3 / 4 / 1 / 0 | 4,034 | $24,100,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 64A | 3 / 4 / 0 / 0 | 4,004 | $23,500,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 64B | 3 / 4 / 1 / 0 | 4,034 | $24,600,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 65A | 3 / 4 / 0 / 0 | 4,004 | $24,000,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 65B | 3 / 4 / 1 / 0 | 4,034 | $25,100,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 66A | 3 / 4 / 0 / 0 | 4,004 | $24,500,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 66B | 3 / 4 / 1 / 0 | 4,034 | $25,600,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 67A | 3 / 4 / 0 / 0 | 4,004 | $25,000,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 67B | 3 / 4 / 1 / 0 | 4,034 | $26,100,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 68A | 3 / 4 / 0 / 0 | 4,004 | $25,500,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 68B | 3 / 4 / 1 / 0 | 4,034 | $26,600,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 69A | 3 / 4 / 0 / 0 | 4,004 | $26,000,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 69B | 3 / 4 / 1 / 0 | 4,034 | $27,100,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 70A | 3 / 4 / 0 / 0 | 4,004 | $26,500,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 70B | 3 / 4 / 1 / 0 | 4,034 | $27,600,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 71A | 3 / 4 / 0 / 0 | 4,004 | $27,000,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 71B | 3 / 4 / 1 / 0 | 4,034 | $28,100,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 72A | 3 / 4 / 0 / 0 | 4,004 | $27,500,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 72B | 3 / 4 / 1 / 0 | 4,034 | $28,600,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 73A | 3 / 4 / 0 / 0 | 4,004 | $28,500,000 | 0.7618% | 0.9948% | 39,103 | 6,387 | 104,328.75 | 8,694.06 | 108,781 | 9,065 | 213,109 | 17,759 |
| 73B | 3 / 4 / 1 / 0 | 4,034 | $29,250,000 | 0.7675% | 1.0022% | 39,396 | 6,435 | 105,110.44 | 8,759.20 | 109,596 | 9,133 | 214,706 | 17,892 |
| 77A | 3 / 3 / 0 / 0 | 2,633 | $17,750,000 | 0.5010% | 0.6542% | 25,714 | 4,200 | 68,605.79 | 5,717.15 | 71,533 | 5,961 | 140,139 | 11,678 |
| 77B | 4 / 5 / 2 / 0 | 5,421 | $38,500,000 | 1.0314% | 1.3468% | 52,941 | 8,648 | 141,250.29 | 11,770.86 | 147,278 | 12,273 | 288,528 | 24,044 |
| 78A | 3 / 3 / 0 / 0 | 2,633 | $18,000,000 | 0.5010% | 0.6542% | 25,714 | 4,200 | 68,605.79 | 5,717.15 | 71,533 | 5,961 | 140,139 | 11,678 |
| 78B | 4 / 5 / 2 / 0 | 5,421 | $39,200,000 | 1.0314% | 1.3468% | 52,941 | 8,648 | 141,250.29 | 11,770.86 | 147,278 | 12,273 | 288,528 | 24,044 |
| 79A | 3 / 3 / 0 / 0 | 2,633 | $18,250,000 | 0.5010% | 0.6542% | 25,714 | 4,200 | 68,605.79 | 5,717.15 | 71,533 | 5,961 | 140,139 | 11,678 |
| 79B | 4 / 5 / 2 / 0 | 5,421 | $39,750,000 | 1.0314% | 1.3468% | 52,941 | 8,648 | 141,250.29 | 11,770.86 | 147,278 | 12,273 | 288,528 | 24,044 |
| 80A | 3 / 3 / 0 / 0 | 2,633 | $18,500,000 | 0.5010% | 0.6542% | 25,714 | 4,200 | 68,605.79 | 5,717.15 | 71,533 | 5,961 | 140,139 | 11,678 |
| 80B | 4 / 5 / 2 / 0 | 5,421 | $40,250,000 | 1.0314% | 1.3468% | 52,941 | 8,648 | 141,250.29 | 11,770.86 | 147,278 | 12,273 | 288,528 | 24,044 |
| 81A | 3 / 3 / 0 / 0 | 2,633 | $18,900,000 | 0.5010% | 0.6542% | 25,714 | 4,200 | 68,605.79 | 5,717.15 | 71,533 | 5,961 | 140,139 | 11,678 |
| 81B | 4 / 5 / 2 / 0 | 5,421 | $40,750,000 | 1.0314% | 1.3468% | 52,941 | 8,648 | 141,250.29 | 11,770.86 | 147,278 | 12,273 | 288,528 | 24,044 |
| 82A | 3 / 3 / 0 / 0 | 2,633 | $19,150,000 | 0.5010% | 0.6542% | 25,714 | 4,200 | 68,605.79 | 5,717.15 | 71,533 | 5,961 | 140,139 | 11,678 |
| 82B | 4 / 5 / 2 / 0 | 5,421 | $41,250,000 | 1.0314% | 1.3468% | 52,941 | 8,648 | 141,250.29 | 11,770.86 | 147,278 | 12,273 | 288,528 | 24,044 |
| 83A | 3 / 3 / 0 / 0 | 2,633 | $19,650,000 | 0.5010% | 0.6542% | 25,714 | 4,200 | 68,605.79 | 5,717.15 | 71,533 | 5,961 | 140,139 | 11,678 |
| 83B | 4 / 5 / 2 / 0 | 5,421 | $41,750,000 | 1.0314% | 1.3468% | 52,941 | 8,648 | 141,250.29 | 11,770.86 | 147,278 | 12,273 | 288,528 | 24,044 |
| 84A | 3 / 3 / 0 / 0 | 2,633 | $20,250,000 | 0.5010% | 0.6542% | 25,714 | 4,200 | 68,605.79 | 5,717.15 | 71,533 | 5,961 | 140,139 | 11,678 |
| 84B | 4 / 5 / 2 / 0 | 5,421 | $42,250,000 | 1.0314% | 1.3468% | 52,941 | 8,648 | 141,250.29 | 11,770.86 | 147,278 | 12,273 | 288,528 | 24,044 |
| 85 | FF - 5 / 7 / 1 / 1 | 8,055 | $60,600,000 | 1.5326% | 2.0013% | 78,665 | 12,850 | 209,882.14 | 17,490.18 | 218,838 | 18,237 | 428,720 | 35,727 |
| 86 | FF - 5 / 7 / 1 / 1 | 8,055 | $61,350,000 | 1.5326% | 2.0013% | 78,665 | 12,850 | 209,882.14 | 17,490.18 | 218,838 | 18,237 | 428,720 | 35,727 |
| 87 | FF - 5 / 7 / 1 / 1 | 8,055 | $62,100,000 | 1.5326% | 2.0013% | 78,665 | 12,850 | 209,882.14 | 17,490.18 | 218,838 | 18,237 | 428,720 | 35,727 |
| 88 | FF - 5 / 7 / 1 / 1 | 8,055 | $68,000,000 | 1.5326% | 2.0013% | 78,665 | 12,850 | 209,882.14 | 17,490.18 | 218,838 | 18,237 | 428,720 | 35,727 |
| 91 | FF - 6 / 7 / 2 / 1 | 8,255 | $64,100,000 | 1.5707% | 2.0510% | 80,618 | 13,169 | 215,093.37 | 17,924.45 | 224,272 | 18,689 | 439,365 | 36,614 |
| 92 | FF - 6 / 7 / 2 / 1 | 8,255 | $64,850,000 | 1.5707% | 2.0510% | 80,618 | 13,169 | 215,093.37 | 17,924.45 | 224,272 | 18,689 | 439,365 | 36,614 |
| 93 | FF - 6 / 7 / 2 / 1 | 8,255 | $65,600,000 | 1.5707% | 2.0510% | 80,618 | 13,169 | 215,093.37 | 17,924.45 | 224,272 | 18,689 | 439,365 | 36,614 |
| 94 | FF - 6 / 7 / 2 / 1 | 8,255 | $66,350,000 | 1.5707% | 2.0510% | 80,618 | 13,169 | 215,093.37 | 17,924.45 | 224,272 | 18,689 | 439,365 | 36,614 |
| 95 | FF - 6 / 7 / 2 / 1 | 8,255 | $82,550,000 | 1.5707% | 2.0510% | 80,618 | 13,169 | 215,093.37 | 17,924.45 | 224,272 | 18,689 | 439,365 | 36,614 |
| | | | | | | | | | | | | | |
| SUBTOTAL RESIDENTIAL UNITS | | 402,496 | $2,361,408,800 | 76.5826% | 100.0000% | 3,918,000 | 640,000 | 10,487,489 | 873,957 | 10,935,000 | 911,250 | 21,422,489 | 1,785,207 |

| | (1) | (2) | (3) | (4) | (4) | (5) | (6) | (7) | (7A) | (8) | (8A) | (9) | (10) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| UNIT | BEDROOMS / BATHROOMS/ POWDER RM/ LIBRARY | APPROX. UNIT SQUARE FOOTAGE | OFFERING PRICE | PERCENTAGE OF COMMON INTEREST | PROPORTIONATE SHARE OF AGGREGATE RESIDENTIAL SECTION COMMON INTEREST | ALLOCATION OF RESIDENT MANAGER'S UNIT PURCHASE | ALLOCATION OF CLUB UNIT PURCHASE PRICE | EST. ANNUAL COMMON CHARGES | EST. MONTHLY COMMON CHARGES | EST. ANNUAL R.E. TAXES | EST. MONTHLY R.E. TAXES | EST. TOTAL ANNUAL CARRYING COSTS | EST. TOTAL MONTHLY CARRYING COSTS |
| Storage Closet 1 | | 60 | $148,800 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 714 | 60 |
| Storage Closet 2 | | 39 | $97,425 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 466 | 39 |
| Storage Closet 3 | | 39 | $97,425 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 466 | 39 |
| Storage Closet 4 | | 53 | $131,275 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 630 | 53 |
| Storage Closet 5 | | 53 | $131,275 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 630 | 53 |
| Storage Closet 6 | | 53 | $131,275 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 630 | 53 |
| Storage Closet 7 | | 53 | $131,275 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 630 | 53 |
| Storage Closet 8 | | 35 | $88,575 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 425 | 35 |
| Storage Closet 9 | | 35 | $88,575 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 425 | 35 |
| Storage Closet 10 | | 53 | $131,275 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 630 | 53 |
| Storage Closet 11 | | 53 | $131,275 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 630 | 53 |
| Storage Closet 12 | | 53 | $131,275 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 630 | 53 |
| Storage Closet 13 | | 39 | $97,350 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 467 | 39 |
| Storage Closet 14 | | 39 | $97,350 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 467 | 39 |
| Storage Closet 15 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 16 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 17 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 18 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 19 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 20 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 21 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 22 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 23 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 24 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 25 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 26 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 27 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 28 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 29 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 30 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 31 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 32 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 33 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 34 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 35 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 36 | | 55 | $137,500 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 660 | 55 |
| Storage Closet 37 | | 44 | $110,675 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 531 | 44 |
| Storage Closet 38 | | 51 | $128,150 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 615 | 51 |
| Storage Closet 39 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 40 | | 76 | $189,025 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 907 | 76 |
| Storage Closet 41 | | 51 | $128,150 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 615 | 51 |
| Storage Closet 42 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 43 | | 76 | $189,025 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 907 | 76 |
| Storage Closet 44 | | 54 | $134,525 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 646 | 54 |
| Storage Closet 45 | | 59 | $147,800 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 709 | 59 |
| Storage Closet 46 | | 79 | $198,200 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 951 | 79 |
| Storage Closet 47 | | 51 | $128,125 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 615 | 51 |
| Storage Closet 48 | | 40 | $100,425 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 482 | 40 |
| Storage Closet 49 | | 51 | $128,125 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 615 | 51 |
| Storage Closet 50 | | 51 | $128,125 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 615 | 51 |
| Storage Closet 51 | | 51 | $128,125 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 615 | 51 |
| Storage Closet 52 | | 51 | $128,125 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 615 | 51 |

| | (1) | (2) | (3) | (4) | (4) | (5) | (6) | (7) | (7A) | (8) | (8A) | (9) | (10) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| UNIT | BEDROOMS / BATHROOMS / POWDER RM / LIBRARY | APPROX. UNIT SQUARE FOOTAGE | OFFERING PRICE | PERCENTAGE OF COMMON INTEREST | PROPORTIONATE SHARE OF AGGREGATE RESIDENTIAL SECTION COMMON INTEREST | ALLOCATION OF RESIDENT MANAGER'S UNIT PURCHASE | ALLOCATION OF CLUB UNIT PURCHASE PRICE | EST. ANNUAL COMMON CHARGES | EST. MONTHLY COMMON CHARGES | EST. ANNUAL R.E. TAXES | EST. MONTHLY R.E. TAXES | EST. TOTAL ANNUAL CARRYING COSTS | EST. TOTAL MONTHLY CARRYING COSTS |
| Storage Closet 53 | | 58 | $144,025 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 691 | 58 |
| Storage Closet 54 | | 51 | $128,125 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 615 | 51 |
| Storage Closet 55 | | 51 | $128,125 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 615 | 51 |
| Storage Closet 56 | | 51 | $128,125 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 615 | 51 |
| Storage Closet 57 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 58 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| Storage Closet 59 | | 56 | $140,950 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 677 | 56 |
| **SUBTOTAL STORAGE CLOSETS** | | **3,159** | **$7,897,125** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **37,906** | **3,159** |
| Wine Cellar 1 | | 50 | $225,000 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 600 | 50 |
| Wine Cellar 2 | | 46 | $205,920 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 549 | 46 |
| Wine Cellar 3 | | 45 | $204,345 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 545 | 45 |
| Wine Cellar 4 | | 38 | $172,035 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 459 | 38 |
| Wine Cellar 5 | | 64 | $290,115 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 774 | 64 |
| Wine Cellar 6 | | 43 | $195,390 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 521 | 43 |
| Wine Cellar 7 | | 43 | $192,510 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 513 | 43 |
| Wine Cellar 8 | | 58 | $263,025 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 701 | 58 |
| Wine Cellar 9 | | 57 | $257,130 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 686 | 57 |
| Wine Cellar 10 | | 35 | $158,175 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 422 | 35 |
| Wine Cellar 11 | | 48 | $214,335 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 572 | 48 |
| Wine Cellar 12 | | 75 | $335,610 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 895 | 75 |
| Wine Cellar 13 | | 43 | $194,670 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 519 | 43 |
| Wine Cellar 14 | | 43 | $194,670 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 519 | 43 |
| Wine Cellar 15 | | 55 | $245,430 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 654 | 55 |
| Wine Cellar 16 | | 55 | $245,430 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 654 | 55 |
| Wine Cellar 17 | | 55 | $245,430 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 654 | 55 |
| Wine Cellar 18 | | 84 | $377,730 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 1,007 | 84 |
| **SUBTOTAL WINE CELLARS** | | **937** | **$4,216,950** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **11,245** | **937** |
| Office Unit 18A | | 975 | $3,000,000 | 0.1855% | N/A | N/A | N/A | 5,507.12 | 459 | 15,201 | 1,267 | 20,708 | 1,726 |
| Office Unit 18B | | 496 | $1,500,000 | 0.0944% | N/A | N/A | N/A | 2,801.57 | 233.46 | 7,733 | 644 | 10,534 | 878 |
| Office Unit 18C | | 496 | $1,500,000 | 0.0944% | N/A | N/A | N/A | 2,801.57 | 233.46 | 7,733 | 644 | 10,534 | 878 |
| Office Unit 18D | | 975 | $3,000,000 | 0.1855% | N/A | N/A | N/A | 5,507.12 | 458.93 | 15,201 | 1,267 | 20,708 | 1,726 |
| Office Unit 19A | | 975 | $3,000,000 | 0.1855% | N/A | N/A | N/A | 5,507.12 | 458.93 | 15,201 | 1,267 | 20,708 | 1,726 |
| Office Unit 19B | | 496 | $1,500,000 | 0.0944% | N/A | N/A | N/A | 2,801.57 | 233.46 | 7,733 | 644 | 10,534 | 878 |
| Office Unit 19C | | 496 | $1,500,000 | 0.0944% | N/A | N/A | N/A | 2,801.57 | 233.46 | 7,733 | 644 | 10,534 | 878 |
| Office Unit 19D | | 975 | $3,000,000 | 0.1855% | N/A | N/A | N/A | 5,507.12 | 458.93 | 15,201 | 1,267 | 20,708 | 1,726 |
| Office Unit 20A | | 978 | $3,000,000 | 0.1861% | N/A | N/A | N/A | 5,524.06 | 460.34 | 15,248 | 1,271 | 20,772 | 1,731 |
| Office Unit 20B | | 474 | $1,450,000 | 0.0902% | N/A | N/A | N/A | 2,677.31 | 223.11 | 7,390 | 616 | 10,067 | 839 |
| Office Unit 20C | | 474 | $1,450,000 | 0.0902% | N/A | N/A | N/A | 2,677.31 | 223.11 | 7,390 | 616 | 10,067 | 839 |
| Office Unit 20D | | 979 | $3,000,000 | 0.1863% | N/A | N/A | N/A | 5,529.71 | 460.81 | 15,263 | 1,272 | 20,793 | 1,733 |
| **SUBTOTAL OFFICE UNITS** | | **8,789** | **$26,900,000** | **1.6723%** | **N/A** | **N/A** | **N/A** | **49,643** | **4,137** | **137,025** | **11,419** | **186,668** | **15,556** |
| Garage Unit | | 9,200 | N/A | 1.7505% | N/A | N/A | N/A | 39,124.91 | 3,260.41 | 113,400.00 | 9,450 | 152,524.91 | 12,710.41 |
| Retail Unit A | | 9,276 | N/A | 1.7649% | N/A | N/A | N/A | 39,448.12 | 3,287.34 | 316,345.62 | 26,362 | 355,793.74 | 29,649.48 |
| Retail Unit B | | 42,258 | N/A | 8.0404% | N/A | N/A | N/A | 179,710.94 | 14,975.91 | 1,441,152.79 | 120,096 | 1,620,863.73 | 135,071.98 |
| Retail Unit C | | 23,282 | N/A | 4.4298% | N/A | N/A | N/A | 99,011.55 | 8,250.96 | 794,001.59 | 66,167 | 893,013.14 | 74,417.76 |
| Club Unit | | 30,270 | N/A | 5.7595% | N/A | N/A | N/A | 140,995.55 | 11,749.63 | 493,602.00 | 41,134 | 634,597.55 | 52,883.13 |
| **SUBTOTAL COMMERCIAL UNITS** | | **114,286** | **N/A** | **21.7451%** | **N/A** | **N/A** | **N/A** | **498,291** | **41,524** | **3,158,502** | **263,209** | **3,656,793** | **304,733** |
| **GRAND TOTAL** | | **525,571** | **$2,400,422,875** | **100.0000%** | **100.0000%** | **3,918,000** | **640,000** | **11,035,423** | **919,619** | **14,230,527** | **1,185,877** | **25,265,950** | **2,105,496** |

## NOTES TO SCHEDULE A

* Amounts are projected on the assumption that the First Year of Condominium Operation will be the year from July 1, 2015 – June 30, 2016. The actual First Year of Condominium Operation may begin earlier or later than that year.

(1) Any floor plan or sketch or schedule shown to a prospective Purchaser is only an approximation of the square foot area and layout of the Unit in question. However, any material change (for example, a reduction in square footage in excess of five percent (5%)) will be set forth in an amendment to the Plan, and no material adverse change will be made in the size (i.e., decrease), configuration, or layout of a Unit for which an Agreement 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 Agreements and receive a refund of their Deposits, together with all interest earned thereon. An increase in the size of a room or Residential Unit or Office Unit will not on its own give rise to a right of rescission. (See the Section entitled "Changes in Prices and Units: Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses" in Part I of the Plan for further discussion concerning and certain limitations applicable to Sponsor's rights with respect to changes in the construction of the Units, Storage Closets, Wine Cellars and the Common Elements.)

The Floor Plans for certain Residential Units contain abbreviations: Powder Rooms are designated "P.R.", and the Living Room/Dining Room/Sleeping Area in a Studio Unit is designated "L.R./D.R./S.A." Residential Units comprising a full floor of the Tower are abbreviated "FF" on Schedule A.

Any Common Elements located within or appurtenant to any Residential Unit or Office Unit shall not be considered as part of that Unit.*

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

(2) The approximate dimensions of each Residential Unit and Office Unit will consist of the area measured horizontally from the exterior side of the exterior wall (columns, mechanical, pipes, shafts, shaftways, chases, chaseways and conduits are not deducted from measurement of each Unit) to the centerline of the partitions or concrete walls separating one Unit from another Unit or separating one Unit from the corridor, stairs, elevators and other mechanical equipment spaces or any Common Elements not within a Unit or to the exterior side of the opposite exterior wall. Each Unit consists of the area measured vertically from the top of the floor (located under the finished flooring and sub-flooring materials) to the underside of the ceiling slab above.

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

The interior room dimensions shown on the Floor Plans for the bathrooms of the Residential Units as shown in Exhibit 7 in Part II of the Plan are only approximate and are measured horizontally from the interior bathroom-side face of the sheetrock on the wall on one side of the bathroom to the interior bathroom-side face of the sheetrock on the opposite wall. Space occupied by the fixtures and finishes installed on the bathroom walls and floors is not taken into consideration in such stated dimensions and will reduce the usable square footage of such rooms. Purchasers are further advised that the dimensions shown on the Floor Plans for the closets in the Residential Units as shown in Exhibit 7 in Part II of the Plan are only approximate and are measured horizontally from the interior closet-side face of the sheetrock on the wall on one side of the closet to the interior closet-side face of the sheetrock on the opposite wall (or closet door, as the case may be). Such dimensions may vary based on actual construction conditions as the precise layout of each closet is anticipated to be modified during the construction process to accommodate the placement of mechanical equipment and structural elements within the walls adjacent to the closets. No such variation shall give rise to any right of rescission, reduction in price or other credit or concession to Purchasers.

The interior room dimensions shown on the Floor Plans for the bedrooms, living rooms, dining rooms, kitchens and other rooms of the Residential Units as well as the Office Units and the rooms of the Health Club as shown in Exhibit 7 in Part II of the Plan are only approximate and are measured horizontally from the interior face of the sheetrock on the wall on one side of the room to the interior side face of the sheetrock on the opposite wall or to the interior face of glass. Space occupied by finishes and window surround is not taken into consideration in such stated dimensions and will reduce the usable square footage of such rooms.

(3) Sponsor has reserved the right to change the purchase prices (as well as other terms of sale) of Residential Unit and Office Units (and Storage Licenses and Wine Cellar

Licenses) not subject to executed Agreements, so Purchasers may pay different prices for similar Residential Unit and Office Units (and Storage Licenses and Wine Cellar Licenses). (See the Section entitled "Changes in Prices and Units: Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses" in Part I of the Plan for further discussion.) In addition to paying the purchase prices of their Units, Purchasers will be responsible for paying certain closing adjustments and closing costs, including, without limitation, the obligation of Purchasers of Residential Units to contribute to the Working Capital Fund. Purchasers are advised to consult with their attorneys as to the exact closing costs they will incur in purchasing their Units. (See the Section entitled "Unit Closing Costs and Adjustments" in Part I of the Plan for further discussion.)

(4) The Common Interest of each Unit has been determined, pursuant to Section 339-i(1)(iv) of the Condominium Act. In accordance with such method of calculation, the Common Interests have been determined based primarily upon a comparison of the floor areas of the Units, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of the Common Elements for exclusive or shared use and the overall dimensions of the particular Unit. The aggregate Common Interests of all of the Units equals 100%.

The Proportionate Share of Aggregate Residential Section Common Interest is the ratio of the Common Interest appurtenant to each Residential Unit compared to the aggregate Common Interest appurtenant to all Residential Units, expressed as a percentage.

(5) This is the amount each Purchaser will be required to pay for such Purchaser's share of the purchase price of the Resident Manager's Unit. This amount will be paid as a closing cost of such Purchaser's Residential Unit, and as such it is likely to be deemed "consideration" by the NYS Department of Taxation for purposes of calculating the Mansion Tax. (See the Section entitled "Unit Closing Costs and Adjustments" in Part I of the Plan for further discussion.)

(6) This is the amount each Purchaser will be required to pay for such Purchaser's share of the purchase price of the Club Unit. This amount will be paid as a closing cost of such Purchaser's Residential Unit, and as such it is likely to be deemed "consideration" by the NYS Department of Taxation for purposes of calculating the Mansion Tax. (See the Section entitled "Unit Closing Costs and Adjustments" in Part I of the Plan for further discussion.)

(7) These projections have been based upon the projections contained in "Schedule B-1 – Projected Budget for First Year of Residential Section Operation", which were made based on the assumption that the First Year of Residential Section Operation will be from July 1, 2015 – June 30, 2016. The actual first year of operation may be earlier or later. In the event the actual or anticipated commencement date of the First Year of Residential Section Operation is to be delayed by six (6) months or more, Sponsor will amend the Plan to include a revised budget with current projections. If the amended budget exceeds this projected budget by twenty-five percent (25%) or more, Sponsor will offer all Purchasers (other than Purchasers who are then in default beyond any applicable grace period, if the Plan has been declared effective) the right to rescind their Agreements

within not less than fifteen (15) days after the presentation date of the amendment containing such revised budget, and any Purchasers electing rescission pursuant to such offer will have their Deposit and any interest accrued thereon returned.

As discussed above in the Section entitled "Available Services and Facilities" and in the Special Risk entitled "Interim Service Period", the full range of services and facilities described in this Plan may not be provided until move-ins are finished and construction work within and on the Building is completed. To the extent that any service or facility provided during such interim period benefits particular Residential Units, to the exclusion of other Residential Units, and the cost of the same is readily identifiable, the Common Charges necessary to provide such service or facility will be borne exclusively by the owners of the benefited Residential Units, in proportion to their respective Common Interests.

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

As discussed below in the Section entitled "Control by Sponsor" and in the Special Risk entitled "Control by Sponsor; First Residential Meeting", Sponsor shall have the right, in its sole and absolute discretion, to cause the Residential Board to waive the collection of some or all of the Residential Common Charges from Residential Unit Owners for a period of time prior to full occupancy of the Building (the "Waiver Period"); provided, however, that Sponsor shall be solely responsible for payment of all remaining expenses to operate the Residential Section during the Waiver Period (the "Operating Expenses"). In connection with the Waiver Period, (i) if the collection of Common Charges will be delayed, Sponsor shall file an amendment to the Plan prior to the First Closing indicating that the collection of Common Charges will not commence with the beginning of Condominium operations and the anticipated length of such Waiver Period; (ii) Sponsor shall file an amendment to the Plan disclosing the expiration of the Waiver Period at least thirty (30) days prior to such expiration; (iii) that during any such Waiver Period, Sponsor will timely pay all expenses of the Condominium, including but not limited to insurance premiums and any reserve fund payments required by lenders to the extent otherwise included in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation"; (iv) upon the commencement of the collection of Common Charges, there will not be an assessment for any item set forth in the approved budget for the Condominium; and (v) Sponsor shall remain obligated to update the budget for the Condominium, as provided in the Condominium Documents.

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

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

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

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

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

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

(f) real estate taxes (see note 8 below); and

(g) a monthly membership fee for the Health Club.

Holders of Storage Licenses, excluding Sponsor with respect to Unlicensed Storage Closets, will be required to pay a monthly license maintenance fee to the Residential Board in an amount equal to $1 per month per square foot of such Storage Closet, which amount shall, following the First Closing, be subject to biannual increases based upon the CPI Increase Factor in effect on the date of the First Closing. Holders of Wine Cellar Licenses, excluding Sponsor with respect to Unlicensed Wine Cellars, will be required to pay a monthly license maintenance fee to the Residential Board in an amount equal to $1 per month per square foot of such Wine Cellar, which amount shall, following the First Closing, be subject to biannual increases based upon the CPI Increase Factor in effect on the date of the First Closing. Further, the license fees are otherwise also subject to change from time to time as the Residential Board deems necessary or appropriate.

(7A) This column represents the monthly amount of projected Common Charges for the First Year of Condominium Operation, as determined by dividing by twelve (12) those amounts listed in the column titled "Estimated Annual Common Charges".

(8) This column represents the sum of the columns titled "Estimated Annual Common Charges" and "Estimated Annual Real Estate Taxes."

The projection of the real estate taxes that will be payable for each of the Residential Units during the projected First Year of Residential Section Operation and each of the Office Units during the projected First Year of Commercial Section Operation, is based upon an opinion of counsel letter prepared by Marcus & Pollack LLP, Sponsor's real estate tax attorney and reproduced the Section entitled "Opinions of Counsel" in Part I of the Plan (the "Real Estate Tax Opinion"). As per the Real Estate Tax Opinion, by

applying the estimated rate of 13.5% to the estimated transitional assessed value of $63,000,000, it is estimated that the real estate taxes for the Residential Units will be approximately $8,505,000 for the First Year of Residential Section Operation, and applying the estimated rate of 10.5% to the estimated transitional assessed value of $1,015,000, it is estimated that the real estate taxes for the Office Units will be approximately $106,575 for the First Year of Commercial Section Operation. However, since such periods and estimates take into account anticipated reductions due to progress of construction of the Building, the projections of the real estate taxes that will be payable are instead made in respect of the 2016/2017 tax year (the first full year that taxes are anticipated to be assessed for the fully constructed property). Thus, by applying the estimated rate of 13.5% to the estimated transitional assessed value of $81,000,000, it is estimated that real estate taxes for the Residential Units will be approximately $10,935,000 during the projected First Year of Residential Section Operation, and by applying the estimated rate of 10.5% to the estimated transitional assessed value of $1,305,000, it is estimated that real estate taxes for the Office Units will be approximately $137,025 during the projected First Year of Commercial Section Operation. SPONSOR MAKES NO REPRESENTATION THAT THE ASSESSED VALUE OF THE PROPERTY, THE ESTIMATED ALLOCATIONS OR THE TAX RATE WILL NOT BE CHANGED.

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

No warranty, guaranty or assurance is given that:

(i) any projected or estimated amount set forth above (including, without limitation, the estimates of the Property's assessed valuations during the First Year of Condominium Operation, the estimates of the portions of such assessed valuations that will be allocable to the Units and the projection of the average real estate tax rate that will be in effect during such First Year of Condominium Operation and the date of completion of construction of the Building, which will determine the real estate tax rate between July 1, 2015 – June 30, 2016) will approximate the actual amount;

(ii) the New York City Real Estate Tax Assessment Bureau will allocate the Property's aggregate assessed valuation between the Units in accordance with the proportionate Common Interests of the Units, or that such bureau will allocate the aggregate assessed valuation attributable to the Units among the different Units as described above; or

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

Until the Units are separately assessed, each Residential Unit Owner will pay a share of the Property's real estate taxes for the period in question calculated on the basis of such Unit's Common Interest. The Residential Board or the Commercial Board, as the case may be, will pay (or cause to be paid) such real estate taxes timely to the Department of Finance of The City of New York, or directly to Sponsor if Sponsor has paid such taxes, so that no lien will be placed on any portion of the Residential Section or Commercial Section or on any Residential Unit or Office Unit. If Sponsor fails to pay real estate taxes attributable to any Unsold Residential Unit or Unsold Office Unit in a timely manner and as a result of such failure a lien is placed on the Residential Section or Commercial Section and/or any other Unit, Sponsor will immediately cause such lien to be removed at its sole cost and expense. If Residential Unit Owners or Office Unit Owners fail to pay their pro rata share of real estate taxes as set forth above, the Residential Board or Commercial Board, as the case may be, will be entitled to assess late charges and/or place a lien on their Units as if such unpaid share were Residential Common Charges or Commercial Common Charges, as the case may be. (See the subsection entitled "Collection and Lien for Non-Payment of Common Charges" in the Section entitled "Rights and Obligations of the Unit Owners and the Boards of Managers" in Part I of the Plan for further discussion.)

Upon determination of individual tax lots and individual assessments for such Unit, the New York City tax authorities may allocate taxes among the Units on some other basis rather than its relative Common Interest, and, if so, Units having the same or similar Common Interest may pay different real estate taxes and/or taxes may differ from those set forth on Schedule A. In addition, the New York City tax authorities may assess taxes against the Building in a different manner and in a different amount than that assumed by Sponsor's real estate tax attorney and, if so, Unit Owners may pay significantly different real estate taxes than those set forth on Schedule A.

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

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

(8A) This column represents the monthly amount of projected real estate taxes for the First Year of Condominium Operation, as determined by dividing by twelve (12) those amounts listed in the column titled "Estimated Annual Real Estate Taxes."

(9) This column represents the sum of the columns titled "Estimated Annual Common Charges" and "Estimated Annual Real Estate Taxes." However, with respect to Storage Closets and Wine Cellars, this column represents the monthly license fee multiplied by twelve (12) that holders of Storage Licenses and Wine Cellar Licenses will be required to pay to the Residential Board.

(10) This column represents the sum of the columns titled "Estimated Monthly Common Charges" and "Estimated Monthly Real Estate Taxes." However, with respect to Storage Closets and Wine Cellars, this column represents the monthly license fee that holders of Storage Licenses and Wine Cellar Licenses will be required to pay to the Residential Board.

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## SCHEDULE B-1

**The Residential Section of 432 Park Condominium**
**Projected Budget for First Year of Residential Section Operation**
**July 1, 2015 – June 30, 2016**

| | | |
|---|---|---|
| **ESTIMATED INCOME** | | |
| COMMON CHARGES - RESIDENTIAL | (1) | 10,487,489 |
| STORAGE LICENSE FEES | (2) | 37,906 |
| WINE CELLAR LICENSE FEES | (3) | 11,245 |
| SHARED LABOR CHARGE BACK | (4) | 24,532 |
| TOTAL INCOME | | $ 10,561,172 |
| **ESTIMATED EXPENSES** | | |
| PAYROLL | (4) | 2,030,104 |
| STEAM (HEATING & HOT WATER) | (5) | 1,689,350 |
| ELECTRICITY | (6) | 1,746,850 |
| GAS (COOKING) | (7) | 27,600 |
| WATER & SEWER | (8) | 287,500 |
| INSURANCE | (9) | 331,736 |
| REPAIRS & MAINTENANCE | (10) | 125,000 |
| SERVICE CONTRACTS | (11) | 364,000 |
| GENERAL COMMON EXPENSES | (12) | 1,711,698 |
| MANAGEMENT FEE | (13) | 175,000 |
| LEGAL AND AUDIT FEES | (14) | 35,000 |
| OTHER EXPENSES | (15) | 22,500 |
| RESIDENT MANAGER UNIT | (16) | 73,299 |
| CLUB UNIT | (17) | 1,623,261 |
| RESTAURANT EXPENSE | (18) | 218,275 |
| CONTINGENCY | (19) | 100,000 |
| TOTAL OPERATING EXPENSES | | $ 10,561,172 |

The Notes to Schedule B-1 below are an integral part of this Schedule and should be read in conjunction herewith.

## NOTES TO SCHEDULE B-1

**(1) Common Charges. The receipts and expenses for the projected First Year of Residential Condominium Operation. The Common Charges projected herein are based upon estimated expenses for the twelve (12) month period commencing July 1, 2015. The actual First Year of Condominium Operation may begin earlier or later that year.**

If the actual or anticipated date of commencement of the First Year of Condominium Operation is to be delayed by more than six (6) months from the budget year projected in the Offering Plan, the Plan will be amended to include a revised budget disclosing the current projections. If such amended projections exceed the original projections by twenty-five (25%) percent or more, the Sponsor will offer all Purchasers, (other than Purchasers who are then in default beyond any applicable grace period, if the plan has not 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, and any Purchasers electing rescission pursuant to such offer will have their deposit and any accrued interest returned.

Sponsor shall not declare the Plan effective where there are any material changes to the Budget if the changes are not disclosed by a duly filed amendment to the Plan.

**(2) Storage Closets**

There are 59 Storage Closets located on the Subcellar 2 Level and Subcellar 1 Level of the Building. The Residential Board will charge a license fee for the use of the individual Storage Closets. Each Storage Licensee will be charged a monthly License Fee based on the square footage of each individual Storage Closet. The Monthly License Fee projected herein are based upon estimated expenses for the twelve (12) month period commencing July 1, 2015. The License fee will be calculated based on $1.00 per square foot per month by the total square footage per Storage Closet. The Residential Common Charges will be offset by the income derived by the Storage Closet Fees in the amount of $37,906.

**(3) Wine Cellars**

There are 18 Wine Cellars located on the Subcellar 1 Level of the Building. The Residential Board will charge a license fee for the use of the individual Wine Cellars. Each Wine Cellar Licensee will be charged a monthly License Fee based on the square footage of each individual Wine Cellar Space. The Monthly License Fee projected herein are based upon estimated expenses for the twelve (12) month period commencing July 1, 2015. The License fee will be calculated based on $1.00 per square foot per month by the total square footage per Wine Cellar. The Residential Common Charges will be offset by the income derived by the Wine Cellar Fees in the amount of $11,245.

**(4) Payroll and Benefits: ($2,030,104)**

The Building staff shall consist of:

| | | 7/1/2015- 6/30/2016 |
|---|---|---|
| Resident Manager (1) | $2,403.85 x 52 | $125,000 |
| Handyman (2) | $1000.00 x 52 | 104,000 |
| Porters (7) | $905.60 x 52 | 329,638 |
| Doormen/Concierge (12.6) | $905.60 x 52 | 593,349 |

| | | | |
|---|---|---|---|
| Estimated Year End Bonus | | | 50,000 |
| | | WAGES | $1,201,988 |

Multiply by 1.1535 to bring to 60 pay weeks to allow for sick days, holidays and vacation pay

| | | | |
|---|---|---|---|
| | | TOTAL WAGES | $1,386,493 |

All staff will be full-time employees and will be members of Local 32B-32J Service Employees International Union AFL-CIO. The building is classified as Class "A" for the purpose of defining the wage scale. The building is classified as Class "A" for the purpose of defining the wage scale. The projected expenses for wages, salaries and benefits as well as the assumptions described herein, are believed to be reasonable and reflect the experience of Sponsor's budget expert, Cooper Square Realty, in managing comparable buildings. Such level of staffing complies with all applicable housing and labor laws.

The contract with Local 32B-32J Service Employees International Union AFL-CIO is as of April 21, 2010 to April 20, 2014. The wages listed above are based on this contract plus estimated increases.

In addition to his salary, the Resident Manager resides rent free in the Resident Manager's Unit located in apartment 28M and is provided with free gas, electric, telephone and parking.

The Club Unit and Office Unit will utilize the services of one porter and one doorman related to services provided in the shared lobby. The Club Unit and Office Unit have been allocated 10% of the Payroll and Benefit expense related to one porter and one doorman. The Club Unit and Office Unit will reimburse the Residential Condominium for this expense on a monthly basis.

The following expenses are mandated by law for each employee:

| | | | |
|---|---|---|---|
| FICA Employer | | 7.65% | $106,067 |
| NY State Unemployment | (1st $8,500) | 7.5% | 14,408 |
| Federal Unemployment | (1st $7,000) | 1.1% | 1,740 |
| State Disability Insurance | (Yearly) | $45.00 | 1,017 |
| Workers Compensation | | | 35,000 |
| Welfare Fund | (Per Employee) | $15,534 | 351,068 |
| Annuity Fund | (Per Employee) | $5,173 | 116,910 |
| Legal, Profit Sharing and Training Fund | (Per Employee) | $770 | 17,402 |
| | | TOTAL BENEFITS | $643,612 |

**(5) Steam (Heating & Hot Water): ($1,689,350)**

**Con Edison Steam is used to provide heat and hot water. Flack & Kurtz, in their letter dated April 20, 2012, has estimated that the consumption of steam for the year will be 45,906,000 MLbs. per year for the Residential Section. The Commercial Units will be separately sub-metered.**

| Year Cost | Steam Consumption | Average Cost Of Steam (per MLbs.) | Projected Total |
|---|---|---|---|

| | | | |
|---|---|---|---|
| 2012 | 45,906,000 (MLbs.) | $32.00 per MLbs. x 15% increase | $1,689,350 |

Fuel shortages and other factors may raise the cost of steam higher than current rates. It is believed that the current figure should be sufficient to cover the cost of steam during the first year of operation. However, no warranty is made that the projection for steam will be in accordance with the actual cost of the same during the first year of condominium operation.

**(6) Electric: ($1,746,850)**

**The Residential Units use electric provided by Consolidated Edison and will be separately sub-metered. In addition, electric is used to provide central A/C and other Residential Limited Common Element uses. The Mechanical Engineer, Flack & Kurtz, in their letter dated April 20, 2012, has estimated that the consumption of electric for the year will be 5,177,000 KWHRS of electric for the Residential Limited Common Element uses for the Residential Section. The Commercial Units will be separately sub-metered.**

The budget amount for electric is arrived at by multiplying the projected consumption by the most recent rates posted by Consolidated Edison, increased by fifteen percent (15%).

| Year Cost | Project Consumption | Average Cost/Fuel | Projected Total |
|---|---|---|---|
| 2012 | 5,177,000 KWHRS | @ $.20 per KW/HR x 15% increase | $1,746,850 |

**(7) Gas (Cooking): ($27,600)**

**Gas is metered for the entire Building. Gas is distributed throughout the Building for the purposes of cooking in the Residential Units. Flack & Kurtz, in their letter dated April 20, 2012, has estimated that the consumption of gas will be 19,300 Therms of gas per year for the Residential Condominium. The Commercial Units will be separately sub-metered.**

| Year Cost | Gas Consumption | Average Cost Of Gas (per 1,000 CCF) | Projected Total |
|---|---|---|---|
| 2012 | 19,300 (Therms) | $1.24 per Therm x 15% increase | $27,600 |

Fuel shortages and other factors may raise the cost of gas higher than current rates. It is believed that the current figure should be sufficient to cover the cost of gas during the first year of operation. However, no warranty is made that the projection for gas will be in accordance with the actual cost of the same during the First Year of Condominium Operation.

**(8) Water & Sewer: ($287,500)**

**Flack & Kurtz, in their letter dated April 20, 2012, has estimated that the Residential units, cooling tower and amenities will use 25,000,000 gallons per year at $2.95 per 100 cubic feet for cooling tower make-up and $7.99 for domestic water and sewer. The Commercial Units will be separately sub-metered.**

| Year | Consumption/Cu. Ft. | Average Cost Water & Sewer | Projected Total Cost |
|---|---|---|---|
| 2012 | 25,000,000. | $2.95 per 100/Cu. Ft x 15% increase for cooling tower make-up.<br>$7.99 per 100/Cu. Ft x 15% increase for domestic. | $287,500 |

**(9) Insurance: ($331,736)**

**Insurance is projected based on the current insurance costs provided by Genatt Associates Inc. located at 3333 New Hyde Park Road, Suite 400, New Hyde Park, New York, 11042, dated April 4, 2012.**

Commercial Package Policy Covering

Section I Property Fire, Extended Coverage and "all risk" (subject to company form) on the Residential Section at 432 Park Condominiums situated at 432 Park Avenue, New York, NY in an Agreed amount on the building as follows:

| **Limits** | **Coverage:** |
|---|---|
| Building Limit | $551,786,215 |
| Ordinance or Law Coverage A included in full building | |
| Business Personal Property Limit | $50,000 |
| Loss of Maintenance Fees Included | |
| Coverage B - Demolition | $100,000,000 |
| Coverage C- Increased Cost | $100,000,000 |
| Flood | $100,000,000 |
| Earthquake | $100,000,000 |
| Terrorism | $551,786,215 |
| | |
| Property Deductibles | |
| Building, Underground Water & Sewer Backup | $25,000 |
| Flood | $100,000 |
| Earthquake | $100,000 |

Section II: Commercial General Liability Insurance subject to a limit of $1,000,000 per occurrence and

$2,000,000 Annual Aggregate for Bodily Injury, Personal Injury and Property Damage.

| | |
|---|---|
| Personal and Advertising Injury | $1,000,000 |
| Fire Damage Liability | $50,000 |
| Medical Expense | $5,000 |
| Hired / Non Owned Auto Liability | $1,000,000 |
| Water Damage Legal Liability | $1,000,000 |
| | |
| Crime Insurance | |
| Employee Dishonesty Limit | $5,000,000 |
| Managing Agent Rider | $5,000,000 |
| Deductible | $1,000 |

Directors and Officers Liability
$5,000,000 Claims Made Basis (includes managing agent's rider as additional insured)
Deductible $5,000
Includes Managing Agent's rider as Additional Insured

| | |
|---|---|
| Boiler and Machinery or Equipment Breakdown | |
| Limit | $500,000,000 |
| Deductible | $25,000 |

Section III: Umbrella Liability limit of $100,000,000, per occurrence and aggregate.
$10,000 self insured retention
Includes Excess Directors & Officers

**Total Premium $331,736**

The terms of the fire, casualty and general liability insurance will provide (i) that each Unit Owner is an additional insured, (ii) that there will be no cancellation without prior notice to the Board of Managers, (iii) a waiver of subrogation, (iv) a waiver of invalidity because of the acts of the insured and Unit Owners and (v) a waiver of pro-rata reduction if Unit Owners obtain additional coverage.

The insurance figures provided are adequate and acceptable to the insurance carrier in order to provide the Agreed Amount Clause, which meets the co-insurance requirement. In order to safeguard the investment of its Unit Owners in the event of a substantial or total destruction of the Building, the Condominium should periodically review the amount of casualty insurance for the Building to insure that the amount of coverage equals it's then estimated replacement cost.

Sponsor represents that it will deliver at the Condominium's expense, on or before the first closing of title to a Unit, a fire and liability binder or policy containing all the coverage described in this footnote and meeting the requirements of the Condominium By-Laws. This coverage does not include claims for personal injury or property damage resulting from occurrences in Units, nor does it include coverage of the furniture or personal property of the Unit Owner.

Unit Owners are advised to obtain insurance at their own cost to cover such risks as fire and casualty losses to Unit contents, replacements, additions, upgraded fixtures and improvements, and liability coverage for occurrences within the Unit.

See the Subsection of the Offering Plan entitled "Insurance" in the Section entitled "Rights and Obligations of the Unit Owners and the Boards of Managers".

**(10) Repairs and Maintenance: ($125,000)**

**Does not include repairs, painting, maintenance, or supplies for individual Units, all of which are the responsibility of the individual Unit Owners. The budgeted figure is based on an estimation of repairs to the interior of the Building, the interior of the Building (including walls), the plumbing and electrical systems, painting of public areas, the residential heating system (including pipes and control devices regulating distribution in the residential Building) and various supplies (such as cleaning supplies and materials, lubricants, bulbs, public fixtures, general and hardware supplies). No amount is included for items covered by construction warranties or to cover the cost of any major capital expenditure in the Building. The budgeted amount is based on the Sponsor's Budget Experts experience in operating other buildings of comparable size and quality and mixed use.**

**(11) Service Contracts and Supplies: ($364,000)**

This figure represents the estimated annual cost of services and supplies (including service contracts) provided to and for the benefit of the Residential Section is as follows:

| | |
|---|---|
| Elevator Maintenance | $60,000 |
| Flowers/Landscaping | $45,000 |
| Exterminating | 15,000 |
| Metal and Marble Maintenance | 20,000 |
| Private Rubbish Removal | $20,000 |
| Sub Metering | $8,000 |
| Fire Extinguishers | 1,000 |
| Central Station Monitor | 5,000 |
| Fire Protection | 20,000 |
| Supplies (cleaning materials, lubricants, bulbs, two- way radios, rubbish compactor bags, general and hardware supplies) | 50,000 |
| HVAC | 25,000 |
| Chillers | 60,000 |
| Telephone/Beeper/Mobile | 10,000 |
| Uniforms | 25,000 |
| **Total** | **$364,000** |

The foregoing is based on the experience of Cooper Square Realty in other similar buildings.

**No service contracts have been entered into at the time of the submission of this Plan to the Attorney General.** Sponsor has reserved the right to enter into service, maintenance, employment, concessionaire and other agreements that will be binding on the Condominium on commencement of operation. However, Sponsor may not enter into any binding service or maintenance contract that will materially increase the first year's Common Expenses or that would be binding on the Condominium for more than two (2) years, unless disclosed in this Plan or in an amendment thereto; provided, however, that unless such service or maintenance contract would result in an increase in the first year's budget by twenty-five percent (25%) or more, Purchasers shall have no right of rescission with respect to their Unit(s) notwithstanding any such amendment.

For further details, see the section of the Plan entitled "Management Agreements".

**(12) General Common Charges: ($1,711,698)**

**A portion of the Residential Common Charges payable by the Residential Unit Owners represents the Residential Section's allocated portion of General Common Charges assessed by the Condominium Board against the Residential Section in accordance with the Condominium By-Laws. Please refer to Schedule B-2 and the Notes thereto for further details.**

**(13) Management Fee: ($175,000)**

**Based on a proposed agreement with Cooper Square Realty, Inc. for a term of three (3) years. The services of the managing agent shall commence upon the conveyance of title by the Sponsor of the first Unit in the Residential Condominium and shall continue until the third anniversary of such date. The fee will be $175,000 for the first year, which is approximately $99.21 per unit per month.** This management fee reflects the prevailing cost for similar services. It is based on the size of the building and number of Residential Units.

For further details as to the responsibilities of the managing agent, see the section of the Plan entitled "Management Agreements".

**(14) Legal and Audit Fees: ($35,000)**

**All Residential Condominium Unit Owners are entitled to receive annually from the Residential Condominium at the Condominium's expense an annual audited statement prepared by an independent certified public accountant.** Based upon the estimate of $20,000, as set forth in a letter dated December 1, 2011 from Newman, Newman and Kaufman located at 575 Underhill Blvd., Suite 110, Syosset, New York 11791. $20,000 has been budgeted to provide for estimated auditing and accounting fees in connection with the preparation of the audited financial statements for the Association's First Year of Association Operation and its Federal, state and city income tax returns. The balance of the budgeted amount ($15,000) has been estimated to provide for minor legal services to be rendered in connection with the operation of the Building such as attendance at Board meetings, preparation of Board minutes and negotiation of minor agreements.

| | |
|---|---|
| Accountant | $20,000 |
| Legal (See explanation below) | $15,000 |

Legal includes general business matters as well as any special collection mailers that are not normally handled under the management agreement.

**(15) Other Expenses: ($22,500)**

**Other Expense for the Residential Section covers the ongoing need for telephone, office supplies, office equipment, postage, special communications and mailings to the Unit Owners, annual meetings and other expenses. It has been estimated at $22,250 for the first year.**

| | |
|---|---|
| Telephone and Communications | $5,000 |
| Printing and Postage | $5,000 |
| Permits/Inspection Fees | $2,500 |
| General | $12,500 |

**(16) Resident Managers Unit: ($73,300)**

This item consists of real estate taxes and utility charges for Residential Unit 28M (including electricity, gas, basic telephone service and cable television which will be provided to the Resident Manager without charge) attributable to the Resident Manager's Unit which is anticipated to be acquired by the Residential Section upon or following the conveyance of the first Residential Unit and will thereafter be occupied by the Resident Manager rent free. The expenses attributable to the Resident Manager's Unit will be paid by all Residential Unit Owners as a Residential Common Expense and allocated on the basis of proportionate Common Interest. The estimated monthly expenses are detailed as follows:

| | |
|---|---|
| Monthly Residential Common Charges | $2,836 |
| Monthly Real Estate Taxes | $2,957 |
| Monthly Utility Charges | $316 |
| Monthly Total | $6,108 |

Although Residential Common Charges are imputed to and assessed against the Resident Manager's Unit, no Common Charges will in fact be collected by the Residential Board in respect thereof while the Resident Manager's Units is dedicated or the use of the Resident Manager.

Until such time that the Resident Manager's unit is conveyed to the Residential Section, the Sponsor will retain the right to charge rent for use and occupancy of the Resident Manager's Unit at a rent equal to or greater than the monthly real estate taxes, common charges and utility charges attributed to Unit 28M.

**(17) Club Unit: (1,623,265)**

This expense consists of the costs associated with the operation of the Club Unit. This expense consists of the for following:

| | |
|---|---|
| Club Operator | $311,880 |
| Steam | $312,000 |
| Water and Sewer | $53,200 |
| Electricity | $266,000 |
| Insurance | $30,749 |
| Common Charges | $141,000 |
| Common Lobby Shared Labor | $12,266 |
| BID Tax | $2,568 |
| Real Estate Taxes | $493,602 |
| Total | $1,623,265 |

**(18) Restaurant: (218,275)**

This expense consists of the costs associated with the operation of the Restaurant to the extent that the Initial Private Residential Dining Period occurs within First Year of Residential Section Operation. The Restaurant will be operated by a third party vendor whose expense for the First Year of Operation has been estimated to be $218,275. Residential Unit Owners who avail themselves of Private Residential Dining will be charged additional fees for such services at rates established by the Residential Board from time to time. These fees will be billed by the Residential Board on a monthly basis and will constitute additional Residential Common Charges.

**(19) Contingency: (100,000)**

**This fund may be used at the discretion of the Residential Board, as applicable, toward unforeseen expenses or other appropriate Residential Condominium expenses. The purpose of the Contingency Fund is intended to provide-for any unanticipated expenses or unanticipated increase in projected expenses.**

In the opinion of Cooper Square Realty, Inc. (set forth in the "Certification of Sponsor's expert concerning adequacy of the Budget in Part II of this offering plan), the projected receipts appear reasonable and adequate based on present prices (adjusted to reflect continued inflation and present levels of consumption for comparable Units similarly situated) to meet the estimated expenses for the first year of operation. The foregoing budget, however, is not intended and should not be taken as a guarantee or warranty by anyone that the annual Common Charges or

other receipts or expenses for the first or any subsequent year of operation of the Property by the Condominium will be set forth in said projected budget. It is likely that the actual expenses for the first year of operation will vary from the amounts shown in the projected budget.

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## SCHEDULE B-2

**432 Park Condominium**
**Projected Budget for First Year of Condominium Operation (1)**
**July 1, 2015 – June 30, 2016**

**ESTIMATED INCOME (Note 2)**
**See also "Allocation of Estimated General Common Expenses"**

| | | |
|---|---|---|
| COMMON CHARGES – RESIDENTIAL UNITS | (2) | 1,711,698 |
| COMMON CHARGES – GARAGE UNIT | (2) | 39,125 |
| COMMON CHARGES – RETAIL UNIT A | (2) | 39,448 |
| COMMON CHARGES – RETAIL UNIT B | (2) | 179,711 |
| COMMON CHARGES – RETAIL UNIT C | (2) | 99,012 |
| COMMON CHARGES – CLUB UNIT | (2) | 140,996 |
| COMMON CHARGES - OFFICE UNITS | (2) | 49,643 |
| TOTAL ESTIMATED INCOME | | $ 2,259,632 |

**ESTIMATED EXPENSES (Note 3)**

| | | |
|---|---|---|
| PAYROLL AND BENIFITS | (4) | 872,300 |
| REPAIRS AND MAINTENANCE | (5) | 125,000 |
| SERVICE CONTRACTS | (6) | 691,032 |
| MANAGEMENT FEE | (7) | 75,000 |
| INSURANCE | (8) | 456,300 |
| LEGAL AND AUDIT | (9) | 30,000 |
| OTHER | (10) | 10,000 |
| TOTAL ESTIMATED OPERATING EXPENSES | | $ 2,259,632 |

The Notes to Schedule B-2 below are an integral part of this Schedule and should be read in conjunction herewith.

# ALLOCATION OF ESTIMATED GENERAL COMMON EXPENSES

| | Total Common Charges for Condominium | Method of Allocation | Residential Unit 76.58% | Garage Unit 1.75% | Retail Unit A 1.76% | Retail Unit B 8.04% | Retail Unit C 4.43% | Club Unit 5.76% | Office Unit 1.67% |
|---|---|---|---|---|---|---|---|---|---|
| PAYROLL AND BENEFITS | $ 872,300.04 | % of Interest | $ 668,030 | $ 15,269 | $ 15,396 | $ 70,136 | $ 38,642 | $ 50,240 | $ 14,587 |
| REPAIRS AND MAINTENANCE | $ 125,000.00 | % of Interest | $ 95,728 | $ 2,188 | $ 2,206 | $ 10,050 | $ 5,537 | $ 7,199 | $ 2,090 |
| SERVICE CONTRACTS | $ 691,032.16 | % of Interest | $ 510,423 | $ 11,667 | $ 11,763 | $ 53,589 | $ 29,525 | $ 50,653 | $ 23,412 |
| MANAGEMENT FEE | $ 75,000.00 | % of Interest | $ 57,437 | $ 1,313 | $ 1,324 | $ 6,030 | $ 3,322 | $ 4,320 | $ 1,254 |
| INSURANCE | $ 456,300.00 | % of Interest | $ 349,446 | $ 7,987 | $ 8,053 | $ 36,688 | $ 20,213 | $ 26,280 | $ 7,631 |
| LEGAL AND AUDIT | $ 30,000.00 | % of Interest | $ 22,975 | $ 525 | $ 529 | $ 2,412 | $ 1,329 | $ 1,728 | $ 502 |
| OTHER | $ 10,000.00 | % of Interest | $ 7,658 | $ 175 | $ 176 | $ 804 | $ 443 | $ 576 | $ 167 |
| Total | $ 2,259,632 | | $ 1,711,698 | $ 39,125 | $ 39,448 | $ 179,711 | $ 99,012 | $ 140,996 | $ 49,643 |

The Notes to Schedule B-1 below are an integral part of this Schedule and should be read in conjunction herewith.

## NOTES TO SCHEDULE B-2

**(1) First Year of Operation:** Amounts are projected on the assumption that the First Year of Condominium Operation will be the year from July 1, 2015 to June 30, 2016. If the actual or anticipated date of commencement of the First Year of Condominium Operation is to be delayed by more than six (6) months from the budget year projected in the Offering Plan, the Plan will be amended to include a revised budget disclosing the current projections. If such amended projections exceed the original projections by twenty-five (25%) percent or more, the Sponsor will offer all Purchasers, (other than Purchasers who are then in default beyond any applicable grace period, if the plan has not 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, and any Purchasers electing recession pursuant to such offer will have their deposit and any accrued interest returned.

Sponsor shall not declare the Plan effective where there are any material changes to the Budget if the changes are not disclosed by a duly filed amendment to the Plan.

**(2) General Common Charges:** These amounts represent the total General Common Charges to be levied against and collected from the Residential Section and Commercial Section during the projected First Year of Condominium Operation. The General Common Charges will be utilized by the Condominium Board to defray the operational expenses of the Condominium. Generally, General Common Expenses have been allocated on the basis of proportionate Common Interest, for a total of 100%

**(3) General Common Expenses:** General Common Expenses include the costs and expenses in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the General Common Elements and the provision of services to the Unit Owners in general, such as: payroll and benefits for the employees of the Condominium, certain insurance coverage's for the General Common Elements and the Condominium Board, the managing agent for the Condominium, service contracts, legal and audit, and the repairs and replacements for the General Common Elements. Purchasers are advised that all budget projections are estimates and approximations. The projections were made by Sponsor in conjunction with Cooper Square Realty Inc., Sponsor's budget projection consultant ("Consultant"). Although the projections are believed to be reasonable, they are not assured or guaranteed.

**(4) Payroll and Benefits: ($872,300)**

The Building staff shall consist of:

| | | 7/1/2015- 6/30/2016 |
|---|---|---|
| Chief Engineer (1) | $1,838.55 x 52 | $107,181 |
| Watch Engineers (4) | $1,451.38 x 52 | 338,310 |
| Engineer Helper (1) | $1,130.08 x 52 | 65,852 |
| Year End Bonus | | $25,000 |
| | SUB-TOTAL WAGES | $536,344 |

In addition to bases wages, each employee will receive vacation days based on their years of service plus holiday pay, medial visits, shoe allowance and sick pay based on the union agreement. For the purpose of this budget, we have estimated $71,001 for these wage benefits.

| | | | |
|---|---|---|---|
| | | TOTAL WAGES | $607,345 |

All staff will be full-time employees and will be members of Local 94 Service Employees International Union AFL-CIO. The building is classified as Class "A" for the purpose of defining the wage scale. The projected expenses for wages, salaries and benefits as well as the assumptions described herein, are believed to be reasonable and reflect the experience of Sponsor's budget expert, Cooper Square Realty, in managing comparable buildings. Such level of staffing complies with all applicable housing and labor laws.

The contract with Local 94-94A-94B International Union of Operating Engineers AFL-CIO is as of January 1, 2011 to December 31, 2014. The wages listed above are based on this contract plus estimated increases.

The following expenses are mandated by law or per the union agreement for each employee:

| | | | |
|---|---|---|---|
| FICA Employer | | 7.65% | $46,462 |
| NY State Unemployment | (1st $8,500) | 7.5% | 3,825 |
| Federal Unemployment | (1st $7,000) | 1.1% | 462 |
| State Disability Insurance | (Yearly) | $45.00 | 270 |
| Workers Compensation | | | 18,000 |
| Health Fund | (2080 hours per year) | $8.25 per hr. | 102,960 |
| Pension | (2080 hours per year) | $3.60 per hr. | 44,928 |
| Annuity | (2080 hours per year) | $3.85 per hr. | 48,048 |
| | | TOTAL BENEFITS | $264,955 |

**(5) Repairs, Maintenance and Improvements: ($125,000)**

**Does not include repairs, painting, maintenance, or supplies for individual Units, all of which are the responsibility of the individual Residential or Commercial Units.**

The budgeted figure is based on an estimation of repairs to the interior of the Building, the roof, the exterior of the Building (including walls), the plumbing and electrical systems, painting of public areas, foundations, the heating system (including pipes and control devices regulating distribution in the Building) and various supplies (such as cleaning supplies and materials, lubricants, bulbs, public fixtures, general and hardware supplies). No amount is included for items covered by construction warranties or to cover the cost of any major capital expenditure in the Building. The budgeted amount is based on Cooper Square Realty's experience in operating other buildings of comparable size and quality.

**(6) Service Contracts and Supplies: ($691,032)**

This figure represents the estimated annual cost of services and supplies (including service contracts) provided to and for the benefit of the Residential Units and Commercial Units as follows:

| | |
|---|---|
| Rubbish Removal | $5,000 |
| Contract Labor (Loading Dock and Security) | 250,000 |
| Flowers and Landscaping | 25,000 |

| | |
|---|---|
| Holiday Decorations | 40,000 |
| HVAC | 35,000 |
| Window Washing (2X per year) | 200,000 |
| Elevators | 30,000 |
| Water Treatment | 10,000 |
| Generator | 7,500 |
| Supplies | 35,000 |
| Telephone and Internet | 4,000 |
| Lobby Shared Labor Allocation * | 24,521 |
| Uniforms | 25,000 |
| Total | $691,032 |

The foregoing is based on the experience of Cooper Square Realty in other similar buildings.

*This expense is allocated only towards the Club Unit and the Office Unit. The Club Unit and Office Unit will utilize the services of one porter and one doorman related to services provided in the shared lobby. The Club Unit and Office Unit have been allocated 10% of the Payroll and Benefit expense related to one porter and one doorman. The Club Unit and Office Unit will reimburse the Residential Condominium for this expense on a monthly basis.

**No service contracts have been entered into at the time of the submission of this Plan to the Attorney General.** The sponsor has reserved the right to enter into service, maintenance, employment, concessionaire and other agreements that will be binding on the Condominium on commencement of operation. However, Sponsor may not enter into any binding service or maintenance contract that will materially increase the first year's Common Expenses or that would be binding on the Condominium for more than two (2) years, unless disclosed in this Plan or in an amendment thereto; provided, however, that unless such service or maintenance contract would result in an increase in the first year's budget by twenty-five percent (25%) or more, Purchasers shall have no right of rescission with respect to their Unit(s) notwithstanding any such amendment.

For further details, see the section of the Plan entitled "Management Agreements".

**(7) Management: ($75,000)**

Based on a proposed agreement with Cooper Square Realty, Inc. for a term of three (3) years. The services of the managing agent shall commence upon the conveyance of title by the Sponsor of the first Unit in the Condominium and shall continue until the third anniversary of such date. The fee will be $75,000 for the First Year of Operation.

This management fee reflects the prevailing cost for similar services. It is based on the size and makeup of the Condominium.

For further details as to the responsibilities of the managing agent, see the section of the Plan entitled "Management Agreements".

**(8) Insurance: ($456,300)**

**Insurance is projected based on the current insurance costs provided by Genatt Associates Inc. located at 3333 New Hyde Park Road, Suite 400, New Hyde Park, New York, 11042, dated April 4, 2012.**

Commercial Package Policy .Covering

Section I Property Fire, Extended Coverage and "all risk"(subject to company form) on the Residential Section at 432 Park Condominiums situated at 432 Park Avenue, New York, NY in an Agreed amount on the building as follows:

| **Limits** | **Coverage:** |
|---|---|
| Building Limit | $551,786,215 |
| Ordinance or Law Coverage A included in full building | |
| Business Personal Property Limit | $50,000 |
| Loss of Maintenance Fees Included | |
| Coverage B - Demolition | $100,000,000 |
| Coverage C- Increased Cost | $100,000,000 |
| Flood | $100,000,000 |
| Earthquake | $100,000,000 |
| Terrorism | $551,786,215 |
| | |
| Property Deductibles | |
| Building, Underground Water & Sewer Backup | $25,000 |
| Flood | $100,000 |
| Earthquake | $100,000 |

Section II: Commercial General Liability Insurance subject to a limit of $1,000,000 per occurrence and

$2,000,000 Annual Aggregate for Bodily Injury, Personal Injury and Property Damage.

| | |
|---|---|
| Personal and Advertising Injury | $1,000,000 |
| Fire Damage Liability | $50,000 |
| Medical Expense | $5,000 |
| Hired / Non Owned Auto Liability | $1,000,000 |
| Water Damage Legal Liability | $1,000,000 |
| | |
| Crime Insurance | |
| Employee Dishonesty Limit | $5,000,000 |
| Managing Agent Rider | $5,000,000 |
| Deductible | $1,000 |

Directors and Officers Liability
$5,000,000 Claims Made Basis (includes managing agent's rider as additional insured)
Deductible $5,000
Includes Managing Agent's rider as Additional Insured

| | |
|---|---|
| Boiler and Machinery or Equipment Breakdown | |
| Limit | $500,000,000 |
| Deductible | $25,000 |

Section III: Umbrella Liability limit of $100,000,000, per occurrence and aggregate.
$10,000 self insured retention
Includes Excess Directors & Officers

**Total Premium** **$456,300**

The terms of the fire, casualty and general liability insurance will provide (i) that each Unit Owner is an additional insured, (ii) that there will be no cancellation without prior notice to the Board of Managers, (iii) a waiver of subrogation, (iv) a waiver of invalidity because of the acts of the insured and Unit Owners and (v) a waiver of pro-rata reduction if Unit Owners obtain additional coverage.

The insurance figures provided are adequate and acceptable to the insurance carrier in order to provide the Agreed Amount Clause, which meets the co-insurance requirement. In order to safeguard the investment of its Unit Owners in the event of a substantial or total destruction of the Building, the Condominium should periodically review the amount of casualty insurance for the Building to insure that the amount of coverage equals it's then estimated replacement cost.

The Sponsor represents that it will deliver at the Condominium's expense, on or before the first closing of title to a Unit, a fire and liability binder or policy containing all the coverage described in this footnote and meeting the requirements of the Condominium By-Laws. This coverage does not include claims for personal injury or property damage resulting from occurrences in Units, nor does it include coverage of the furniture or personal property of the Unit Owner.

Unit Owners are advised to obtain insurance at their own cost to cover such risks as fire and casualty losses to Unit contents, replacements, additions, upgraded fixtures and improvements, and liability coverage for occurrences within the Unit.

See the Subsection of the Offering Plan entitled "Insurance" in the Section entitled "Rights and Obligations of the Unit Owners and the Boards of Managers".

**(9) Administration: ($30,000)**

Based upon the estimate of $20,000, as set forth in a letter dated December 1, 2011 from Newman, Newman and Kaufman located at 575 Underhill Blvd., Suite 110, Syosset, New York 11791. $30,000 has been budgeted to provide for estimated auditing and accounting fees in connection with the preparation of the audited financial statements for the Association's First Year of Association Operation and its Federal, state and city income tax returns. The balance of the budgeted amount ($10,000) has been estimated to provide for minor legal services to be rendered in connection with the operation of the Building such as attendance at Board meetings, preparation of Board minutes and negotiation of minor agreements.

| | |
|---|---|
| Accountant | $20,000 |
| Legal | $10,000 |

**(10) Other Expenses: ($10,000)**

Other Expense for the Condominium covers the ongoing need for telephone, office supplies, office equipment, postage, special communications and mailings to the Unit Owners, annual meetings and other expenses. It has been estimated at $10,000 for the first year.

| | |
|---|---|
| Telephone and Communications | $5,000 |
| General | $5,000 |

**In the opinion of Cooper Square Realty, Inc. (set forth in the section titled "Certification of Sponsor's expert concerning adequacy of the Budget in Part II of this offering plan), the projected receipts appear reasonable and adequate based on present prices (adjusted to**

**reflect continued inflation and present levels of consumption for comparable Units similarly situated) to meet the estimated expenses for the first year of operation. The foregoing budget, however, is not intended and should not be taken as a guarantee or warranty by anyone that the annual Common Charges or other receipts or expenses for the first or any subsequent year of operation of the Property by the Condominium will be set forth in said projected budget. It is likely that the actual expenses for the first year of operation will vary from the amounts shown in the projected budget.**

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## SCHEDULE B-3

### Projected Annual Electricity Cost

By letter dated November 7, 2011, WSP Flack and Kurtz Inc., provided the following estimate of annual electric energy costs for lighting and for operating the typical electrical appliances located in each apartment:

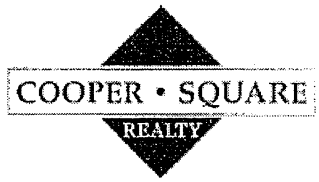
The estimate of kilowatt hour ("KWH") per year per square foot and annual cost of electricity per square foot utilized by individual apartments 5.95 KWH per Sq. Ft. per Year and $1.25 per Sq. Ft. per Year, based on Con Edison rate of $0.21 per KWH for calendar year 2012. The following table sets forth the estimated annual costs of electricity for typical Units:

| APARTMENT SIZE | ANNUAL KWH | TOTAL ANNUAL COST |
|---|---|---|
| 554 sq. ft. | 3,048 KWH | $ 640.06 |
| 1,660 sq. ft. | 9,545 KWH | $ 2,004.45 |
| 3,380 sq. ft. | 20,280 KWH | $ 4,258.80 |
| 6,760 sq. ft. | 40,560 KWH | $ 8,517.60 |

The projected rates were made using Con Edison rates for calendar year 2011 increased by an estimated three percent (3%) annual inflation. The projected rates are not guaranteed and it must be expected that these rates will increase with the passage of time and may be affected by many factors which are beyond the control of the Sponsor. Purchasers are advised that the projections are only estimates and actual consumption will be metered and will vary based on the personal needs of occupants and weather conditions.

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# E. COMPLIANCE WITH REAL PROPERTY LAW SECTION 339(i)




www.coopersquare.com Tel 212.634.8900

**COMPLIANCE WITH REAL PROPERTY LAW SECTION 339(i)**

July 3, 2012

56th and Park (NY) Owner, LLC
515 Madison Avenue, 41st Floor
New York, New York 10022

Re: 432 PARK CONDOMINIUM
432 Park Avenue, New York, New York 10016

Dear Sir or Madam:

Cooper Square Realty, Inc., is a licensed real estate brokerage firm in the State of New York. Cooper Square Realty, Inc. has been engaged in the management of over 250 condominium, cooperative and residential rental properties over the course of the past 25 years. The undersigned has no beneficial interest in Sponsor or the profitability of the subject project.

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

The common interests among the Units have been allocated to each based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit, in accordance with Section 339-i(1)(iv) of the New York State Real Property Law. This allocation utilizes measurements and calculations of net square footage made by SLCE Architects, LLP, Sponsor's Architect.

Very truly yours,

**COOPER SQUARE REALTY, INC.**

By:
Name: Marc Kotler
Title: Vice President

Sworn to before me this
3 day of July, 2012

Notary Public

MARGARET Y WANG
NOTARY PUBLIC STATE OF NEW YORK
QUEENS COUNTY
LIC. #01WA6192672
MY COMMISSION EXPIRES 09/02/2012

## F. COMMERCIAL UNITS

The Condominium will initially include the following Commercial Units: (i) twelve (12) Office Units; (ii) the Club Unit; (iii) three (3) Retail Units (referred to as Retail Unit A, Retail Unit B and Retail Unit C (Retail Unit A and Retail Unit B are located within the podium of the Tower, and Retail Unit C is located within the Park Avenue Pavilion); and (iv) the Garage Unit. As more particularly set forth in the Declaration, Condominium By-Laws and Commercial By-Laws, the Commercial Board shall generally have the power and authority to govern the affairs of the Commercial Section of the Condominium.

Each of the Commercial Unit Owners 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 General Common Elements, only to the extent the same are utilized by or benefit such Commercial Unit Owner. As more fully set forth in the "Notes to Schedule B-2" above, each of the Commercial Unit Owners will therefore pay only allocated percentages of only certain expenses, which percentages may be less (or more) than in proportion to their Common Interest. The allocated percentages represent a projection of the proportionate usage of the services and facilities in question by each of the Commercial Unit Owners, as estimated by Cooper Square Realty, Inc., an independent expert retained by Sponsor. It is the opinion of Cooper Square Realty, Inc., as set forth as Exhibit 14D in Part II of the Plan, that the aforementioned Common Charges payable by each of the Commercial Unit Owners are sufficient to cover the General Common Expenses fairly attributable to such Unit Owner's Commercial Unit.

Each of the Commercial Unit Owners will be obligated to pay its share, as shall be determined by the Commercial Board pursuant to the Commercial By-Laws, of the expenses, if any, that are incurred by the Commercial Board in furnishing services, and operating, maintaining, insuring and repairing Commercial Limited Common Elements.

No unlawful use by any of the Commercial Unit Owners 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 applicable Unit Owner or the applicable Board(s), whichever party has the obligation to maintain or repair such part of the Property, as set forth in the Declaration, the Condominium By-Laws or the Commercial By-Laws.

The Office Units, located principally on portions of Floors 18 through 20 of the Tower, are currently anticipated to initially be used for office purposes (and ancillary uses); Retail Unit A, located principally on portions of the Cellar Level through Floor 5 of the Tower, is currently anticipated to initially be used for retail purposes (and ancillary uses); Retail Unit B, located principally on portions of the Cellar Level and Ground Floor through Floor 5 of the Tower, is currently anticipated to initially be used for retail purposes (and ancillary uses); Retail Unit C, located on the Cellar Level and in the Park Avenue Pavilion, which is a stand-alone structure (above grade), located principally on a portion of the Land located on the northwest corner of Park Avenue and East 56$^{th}$ Street, and connected to the Tower underground at the Cellar Level, is currently anticipated to initially be used for retail purposes (and ancillary uses); the Garage Unit, located at the Subcellar 2 Level of the Tower, is currently anticipated to initially be used as accessory parking (and ancillary uses); and the Club Unit, a social health club, featuring a fitness

center (including exercise equipment, a swimming pool, whirlpool, sauna, steam room and locker rooms), library, conference room and screening room, located principally on portions of Floors 12, 14, 15 and 16 of the Tower and for the use of Residential Section residents and other members, is currently anticipated to initially be used for social and health club purposes (and ancillary uses) as a Physical Culture Establishment as defined in the Zoning Resolution.

Sponsor expressly reserves the right to create additional Office Units by, among other things, subdividing and reconfiguring the Retail Units and, in connection with such subdivision and reconfiguration, redesignating in an amendment to the Declaration, among other things, a portion of a subdivided Retail Unit's space as an additional Office Unit. Sponsor expressly reserves the right, from time to time prior to the First Closing, to effect such changes and to amend the Plan so as to reflect the same.

Further, while it is anticipated that the Club Unit will contain a health club facility open to the public, Sponsor makes no representation or warranty regarding the use of such space. As of the filing of this Plan, Sponsor has been issued a building permit by the Department of Buildings, and such permit lists the permitted use of the Club Unit as a Physical Culture Establishment as defined in the Zoning Resolution, which use has been approved by the BSA.

It is anticipated that the Club Unit will be sold to the Residential Board. At the Closing to each Residential Unit, the Purchaser thereof, as a closing cost of such Purchaser's Residential Unit, will be required to pay such Purchaser's share of the $640,000 purchase price of the Club Unit determined in proportion to their respective Common Interests, as set forth on Schedule A – "Purchase Prices and Related Information." Health Club members will pay monthly fees in respect of Health Club membership

The Club Unit and the Office Units will be accessed via the Commercial Lobby, which is on the western portion of the Main Lobby of the Tower. Office Unit Owners and Health Club members (including individuals who are not Residential Unit Owners) will therefore be permitted to enter the Main Lobby in order to access the Commercial Lobby. However, those Office Unit Owners and Health Club members who are not Residential Unit Owners will not be permitted to access the Residential Lobby. Guests or tenants of Office Unit Owners shall be prohibited from loitering in either the Commercial Lobby or the Main Lobby, or otherwise using such spaces as a waiting area.

Subject to certain restrictions set forth in the Declaration, Condominium By-Laws and Commercial By-Laws, each Commercial Unit may be used and operated for any legally permitted purpose (subject to compliance with all Legal Requirements, including, without limitation, the certificate of occupancy for such Unit and any applicable zoning regulations). No income derived from any use of such Commercial Units will constitute income to any Board or any Unit Owner (except as may be expressly provided in the Condominium By-Laws or Commercial By-Laws to the contrary or pursuant to separate written agreement by or among the applicable parties). The Unit Owner of any such Unit may lease or license all or any portion of its Unit to one or more lessees (or may permit occupants or permittees to use all or any portion of its Unit) so long as the uses thereof are in conformance with all Legal Requirements, the Declaration and the Condominium By-Laws.

After operation of the Condominium has commenced, it is anticipated that the Common Charges payable by each of the Commercial Unit Owners and the Residential Board 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 each of the Commercial Unit Owners. As set forth in more detail in the Condominium By-Laws, except with respect to the allocation of certain fixed costs, a Commercial Unit Owner or the Residential Board may seek to demonstrate that a change in usage or services provided warrant an adjustment to the relative assessments of General Common Charges. If the Condominium Board and any Commercial Unit Owner or the Residential Board cannot agree on such adjustment, the dispute will be submitted to arbitration in accordance with Article 11 of the Condominium By-Laws.

To the extent permitted by law, and subject to certain restrictions set forth in the Declaration and Condominium By-Laws, each Commercial Unit Owner will have the right with regard to its respective Unit, without the vote or consent of the Boards, Managing Agents, other Unit Owners, 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: (i) 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 Condominium Board, or (ii) any other Unit Owner's Unit, or the Residential Section, or the use thereof or access thereto, shall be subject to the approval, not to be unreasonably withheld, of the affected Unit Owner or the Residential Board, as applicable), 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 10 of the Declaration, the Commercial Unit Owners will each have the right with regard to its Unit to amend the Declaration in order to reflect such changes, or to cause the Condominium Board to do so. If any of the Commercial Units is subdivided or combined, the owner of each Unit resulting from a subdivision or combination will generally have all of the rights (without the consent of the Boards or other Unit Owners), set forth above in this paragraph and in the Declaration, described as pertaining to the Unit Owner of the original Unit or Units in question.

All normal maintenance and repairs of the roof of the Building will be made by the Condominium Board and chargeable to all Unit Owners as a General Common Expense. Capital repairs and replacements to such roofs, other than normal maintenance and repairs, will be charged to all Unit Owners as a General Common Expense.

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## G. CHANGES IN PRICES AND UNITS: RESIDENTIAL UNITS, OFFICE UNITS, STORAGE LICENSES AND WINE CELLAR LICENSES

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

The Plan will be amended to disclose: (a) any increase (but not any decrease) in the purchase price of an offered Unit; (b) any changes in either purchase prices (whether increases or decreases) or other financial terms of sale that are across-the-board changes affecting one (1) or more lines or types of Units; or (c) any changes in either purchase prices or other financial terms of sale that are to be advertised. Other than the changes described in (a) through (c) above, purchase prices and other terms of sale of one (1) or more Units which are not subject to executed Agreements may be changed without either notice or amendment of the Plan.

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

In order to meet the possible varying demand for number and type of different Units, or to meet particular requirements of prospective Purchasers, or for any other reason, Sponsor and its designees reserve the right (except to the extent prohibited by applicable Legal Requirements) at any time and from time to time, before and after the recording of the Declaration, without prior notice and without the consent of the Boards, any Unit Owner or mortgagee, to: (i) make alterations, additions or improvements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon any Unsold Unit; (ii) change the layout of, or number of rooms in, any Unsold Unit; (iii) change the size and/or number of Unsold Units by subdividing one (1) or more such Units into two (2) or more separate Units, combining separate Unsold Units (including those resulting from a subdivision or combination or otherwise) into one (1) or more Units, altering any boundary walls between any Unsold Units, and/or incorporating within any Unsold Unit the use of any portion of the Common Elements adjacent thereto (but only to the extent that such Common Elements are not required to be maintained as Common Elements based upon such alterations); (iv) if appropriate, reapportion among the Unsold Units affected by such change, their Common Interests, provided, however, that after the recording of the Declaration, no change in any Unit's Common Interest will be made without obtaining the prior consent of all Unit Owners affected by such change; (v) change the permitted use of some or all of the Unsold Units; and (vi) increase the number of Residential Units contained within the Tower (including, without limitation, by adding floor slabs separating multi-level Units and/or separating the same into separate Units) offered hereunder in the event the Chairperson of the

City Planning Commission issues a certification that qualifies the Garden as a "public plaza." Sponsor also reserves the right to convert Unsold Office Units to Unsold Residential Units and vice versa; to convert Retail Units to Office Units; and to create additional Storage Closets and Wine Cellars and to sell additional Storage Licenses and Wine Cellar Licenses therefor. Any such change described in subsections (ii) through (vi) in the immediately preceding paragraph and additionally any material adverse change in the size or quality of any of the Residential Limited Common Elements shall be disclosed by Sponsor in a duly filed amendment to the Plan and, when applicable, to the Declaration. In the event of any such change after the Declaration is recorded, the Declaration and Floor Plans shall each be amended and such amendments duly recorded and disclosed in a duly filed amendment to the Plan. As more particularly provided in the Declaration, Sponsor or its designee will have the right to (or to cause the Condominium Board to) so amend the Declaration and Floor Plans, to the extent required, in order to reflect any such change affecting Unsold Units. None of the foregoing changes will be made if the same would materially and adversely affect any Unit for which an Agreement has been countersigned by Sponsor and returned to Purchaser unless: (a) the applicable Purchaser consents or is in default; (b) such change has been dictated by construction conditions at the Property (such as coordination of Building systems, conflicts with structural members or elements, conforming with Legal Requirements, unforeseen events, etc.) and, in all cases, in good faith, reasonably necessary due to factors not within Sponsor's reasonable control, and where no practicable alternative (in the exercise of sound construction management practices) exists, and in such event, Sponsor will, in the amendment disclosing such material adverse change, offer the affected Purchaser(s) the right for at least fifteen (15) days to rescind their Agreement(s) and receive a refund of their Deposit(s), together with all interest earned thereon, and the Purchaser elects not to exercise such right of rescission. Notwithstanding the foregoing, so long as the layout and dimensions of a Residential Unit or Office Unit conforms substantially to the Plans and Specifications, a Purchaser will not be excused from purchasing such Unit by reason of such minor, non-material deviation or change and will not have any claim against Sponsor as a result thereof.

Sponsor will have no liability to any Purchaser, nor will any Purchaser be entitled to a credit, offset or reduction in the purchase price for his or her Unit or otherwise be relieved of any obligations under the Agreement, by virtue of a minor inaccuracy or error in the Floor Plans. With regard to size, such minor error would mean a decrease of five percent (5%) or less or any increase in the size of any Unit or room contained in a Unit. Purchasers should note that notwithstanding that a five percent (5%) or less increase or decrease is not deemed a material and adverse change by Sponsor, a Purchaser may consider such a reduction in the smaller sections of the Unit (i.e., a closet, foyer or bathroom) to be a material and adverse change. In such instance, a Purchaser may not have a lawful basis to seek recourse from Sponsor or an abatement in the purchase price as a result of such reduction. PROSPECTIVE PURCHASERS SHOULD THEREFORE CAREFULLY CONSIDER SUCH RISKS IN THEIR DETERMINATION AS TO WHETHER TO PURCHASE A UNIT.

Sponsor shall have the same rights with respect to changes in: (i) Office Units and the prices therefor as are set forth in Schedule A above; (2) Storage Closets and the prices for licenses thereto as are set forth in Schedule A above with respect to the Storage Licenses offered under this Plan; and (3) Wine Cellars and the prices for licenses thereto as are set forth in Schedule A above with respect to the Wine Cellar Licenses offered under this Plan.

## H. INTERIM LEASES

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

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

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

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

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

such Purchaser shall be liable to Sponsor for loss of profit and all costs and expenses incurred by Sponsor to obtain possession of the Unit, including the cost of litigation and reasonable attorneys' fees and expenses.

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

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# I. PROCEDURE TO PURCHASE

## 1. Execution of Documents

Any party desiring to purchase a Residential Unit or Office Unit will be required to execute four (4) original counterparts of an Agreement, in the form set forth as Exhibit 1 in Part II of the Plan, for each such Unit desired. The Agreement sets forth in detail the terms of sale with respect to the Units offered hereunder and should be read carefully by each prospective Purchaser. In the event of any conflict or ambiguity between the Plan and the Agreement, the provisions of the Plan shall control.

No signed Agreement will be accepted from a prospective Purchaser for three business days following such Purchaser's receipt of a copy of the Plan, including all amendments thereto. For the convenience of some Purchasers, however, Sponsor will have the right, at its sole option, to accept an Agreement prior to the expiration of such period of three (3) business days; and in such event, and only in such instance, such Purchaser will have the right to rescind such Agreement by written notice sent to Sponsor by certified or registered mail, return receipt requested, or by personal delivery within seven (7) days of such Purchaser's submission of the Agreement, whereupon Sponsor will refund, without interest (notwithstanding any provision of this Plan regarding interest to the contrary), the Deposit received by Sponsor from such Purchaser in connection with such Agreement.

A Purchaser shall deliver to Selling Agent, together with the four (4) signed original counterparts of the completed Agreement, the following: three completed and signed copies of either Form W-9 (Request for Taxpayer Identification Number and Certification) or Form W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding), as applicable, in the form required by law (the forms currently required by law are reproduced as Exhibits 1A and 1B in Part II of this Plan); and a payment as set forth below.

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

## 2. Deposits/Escrow

A prospective Purchaser shall deliver to Selling Agent, together with the four (4) signed original counterparts of the completed Agreement, a deposit (any of the following amounts, the "Initial Deposit") in an amount equal to: (a) fifteen percent (15%) of the purchase price; or (b) fifty percent (50%) of the purchase price if the Purchaser is a foreign government, a resident representative of a foreign government or other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity). A prospective Purchaser who, in accordance with the previous sentence, was only required to make an Initial Deposit equal to fifteen percent (15%) of the purchase price will be required to make, in addition to the Initial Deposit, an additional deposit equal to ten percent (10%) of such purchase price (the "Additional Deposit") due and payable no later than the earlier to occur of: (x) four (4) months after the date of the Agreement; or (y) fifteen (15) days after Sponsor serves Purchaser with written notice of an amendment to the Offering Plan declaring the same effective, but in no event later than the closing of title to the Unit; provided, however, that with respect to Agreements entered into after the Offering Plan has been declared effective, Sponsor reserves the right to require both the Initial Deposit and the Additional Deposit due and payable upon execution of the Agreement. The term "Deposit" as used herein refers to both the Initial Deposit and, if the same has been paid at the time in question, the Additional Deposit, as well as in connection with the purchase of a Storage License or Wine Cellar License. All such payments shall be made by unendorsed check drawn only on a member bank of the New York Clearing House Association made payable to "Kramer Levin Naftalis & Frankel LLP, as escrow agent." All such checks shall be subject to collection and if any such check is returned for insufficient funds or for any other reason, Sponsor shall have the right, among other things, to deem such Agreement to be cancelled and of no further force or effect, and to retain any Deposit and other amounts previously deposited.

Notwithstanding anything to the contrary contained herein, if an Agreement is not exempt under ILSA and if a Purchaser loses rights and interest in its Unit as a result of a default or breach of its Agreement which occurs after Purchaser has paid fifteen percent (15%) of the purchase price of its Unit, excluding any interest owed under such Agreement, Sponsor (or Sponsor's successor) shall refund to Purchaser any amount which remains after subtracting (A) fifteen percent (15%) of the purchase price, excluding any interest owed under and disposed of in accordance with such Agreement, or the amount of damages incurred by Sponsor (or Sponsor's successor) as a result of such breach, whichever is greater, from (B) the amount paid by Purchaser with respect to the purchase price of its Unit, excluding any interest paid under such Agreement (which interest shall be disposed of as set forth in the Agreement).

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

All Deposits or advances received by Sponsor will be held in escrow by Sponsor's Counsel (the "Escrow Agent") and placed in the Escrow Account (as hereinafter defined) in

conformity with the procedure set forth herein. Sponsor will comply with the escrow and trust fund requirements of General Business Law Sections 352-e(2-b) and 352-h and the Attorney General's regulations promulgated pursuant thereto, and the provisions of Lien Law Section 71-a(3), as applicable.

All Deposits or advances made by Purchasers prior to closing of each individual transaction will be placed, within five (5) business days after the Agreement is signed by all necessary parties, or within five (5) business days after receipt, in the case of Deposits or advances made subsequent to the execution of the Agreement, in a segregated special escrow account (the "Escrow Account") of Sponsor's Counsel, the Escrow Agent, whose address is 1177 Avenue of the Americas, New York, New York 10036, and whose telephone number is 212-715-9100. The signatories on the Escrow Account authorized to withdraw funds are any one of Jay A. Neveloff, Jonathan H. Canter, James P. Godman, Paul S. Pearlman, Neil R. Tucker, and Howard J. Rothman. The name of the Escrow Account will be "432 Park Condominium Attorney Escrow Account" or similar name, Citibank N.A., 666 Fifth Avenue, New York, New York 10103 (the "Bank"), or such other substitute bank and/or account type and/or title as may be designated in an amendment to the Plan. On July 21, 2010, FDIC standard maximum deposit insurance permanently increased from $100,000 to $250,000. Deposits made by a Purchaser in excess of the applicable limit in effect from time to time in the aggregate in connection with a purchase hereunder will not be federally insured.

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

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

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

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

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

Purchasers and the Escrow Agent may apply to the Attorney General in the event of a dispute for a determination on the disposition of the escrowed funds and any interest thereon. Sponsor must avail itself of this procedure if there is a dispute that needs to be resolved. A form for this purpose is set forth as Exhibit 8 in Part II of the Plan. The party applying for a determination must send all other parties a copy of the application. Pending the determination of the Attorney General to grant or deny the application, Sponsor, the Purchaser and the Escrow Agent shall abide by any interim directive issued by the Attorney General. If an application permitting release of the escrowed funds is granted, the escrowed funds and any interest thereon shall be disposed of in accordance with the determination of the Attorney General, subject to any court action in which preliminary relief is granted. The Attorney General shall act upon the application within thirty (30) days after its submission to the Department of Law, by either making a determination or notifying the parties that an extension of time in which to do so is necessary for stated reasons. If an application seeking the release of funds is denied, the Escrow Agent shall continue to hold the deposit and any interest earned thereon until: (i) both Sponsor and the Purchaser direct payment to a specified party in accordance with a written direction signed by both Sponsor and the Purchaser; (ii) a judgment or order of a court of competent jurisdiction is served on the Escrow Agent; or (iii) the Escrow Agent deposits the disputed amount into Court. In no event shall the Escrow Agent release funds in dispute, other than a payment of such funds into court, until such dispute is finally resolved either by determination of the Attorney General or by order or judgment of a court of competent jurisdiction or by written

agreement of Sponsor and Purchaser. Under no circumstances shall Sponsor apply for release of the escrowed funds of a defaulting Purchaser until after consummation of the Plan, and consummation of the Plan does not relieve Sponsor of its obligations pursuant to General Business Law 352-h. A copy of the escrow agreement which incorporates the terms of the Attorney General's regulations is set forth as Exhibit 9 in Part II of the Plan.

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

The Escrow Agent will maintain all records concerning the Escrow for seven (7) years after the release of funds.

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

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

## 3. Date of the First Closing

In the event the actual or anticipated commencement date of the projected First Year of Residential Section Operation is to be delayed by six (6) months or more, Sponsor will amend the Plan to include a revised Residential Section budget with current projections therefor, and if: (i) such amended budget exceeds the projected budget set forth herein by twenty-five percent (25%) or more; or (ii) the First Closing does not occur within twelve (12) months after July, 2015, the date set forth in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" as the commencement date for the projected First Year of Residential Section Operation, then in either case Sponsor will offer all Purchasers (other than Purchasers who are then in default under their Agreements, if the Plan has been declared effective) the right to rescind their Agreements within not less than fifteen (15) days after the presentation date of the amendment containing such revised budget or such twelve (12) month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Deposits and any interest accrued thereon returned. Purchasers' rights as described in the preceding sentence are in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of which shall be deemed to have been waived by all Purchasers.

## 4. Default

In the event that a Purchaser fails to close title on the date set for closing or otherwise fails to perform any other obligation under Purchaser's Agreement, and such default is not cured within thirty (30) days after Sponsor gives written notice to such Purchaser of the default, Sponsor, at its option, may: (i) cancel such Agreement and retain as liquidated damages the Deposit made by the Purchaser, together with all interest earned thereon, if any; (ii) alternatively, instead of retaining the Deposit, bring an action against the Purchaser for specific performance, in which event the Purchaser could be compelled to complete the purchase of the Unit; or (iii) exercise all other rights and remedies under the Agreement, at law or equity, in the case of such a default. With regard to Sponsor's right to retain the Deposit as liquidated damages, it is acknowledged and agreed by Sponsor and each Purchaser that it would be impractical and/or extremely difficult to fix or establish the actual damage sustained by Sponsor as a result of such a default by a prospective Purchaser, and that the Deposit (including all interest) shall constitute and be deemed to be the reasonable and agreed upon liquidated damages of Sponsor in respect of the possible loss of a timely closing, the possible fluctuation of values, additional carrying costs of the Unit and other expenses that may be incurred, including, without limitation, attorneys' fees, and shall be paid by Purchaser to Sponsor as Sponsor's sole and exclusive remedy. In such case, all rights, obligations and liabilities of Sponsor and the Purchaser to each other shall cease and terminate and Purchaser shall have no further liability to Sponsor in respect of the Agreement (except for those matters expressly specified therein or herein to survive the termination thereof); however, such Purchaser shall not have any right whatsoever to the return of all or any portion of its Deposit (or any interest thereon). The payment of the deposit (including all interest) as liquidated damages is not intended to be a forfeiture or penalty, but is intended to constitute liquidated damages to Sponsor. (See the subsection entitled "Deposits/Escrow" above within this Section of the Plan for further discussion regarding the Attorney General's dispute resolution for Deposits.)

Purchasers are advised that notwithstanding the foregoing, nothing herein shall be deemed to grant Purchaser any right of rescission and/or right to the return of all or any portion of a Deposit except as expressly set forth in the Plan. In the event Sponsor elects not to cancel the Agreement as a result of the failure of the Purchaser to close on the date specified by Sponsor, or if Sponsor approves a request from the Purchaser to adjourn the closing date, then Sponsor may require that: (a) the Purchaser pay Sponsor interest at a rate of 0.05% per day (or such lower daily rate which is the legal limit, if 0.05% per day exceeds the legal limit) on the total purchase price, computed from the original closing date until the transaction is actually closed; and (b) all apportionments between Sponsor and the Purchaser be made as of the original closing date; in addition, the Purchaser shall reimburse Sponsor for any additional costs incurred by Sponsor as a result of the Purchaser's delay.

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

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

Notwithstanding anything to the contrary contained herein, if an Agreement is not exempt under ILSA and if a Purchaser loses rights and interest in its Unit as a result of a default or breach of its Agreement which occurs after Purchaser has paid fifteen percent (15%) of the purchase price of its Unit, excluding any interest owed under such Agreement, Sponsor (or Sponsor's successor) shall refund to Purchaser any amount which remains after subtracting (A) fifteen percent (15%) of the purchase price, excluding any interest owed under and disposed of in accordance with such Agreement, or the amount of damages incurred by Sponsor (or Sponsor's successor) as a result of such breach, whichever is greater, from (B) the amount paid by Purchaser with respect to the purchase price of its Unit, excluding any interest paid under such Agreement (which interest shall be disposed of as set forth in the Agreement).

**5. Risk of Loss**

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

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

## 6. Financing

Although a Purchaser may obtain financing from any lending institution or any other source, the Purchaser's obligation pursuant to an Agreement to purchase a Unit shall not be contingent on the Purchaser obtaining a commitment for financing or actually obtaining financing for such purchase. In other words, a Purchaser shall remain obligated under an Agreement to purchase his or her Unit whether or not he or she is able to obtain financing. Neither Sponsor nor Selling Agent makes any representations as to the terms or availability of any mortgage financing. Prospective Purchasers are, therefore, advised to finalize their financing arrangements before signing an Agreement. However, prospective Purchasers should be aware that even if a loan commitment is obtained, its term may be limited, and it could expire before the closing date, and Sponsor shall have no liability as a result of any scheduling or adjournment of closing beyond the expiration of a loan commitment. Purchasers should further note that in the current real estate market, banks and other lenders are imposing various restrictions on loans. Such restrictions include requiring that a certain percentage of the apartments in a building be sold before the lender will consider making a loan. Therefore it may be possible for a Purchaser to experience difficulty obtaining a loan if the percentage of Units purchased is lower than a lender's particular sales minimum.

## 7. Transfer (and Mansion) Taxes

As described more fully in the Section entitled "Terms of Sale" in Part I below, Purchasers shall be responsible (as is customary in condominium offerings) for the payment at closing of all New York City Real Property Transfer Tax and New York State Real Estate Transfer Tax, notwithstanding that these taxes are by law principally the obligation of the seller. For purposes of calculating the taxes payable, the amounts of such taxes will be included in the consideration subject to such tax. Purchasers shall also be obligated to pay the so-called "Mansion Tax," currently one percent (1%) of the consideration paid when the consideration is $1,000,000 or more, which tax by law is the primary obligation of the Purchaser. Sponsor makes no representation regarding the calculation of the Mansion Tax or of the "consideration" upon which the New York State taxing authorities may base the Mansion Tax and shall have no liability with respect thereto. Purchasers should consult with their own counsel and/or tax advisors.

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

Any Purchaser that is a foreign mission, as such term is defined under the Foreign Missions Act, 22 U.S.C. 4305, must notify the United States Department of State prior to purchasing a Unit and provide a copy of such notice to Sponsor. Sponsor will not be bound under any Agreement with a foreign mission unless and until the earlier to occur of: (i) receipt of a notification of approval from the Department of State; or (ii) sixty (60) days after receipt of such Purchaser's notice by the Department of State.

Any Purchaser that is a foreign government, a resident representative of a foreign government or other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity) shall expressly and voluntarily

waive such immunity and consent to any suit action or proceeding arising out of or relating to the Agreement being brought in any state or Federal court in the State of New York. Any such Purchaser shall designate C.T. Corporation System, having its offices, at the date hereof, at 111 Eighth Avenue, 13th Floor, New York, New York 10011 as its duly authorized and lawful agent to receive process for and on behalf of Purchaser in any state or Federal suit, action or proceeding in the State of New York based on, arising out of or connected with the Agreement.

**9. Notice of Effectiveness**

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

**10. Compliance with Interstate Land Sales Full Disclosure Act**

Pursuant to the Interstate Land Sales Full Disclosure Act ("ILSA "), 15 U.S.C.A. § 1701 et seq., Sponsor has submitted a proposed statement of record ("Statement of Record") to the U.S. Consumer Financial Protection Bureau ("CFPB") disclosing the offering of the Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses in the Condominium. The Statement of Record has been assigned OILSR 32634-06-2012. Sponsor believes it will be in compliance with its ILSA filing obligations upon CFPB's approval of the Statement of Record. The Attorney General has not verified or approved the content of the Statement of Record.

The Statement of Record includes a "Property Report," which discloses information regarding the Condominium. Pursuant to ILSA, the form of Purchase Agreement as set forth as Exhibit 1 in Part II of the Plan includes a provision that if a Purchaser does not receive a Property Report in advance of signing the Purchase Agreement, the Purchase Agreement may be cancelled at such Purchaser's option for two (2) years from the date of signing; however, under ILSA, certain circumstances may cause some transactions to be exempt from such requirement and Sponsor makes no representation with respect the applicability of the foregoing matters to any individual Unit or contract.

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## J. ASSIGNMENT OF AGREEMENTS

An Agreement may not be assigned by the Purchaser thereunder. If a Purchaser desires to assign its rights under an Agreement or to take title in the name of an affiliate of, or entity related to, or controlled by, the Purchaser that differs from the name on the Agreement, or to add, delete or substitute the name of a member of the Purchaser's family, then, if such assignment, alteration, addition, deletion or substitution is permitted by Sponsor (in Sponsor's sole discretion), the Purchaser will be required to deliver to Selling Agent or Sponsor's Counsel, four (4) signed assignments of the Agreement (to be prepared by Sponsor's Counsel at Purchaser's expense and in form and content acceptable to Sponsor, in its sole discretion), as well as three (3) completed and signed copies of either Form W-9 (Request for Taxpayer Identification Number and Certification) or Form W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding), as applicable, in the form required by law. Upon each assignment or other change permitted by Sponsor (in its sole discretion), the assignments and Forms W-9 or Forms W-8BEN, as applicable, must be delivered to the Selling Agent or Sponsor's Counsel, together with a personal certified check, or an official bank or cashier's check, in the amount of $1,500 made payable to "Kramer Levin Naftalis & Frankel LLP" (for services rendered in connection with the assignment), not less than twenty (20) days prior to the date scheduled for the Purchaser's closing. In no event will the Purchaser (or its assignee or any added or substituted party) have the right to adjourn or postpone the closing as a result of such change or assignment. Sponsor is not obligated to consent to any such change or assignment and, if Sponsor refuses to consent, the Purchaser will not be excused from his or her obligations under the Agreement; and the prohibition against advertising or listing any Residential Unit(s) for sale or resale with any broker or otherwise advertising, promoting or publicizing the availability of such Residential Unit(s) for sale shall remain in effect.

In connection with the foregoing, if Purchaser is a corporation, any sale, assignment, transfer, pledge, encumbrance or other disposition of any of the stock of Purchaser, or if Purchaser is a partnership, a limited liability company or other entity, any sale, assignment, transfer, pledge, encumbrance or other disposition of any interest in such partnership, limited liability company or other entity shall be considered an assignment and shall be subject to the provisions, prohibitions and terms of the Plan concerning assignment, except that a sale of less than fifty percent (50%) of the stock, or in the case of a partnership, limited liability company or other entity, less than fifty percent (50%) of the ownership interests, of Purchaser which does not result in a change in control of Purchaser shall not be considered an assignment. For purposes of the preceding sentence only, "control" shall mean the ownership of fifty-one percent (51%) or more of the interests in such entity or possession of the power to direct the management and policies of such entity and the distribution of its profits.

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## K. EFFECTIVE DATE

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

The Plan may be declared effective, at Sponsor's option, when bona fide Agreements (including those executed by investors) have been executed and are in effect with respect to not less than twenty-three (23) Residential Units, representing fifteen percent (15%) of the Residential Units offered hereby. The Plan must, however, be declared effective when bona fide Agreements have been executed and are in effect with respect to at least 118 Residential Units, representing eighty percent (80%) or more of such Units.

The Plan will not be declared effective based on an Agreement: (i) signed by a Purchaser who has been granted a right of rescission that has not yet expired or been waived; (ii) subject to the immediately preceding clause "(i)", signed by a Purchaser not afforded the three (3) business day period to review the Plan (prior to executing an Agreement) provided for in the Section entitled "Procedure to Purchase" above in Part I of the Plan; or (iii) entered into with a Purchaser who is Sponsor, Selling Agent or the applicable Managing Agent, or who is a principal of any of the foregoing or who is related to any of the foregoing or any principal thereof by blood, marriage or adoption or as a business associate, employee, shareholder or limited partner, except that such a Purchaser (other than Sponsor or a principal of Sponsor) may be included if Sponsor submits proof satisfactory to the Department of Law establishing that such Purchaser is bona fide. Except as otherwise limited by this Section of the Plan, all 147 Residential Units shall be counted toward declaring the Plan effective.

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

The Plan may be withdrawn or abandoned by Sponsor, at its option, for any reason whatsoever at any time prior to its being declared effective. Once the Plan has been declared effective, it may not be abandoned or withdrawn, except that prior to the First Closing, the Plan may be abandoned at the option of Sponsor in the event of: (i) the existence of one or more defects in title (including violations of record or work orders of an insurance carrier) affecting any one or more Units and/or the Common Elements which cannot be cured, removed or complied with except through litigation or the expenditure of more than one-half of one percent (.05%) of the total initial offering amount; (ii) substantial damage to or destruction of the Building (or any portion thereof) by fire or other casualty which cannot be cured or repaired for an amount which is less than one-half of one percent (.05%) of the total initial offering amount; or (iii) a taking of all or a material portion of the Property by condemnation or eminent domain. In calculating the costs referred to in clauses (i) and (ii) above, any defects in title (including violations or work orders) that existed on the date the Units were initially offered for sale under

the Plan, and were either known to Sponsor or were a matter of public record, and attorneys' fees, shall be excluded.

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

Notwithstanding anything to the contrary contained herein, if an Agreement is not exempt under ILSA and if a Purchaser loses rights and interest in its Unit as a result of a default or breach of its Agreement which occurs after Purchaser has paid fifteen percent (15%) of the purchase price of its Unit, excluding any interest owed under such Agreement, Sponsor (or Sponsor's successor) shall refund to Purchaser any amount which remains after subtracting (A) fifteen percent (15%) of the purchase price, excluding any interest owed under and disposed of in accordance with such Agreement, or the amount of damages incurred by Sponsor (or Sponsor's successor) as a result of such breach, whichever is greater, from (B) the amount paid by Purchaser with respect to the purchase price of its Unit, excluding any interest paid under such Agreement (which interest shall be disposed of as set forth in the Agreement).

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## L. TERMS OF SALE

### 1. Prerequisites to Closing of Title

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

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

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

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

(d) at least thirty (30) days' prior written notice of the initial time and place of the closing of title has been given to the Purchaser (unless a Purchaser chooses to waive such thirty-(30) day notice);

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

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

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

At the closing of title to each Residential Unit, Sponsor shall execute and deliver to the Purchaser a bargain and sale deed with covenant against grantor's acts, substantially in the form of the Residential Unit Deed set forth as Exhibit 4 in Part II of the Plan, conveying title to the Residential Unit and its appurtenant Common Interest, free and clear of all liens, encumbrances and other title exceptions other than the Permitted Encumbrances. The Purchaser shall also sign the Residential Unit Deed.

At the closing of title to each Office Unit, Sponsor shall execute and deliver to the Purchaser a bargain and sale deed with covenant against grantor's acts, substantially in the form of the Office Unit Deed set forth as Exhibit 5 in Part II of the Plan, conveying title to the Office Unit and its appurtenant Common Interest, free and clear of all liens, encumbrances and other title exceptions other than the Permitted Encumbrances. The Purchaser shall also sign the Office Unit Deed.

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

**3. Tax Returns, Unit Owner Power of Attorney**

Each Purchaser of a Residential Unit will also be required to execute and deliver at the closing: (i) a New York City Real Property Transfer Tax Return and New York State Real Estate Transfer Tax Return and Credit Line Mortgage Certificate, in the forms required to be filed by law; (ii) a Residential Unit Owner Power of Attorney substantially in the form set forth as Exhibit 2 in Part II of the Plan in favor of: (1) the persons who shall from time to time constitute the Residential Board, designating the Residential Board as the Purchaser's attorney-in-fact, for the purpose of acquiring or leasing in the name of the Residential Board or its designee on behalf of all Residential Unit Owners any Residential Unit and to otherwise deal with the Residential Section and the Residential Limited Common Elements, all in accordance with the provisions of the Declaration, the Condominium By-Laws and the Residential By-Laws; and after any such acquisition or leasing of any Residential Unit, to manage, convey, sell, lease, sublease, mortgage or otherwise deal with any such Residential Unit so acquired or leased, as the case may be; (2) the persons who shall from time to time constitute the Condominium Board, designating such Board as the Purchaser's attorney in fact, for the purpose of acquiring or leasing in the name of the Condominium or its designee on behalf of all Unit Owners any Unit and to otherwise deal with the Common Elements all in accordance with the provisions of the Declaration, the Condominium By-Laws and the Residential By-Laws; and after any such acquisition or leasing of said Unit, to manage, convey, sell, lease, sublease, mortgage or otherwise deal with the Unit so acquired or leased, as the case may be, all in accordance with the provisions of the Declaration, the Condominium By-Laws and the Residential By-Laws, as the case may be; and (3) Sponsor, for the purpose of executing an amendment to any of the Condominium Documents or acquiring any permits, applications or documents required to undertake, perform or complete work to Unsold Residential Units or Common Elements by Sponsor or obtaining an amended certificate of occupancy therefor. Failure by any Purchaser to deliver such documents at closing shall constitute an event of default under a Purchaser's Agreement, entitling Sponsor to all remedies set forth in such Agreement.

Each Purchaser of an Office Unit will also be required to execute and deliver at the closing: (i) a New York City Real Property Transfer Tax Return and New York State Real Estate Transfer Tax Return and Credit Line Mortgage Certificate, in the forms required to be filed by law; (ii) an Office Unit Owner Power of Attorney substantially in the form set forth as Exhibit 3 in Part II of the Plan in favor of: (1) the persons who shall from time to time constitute the Commercial Board, designating the Commercial Board as the Purchaser's attorney-in-fact, for

the purpose of acquiring or leasing in the name of the Commercial Board or its designee on behalf of all Commercial Unit Owners any Commercial Unit and to otherwise deal with the Commercial Section and the Commercial Limited Common Elements, all in accordance with the provisions of the Declaration, the Condominium By-Laws and the Commercial By-Laws; and after any such acquisition or leasing of any Commercial Unit, to manage, convey, sell, lease, sublease, mortgage or otherwise deal with any such Commercial Unit so acquired or leased, as the case may be; (2) the persons who shall from time to time constitute the Condominium Board, designating such Board as the Purchaser's attorney in fact, for the purpose of acquiring or leasing in the name of the Condominium or its designee on behalf of all Unit Owners any Unit and to otherwise deal with the Common Elements all in accordance with the provisions of the Declaration and the Condominium By-Laws; and after any such acquisition or leasing of said Unit, to manage, convey, sell, lease, sublease, mortgage or otherwise deal with the Unit so acquired or leased, as the case may be, all in accordance with the provisions of the Declaration and the Condominium By-Laws; and (3) Sponsor, for the purpose of executing an amendment to any of the Condominium Documents or acquiring any permits, applications or documents required to undertake, perform or complete work to Unsold Office Units or Common Elements by Sponsor or obtaining an amended certificate of occupancy therefor. Failure by any Purchaser to deliver such documents at closing shall constitute an event of default under a Purchaser's Agreement, entitling Sponsor to all remedies set forth in such Agreement.

**4. Tax-Deferred Exchanges**

The form of Agreement (as set forth as Exhibit 1 in Part II of the Plan) provides that in the event a Unit is being acquired by a Purchaser as part of a tax-deferred exchange under §1031 of the Internal Revenue Code, Sponsor shall reasonably assist and cooperate in such tax-deferred exchange, provided, however, that: (i) any action taken in connection with such tax-deferred exchange or requested of Sponsor shall not result in any cost, expense or liability on the part of Sponsor or increased risk to Sponsor relating to the transaction (and, among other things, Purchaser acknowledges that a fee may be payable to Sponsor's Counsel in connection with the review of any documentation related to such tax-deferred exchange); (ii) no action or failure on the part of the Purchaser (or any other party to such tax-deferred exchange) or cooperation on the part of Sponsor in connection with or related to the tax-deferred exchange will frustrate the purpose of the Agreement or otherwise result in a reduction of Sponsor's rights, remedies and privileges under the Agreement or increase any of Sponsor's obligations or duties under the Agreement or otherwise; and (iii) Sponsor shall not be obligated, as part of such tax-deferred exchange, to convey any property (other than the applicable Unit), acquire any property, or accept any form of payment in respect of any of the amounts due under the Agreement other than as set forth therein or in the Plan. Purchaser shall indemnify, defend and hold Sponsor harmless from and against any and all costs, expenses, fees (including, without limitation, reasonable attorneys' fees and expenses) or liabilities incurred by Sponsor in connection with or resulting from the tax-deferred exchange, and such indemnity shall survive the closing of title to the Unit. Notwithstanding the foregoing, Sponsor makes no representation and expresses no opinion with respect to the applicability of §1031 of the Internal Revenue Code to the purchase or acquisition of a Unit.

**5. Risk of Loss**

The risk of loss to any Purchaser's Unit by fire or other casualty until the closing of title to such Unit (or an earlier taking of possession by the Purchaser) is assumed by Sponsor, but Sponsor has no obligation or liability to repair or restore any such Unit. If a Unit is damaged or destroyed by fire or other casualty prior to the closing of title, but after the signing of an Agreement, and Sponsor gives written notice to the Purchaser within forty-five (45) days of Sponsor's election to repair or restore the Unit, then the Agreement shall continue in full force and effect, and the Purchaser shall not have the right to reject title or receive a credit against, or abatement in, the purchase price. Sponsor shall be entitled to a reasonable period of time (not to exceed 180 days) within which to complete the repair or restoration, and any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss shall, subject to the rights, if any, of any applicable Boards and other Unit Owners, belong entirely to Sponsor.

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

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## M. UNIT CLOSING COSTS AND ADJUSTMENTS

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

1. Title Insurance: If the Purchaser elects to obtain fee title insurance, the Purchaser will pay the premium therefor, which premium will vary depending upon the amount of insurance purchased. Purchasers may obtain title insurance from the Title Company or, without incurring additional fees from Sponsor, from any other title company of Purchaser's choosing. As of the filing of this Plan, the rates for fee title insurance from the Title Company will be $342 for the first $63,000.00 of fee insurance plus $3.30 for each $1,000.00 of additional fee insurance up to $100,000.00. For additional rates for purchase prices under $1,000,000, please refer to the schedule below. Please note that these and any rates are subject to change from time to time.

| FEE AMOUNT | PREMIUM | | | |
|---|---|---|---|---|
| $ 100,000.00 | $ 461 | + 2.59 | per thousand up to | $ 200,000.00 |
| $ 200,001.00 | $ 723 | + 2.60 | per thousand up to | $ 450,000.00 |
| $ 450,001.00 | $ 1,372 | + 2.58 | per thousand up to | $ 500,000.00 |
| $ 500,001.00 | $ 1,502 | + 2.37 | per thousand up to | $ 750,000.00 |
| $ 750,001.00 | $ 2,093 | + 2.36 | per thousand up to | $ 999,999.99 |

As of the filing of this Plan, the discounted premium for owner's title insurance from the Title Company for purchase prices $1,000,000 and over is seventy percent (70%) of the sum of $402 for the first $35,000 of fee insurance plus from $4.67 for each $1,000 of additional fee insurance up to $50,000. For additional rates for purchase prices $1,000,000 and over, please refer to the schedule below.

| FEE AMOUNT | PREMIUM | | | |
|---|---|---|---|---|
| $ 50,001.00 | $ 351 | + 3.80 | per thousand up to | $ 100,000.00 |
| $ 100,001.00 | $ 541 | + 3.05 | per thousand up to | $ 500,000.00 |
| $ 500,001.00 | $ 1,762 | + 2.79 | per thousand up to | $ 1,000,000.00 |
| $ 1,000,001.00 | $ 3,155 | + 2.57 | per thousand up to | $ 5,000,000.00 |
| $ 5,000,001.00 | $ 13,406 | + 2.30 | per thousand up to | $10,000,000.00 |

As of the filing of this Plan, if Purchaser elects to simultaneously obtain both fee title insurance and mortgage title insurance from the Title Company, the premium for the mortgage title insurance will be at a simultaneous rate. The premium for mortgage title insurance will be computed using the "Basic Rate" schedule as described below. The premium on the amount of the loan policy that does not exceed the owner's policy shall be calculated at thirty percent (30%) of the regular scheduled rate for loan policies as outlined on the schedule below.

| LOAN AMOUNT | PREMIUM | | | |
|---|---|---|---|---|
| $ 35,000.00 | $ 73 | + 1.17 | per thousand up to | $ 50,000.00 |
| $ 50,001.00 | $ 90 | + .95 | per thousand up to | $ 100,000.00 |

| | | | | | | |
|---|---|---|---|---|---|---|
| $ | 100,001.00 | $ | 137 | + .77 | per thousand up to | $ 500,000.00 |
| $ | 500,001.00 | $ | 445 | + .70 | per thousand up to | $ 1,000,000.00 |
| $ | 1,000,001.00 | $ | 795 | + .64 | per thousand up to | $ 5,000,000.00 |

Sponsor makes no representation or warranty regarding the terms of any such insurance. Such rates apply to Residential Units and Office Units.

2. Recording Charges: The fees charged by the City Register's Office for recording the Unit Deed, Unit Owner Power of Attorney and mortgage (if any), in the amount of $37.00 for each document, plus $5.00 per page (including the cover page), shall be payable by Purchaser, plus either the $125.00 filing fee for the RP-5217 form shall be payable by the Purchaser of a Residential Unit, or a $250.00 filing fee for the RP-5217 form shall be payable by the Purchaser of an Office Unit. In addition, a Purchaser's title insurance company may charge various fees and service charges in connection with such recordings and filings, which shall be payable by Purchaser.

3. Transfer Taxes and Mansion Tax: The New York City Real Property Transfer Tax ("RPT Tax") is currently, for the purchase of a single Residential Unit, one percent (1%) of the Purchase Price of a Residential Unit if such Purchase Price is $500,000 or less and 1.425% of the Purchase Price if such Purchase Price is over $500,000; and the New York State Real Estate Transfer Tax ("NYS Tax"), is currently $2 for each $500 (or part thereof, rounded up to the nearest $500) of the Purchase Price of a Residential Unit. The RPT Tax is currently, for the purchase of a single Office Unit, one 1.425% of the Purchase Price of an Office Unit if such Purchase Price is $500,000 or less and 2.625% of the Purchase Price if such Purchase Price is over $500,000. For purposes of calculating the taxes payable, the amounts of such taxes which are the primary obligation of the seller but are paid by Purchaser will be included in the consideration subject to tax. Therefore, the steps to compute the taxes payable are:

(i) Multiply the purchase price by the RPT Tax rate to compute the tentative RPT Tax.
(ii) Multiply the purchase price by the NYS Tax rate to compute the tentative NYS Tax.
(iii) Add the tentative RPT Tax and NYS Tax to the nominal purchase price.
(iv) Multiply (iii) by the RPT Tax rate to determine the RPT Tax payable.
(v) Multiply (iii) by the NYS Tax rate to determine the NYS Tax payable.

As an example, in respect of Residential Unit 34C, which has a purchase price of $7,380,000, the transfer tax calculation is as follows: (i) $7,380,000 x 1.425% = $105,165; (ii) $7,380,000/$500 x $2 = $29,520; (iii) $7,380,000 + $105,165 + $28,000 = $7,514,685; (iv) $7,514,685 x 1.425% = $107,084.26; (v) $7,514,685/$500 x $2 = $30,060. Mansion Tax (described below) in the amount of $76,518.29 would also be payable. All the foregoing is subject to increase in respect of additional "consideration" as described below.

Under the current policies of the New York City Department of Finance, where a Purchaser purchases two (2) or more Residential of Office Units that have not been physically combined into a single residence before the transfer, the RPT Tax rate will be imposed at non-residential rates, i.e., where the consideration is $500,000 or less, the rate will be 1.425%, and

where the consideration is in excess of $500,000, the rate will be 2.625%. This may be the case even if the Residential Units are transferred to the Purchaser pursuant to separate sales contracts with separate closing dates. The New York City Department of Finance has taken the position that the consideration for the transfer of a Residential Unit under a deed is not aggregated with the consideration for the transfer of other Residential Units under separate deeds for purposes of determining total consideration. There is no guarantee that The City of New York will not change its position with respect to the foregoing.

If the purchase price together with other consideration paid for a Residential Unit is $1,000,000 or more, Purchaser will also pay the New York State Additional Tax pursuant to Article 31 of the Tax Law, commonly referred to as the "Mansion Tax," which is currently (as of the filing of this Plan) one percent (1%) of the purchase price (the computation of which shall include the RPT Tax and NYS Tax as described above). Purchase price and transfer taxes payable by purchaser, together with any other amounts paid by the Purchaser which are the obligation of Sponsor, are added together by NYS Department of Taxation to arrive at total consideration. Therefore, for example, a Residential Unit priced at $990,000, where Purchaser pays the NYS Tax and RPT Tax and other consideration (including, but not limited to, payments made at closing for the Resident Manager's Unit and the Club Unit), would subject purchaser to liability for Mansion Tax as the aggregate of nominal purchase price plus tax and other consideration would exceed $1,000,000. Sponsor makes no representation regarding the calculation of the Mansion Tax or the "consideration" upon which the New York State taxing authorities may base the Mansion Tax and shall have no liability with respect thereto. However, it is likely that payments for the Resident Manager's Unit and the Club Unit made by Purchasers at the closing of their respective Unit(s) will be deemed "consideration" by the NYS Department of Taxation for purposes of calculating the Mansion Tax and other taxes. Purchasers should consult with their own counsel and/or tax advisors. (See the Special Risks entitled "Resident Manager's Unit" and "Health Club Membership" for further discussion.)

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

5. Mortgage and Related Costs: If the Purchaser obtains a mortgage loan, the Purchaser will be responsible for the payment of all mortgage recording taxes (taking into account however any payments made pursuant to subparagraph (4) above) and closing costs and expenses in connection therewith, in amounts determined by Purchaser's lender, which closing costs may include, but are not limited to, the fees of such lender's counsel, recording charges and mortgage title insurance. Currently, the mortgage recording tax in New York City applicable to individual residential condominium Units is 2.05% with respect to mortgages of less than $500,000 and

2.175% with respect to mortgages in the amount of $500,000 or more. The mortgage recording tax in New York City applicable to individual commercial condominium Units is 2.05% with respect to mortgages of less than $500,000 and 2.80% with respect to mortgages in the amount of $500,000 or more. Mortgage lenders require commercial borrowers to pay the additional tax levied in the amount of 0.25% on all mortgages affecting commercial condominium Units; and in addition, for both residential and commercial condominium Units, deposits for Common Charges, real estate taxes, fire and casualty insurance premiums, assessments and water charges and sewer rents may be required by the Purchaser's lender. No representation or warranty is made with respect to the amounts of such closing costs and expenses or the availability or cost of mortgage financing from any sources. As previously stated in subparagraph 4 above, if a mortgage tax credit becomes available pursuant to Section 339-ee(2) of the Condominium Act, such credit will inure solely to the benefit of Sponsor and such Purchaser will cooperate with Sponsor in obtaining such credit. Accordingly, at Closing, each Purchaser utilizing mortgage financing will pay the full amount (but not in excess thereof) of the mortgage recording tax chargeable on the entire amount being financed and Sponsor will be reimbursed by Purchaser to the extent of any mortgage tax credit allowed.

6. Closing Fees: Purchaser shall also be responsible for payment of the following fees to Sponsor's Counsel, in connection with the closing of title to such Purchaser's Unit: (i) the sum of $3,000 to reimburse Sponsor for a portion of its legal fees incurred in connection with the closing of title to the Purchaser's Unit, and for each issuance of a Storage License or Wine Cellar License, the sum of $500 to reimburse Sponsor for a portion of its legal fees in connection with processing the issuance of such Storage License or Wine Cellar License; (ii) if the Purchaser requests the closing to occur other than at the offices of Sponsor's Counsel (or such other place as Sponsor may designate in its closing notice) and Sponsor consents to such change (in its sole discretion), an attendance fee of $500 (closings may not be scheduled to occur outside Manhattan); (iii) if the closing is adjourned through no fault of Sponsor, an additional fee of $300 for each such adjournment to help defray the cost of preparing for and coordinating the new closing; (iv) if Sponsor, in its sole discretion, consents to a Purchaser's request for an assignment of the Agreement, or for the addition, deletion or substitution of names on the Agreement, a fee of $1,500, payable in advance, for preparation of an assignment agreement; (v) $250 for the preparation of ACRIS transfer documents required by the City of New York; (vi) if Purchaser obtains mortgage financing, an additional fee of $700 to Sponsor's Counsel to defray the additional costs associated therewith. Purchaser may be required to pay more than one fee pursuant to the preceding provisions of this paragraph with respect to a single Unit; and (vii) Purchaser shall pay Sponsor's counsel the sum of $600 in connection with the consideration, review and processing of any agreement of exchange or the like which Sponsor is requested to execute in connection with any tax deferred exchange under §1031 of the Internal Revenue Code. 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.

7. Working Capital: For purchases of Residential Units, a contribution to the Working Capital Fund of the Residential Section in an amount equal to two (2) months' Residential Common Charges then in effect for the Residential Unit pursuant to the budget in accordance with Schedule A hereto, as the same may be amended from time to time. Purchasers of Office Units will not make payments at their respective Closings toward such Working Capital Fund.

8. Common Charges: In addition to the contribution to the Working Capital Fund by the Purchaser of a Residential Unit as described in paragraph (7) above, Purchaser will pay to the Residential Board the Residential Common Charges for the Residential Unit (or to the Commercial Board the Commercial Common Charges for the Office Unit) for the first full month following the month in which title closes. If Purchaser is a foreign government, a resident representative of a foreign government or other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity), Purchaser shall pay to the Residential Board (or the Commercial Board, as applicable) an amount equal to the Common Charges for such Unit for a period of two (2) years as security for the faithful observance by such Unit Owner of the terms, provisions and conditions of the applicable By-Laws. In the event that such Unit Owner defaults in respect of the terms, provisions and conditions of the applicable By-Laws, the applicable Board may use, apply, or retain the whole or any part of the security so paid in advance to the extent required for the payment of any Common Charges or any other sum as to which such Unit Owner is in default; and such Unit Owner shall, within thirty (30) days after notice from the applicable Board, deposit with the applicable Board the amount so applied or retained so that at the option of the applicable Board, the applicable Board shall have the full amount of said security on hand at all times.

The following table illustrates the projected amounts of the costs set forth in this section of the Offering Plan for Unit 34C, purchased by a Purchaser for a purchase price of $7,380,000, assuming such Purchaser finances fifty percent (50%) (i.e., $3,690,000) of the purchase price:

| | |
|---|---|
| Fee Title Insurance (if purchased simultaneously with mortgage title insurance) | $ 18,818.00 |
| Fee for recording Residential Unit Deed (7 pages), Residential Unit Owner Power of Attorney (5 pages), and form RP-5217 | $ 259.00 |
| Mortgage Loan Closing Costs: | |
| - recording mortgage (assuming 20 pages) | $ 137.00 |
| - Purchaser's mortgage recording tax (at 2.175% of $3,690,000) (Purchaser may be required to pay a portion of such tax directly to Sponsor) | $ 80,257.50 |
| - mortgage title insurance (if purchased simultaneously with fee insurance) | $ 2,514.00 |
| - other bank charges (an appraisal fee of $400 and legal fees of $700 and assuming further that the lender does not require Purchaser to deposit funds to establish any escrow) | $ 1,100.00 |
| New York City and New York State Real Property Transfer Tax | $ 137,144.26* |
| New York State Mansion Tax | $ 76,518.29* |
| Working Capital Payment | $ 9,133.08 |

| | | |
|---|---|---|
| Resident Manager's Unit Payment | $ | 20,539.00 |
| Health Club Payment | $ | 3,355.00 |
| Initial Private Residential Dining Period Payment | $ | 2,000.00 |
| Closing Fee (assuming the closing occurs at the offices of Sponsor's Counsel), including costs for ACRIS preparation and Purchaser's financing (and otherwise assuming Purchaser has not incurred any additional fees as set forth above) | $ | 3,950.00 |
| **TOTAL:** | **$** | **355,725.13** |

* The taxing authorities are likely to require that each Purchaser's allocable portion of the cost of the Resident Manager's Unit and Club Unit be included in the total consideration deemed to have been paid by such Purchaser to Sponsor; and, at Closing, Purchaser will pay the incremental additional transfer taxes attributable to such additional consideration.

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

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

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## N. RIGHTS AND OBLIGATIONS OF SPONSOR

### 1. Sponsor's Obligations

#### a. Construction

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

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: (i) construction of the Building will be sufficiently completed to permit closings of title to Residential Units to begin on or about July, 2015, and (ii) construction of the Building will be sufficiently completed to permit closings of title to all Residential Units subject to executed Agreements for which no default exists on or about December, 2015. 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 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 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 Residential Section Operation is to be delayed by six (6) months or more, Sponsor will amend the Plan to include a revised Residential Section budget with current projections and if: (i) such amended budget exceeds the projected Residential Section budget set forth herein by twenty-five percent (25%) or more; or (ii) the First Closing does not occur within twelve (12) months after July, 2015, the date set forth in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" as the commencement date for the projected First Year of Residential Section 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 twelve (12) month period, as the case may be, and any Purchasers electing rescission pursuant to such offer will have their Deposit and any interest accrued thereon returned. Purchasers' rights as described in the preceding sentence are in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of which shall be deemed to have been waived by all Purchasers. As set forth in the Section entitled "Effective Date" in Part I of the Plan, no closing of title to any Unit offered hereunder will take place prior to the Plan being declared effective.

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

The issuance of a temporary or permanent Certificate of Occupancy for all or any portion of the Building shall be deemed presumptive evidence that the construction of the Building or such portion and its appurtenances and all of the Units has been substantially completed in accordance with this Plan and the Plans and Specifications. However, notwithstanding the foregoing, Sponsor or its representatives will correct, repair or replace all defects in the construction of the Building and its appurtenances and the Units offered hereby, or in the installation or operation of any appliances, fixtures or equipment in the same, or will cause the same to be corrected, repaired or replaced, but only if such defects are due to improper workmanship or material substantially at variance with the Plans and Specifications, and Sponsor is notified by the Condominium Board or the affected Unit Owner in writing of such defect: (i) as to the Common Elements, within one (1) year from the earlier of the issuance of a temporary Certificate of Occupancy for the portion of the Building subject to such defect or the date of substantial completion of the portion(s) of the Common Elements which is claimed to be defective; or (ii) as to any Unit, on or prior to the date of closing for such Unit, except that if any such defect in a Unit can be detected only by occupancy of the Unit, Sponsor will correct such defect if notified in writing by the Unit Owner within one (1) year from the earlier of the closing of title to such Unit or the commencement date of an interim lease for such Unit. Notwithstanding the foregoing, Sponsor will not be responsible for correcting any defects in construction or installation or operation of any appliances, equipment or fixtures with respect to which assignable warranties or other undertakings (however denoted) from contractors, materialmen or others are assigned to the Condominium Board, Residential Board or Unit Owners; or for any condition resulting from normal wear and tear or natural deterioration or from normal settling or shifting of the Building, or for defects of an insubstantial nature, such as,

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

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

Each Unit offered hereby and the fixtures and personal property contained therein, are being sold and delivered "AS IS," as described in the Plan at the time of transfer of title to such Unit, unless Sponsor and the Purchaser of such Unit otherwise agree in writing. The Purchaser of a Unit shall inspect such Unit prior to the closing date and shall execute at such time an inspection statement acknowledging the Purchaser's acceptance of the Unit in good condition and in accordance with the terms of the Plan. However, if a Purchaser finds that Sponsor's improvements as described in the Plan or in the Agreement for such Unit or other writing duly executed and delivered by Sponsor, have not been fully completed, although such improvements have been substantially completed, then Sponsor or its designated representative and the Purchaser will at the time of such execution agree upon and set forth in the inspection statement a list of the incomplete work to be completed in the Unit by Sponsor following the closing for such Unit. Sponsor reserves the right to limit the number of individuals who may accompany Purchaser(s) in its inspection of the Unit.

The Housing Merchant Implied Warranty Law (New York State General Business Law Article 36-B) does not apply to this offering.

**b. Real Property Law §339-kk**

Section 339-kk of the Real Property Law ("RPL"), a copy of which is set forth as Exhibit 15 in Part II of the Plan, applies to all condominiums in the State of New York, and provides additional financial protection for a condominium association if the sponsor or other non-occupant Unit Owner of a Unit fails to make monthly payments for common charges, assessments and late fees due in connection with such owner's Units.

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

(a) If payment of common charges, assessments or late fees by any non-occupant Unit Owner is more than sixty (60) days late after the expiration of any grace period within which they are due, payments from a tenant of such Unit may become directly payable to the Condominium upon written notice by the Condominium to the tenant and the non-occupant Unit Owner. Where a majority of the Condominium Board has been elected by Unit Owners who are in occupancy of their respective Units, the Condominium Board may elect not to require that the rental payments be paid to the Condominium. Once the common charges, assessments and late fees of the non-occupant Unit Owner have been brought current, the Condominium Board must notify the non-occupant Unit Owners and tenant within three (3) business days and thereafter the rental payments will be payable to the non-occupant Unit Owner or a designated agent.

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

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

(d) A non-occupant Unit Owner who disputes a condominium's claim to rental payments is entitled to present facts supporting such owner's position at the next

scheduled meeting of the Condominium Board, which must be held within thirty (30) days after receipt of notice that the Unit Owner seeks to dispute the Condominium's claim.

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

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

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

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

**c. Payment of Expenses**

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

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

**d. Assignment of Warranties**

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

**e. Certificate of Occupancy**

If, as of the First Closing, only a temporary Certificate of Occupancy has been issued for the Building, Sponsor will use all reasonable diligence to cause the New York City Department of Buildings to continuously renew the temporary Certificate of Occupancy until a permanent Certificate of Occupancy for all of the Units has been issued. Sponsor will, at its sole expense, do and perform, or cause to be done and performed, all such work (subject to events and circumstances beyond Sponsor's reasonable control, e.g., casualty, strikes, governmental restrictions, acts of god, etc.), and will supply, or cause to be supplied, all such materials, and will submit or cause to be submitted all such documentation, and shall pay all applicable fees required by the New York City Department of Buildings that shall be necessary in order to cause the temporary Certificate of Occupancy to be continuously renewed until a permanent Certificate of Occupancy for the Building has been issued, as well as to obtain any requisite certificates or permits relative to the electrical work, plumbing, heating and air-conditioning facilities and elevators at the Building. Prospective Purchasers are advised that permanent Certificates of Occupancy are required for permanent use of the Building, and that a temporary Certificate of Occupancy may be renewed only for a total of two (2) years from the first date of issuance. Sponsor projects, but cannot assure, that a permanent Certificate of Occupancy for the Building will be obtained within two (2) years after the First Closing.

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

in escrow, such funds will be held by Sponsor's Counsel in escrow in a separate bank account. All interest and income on such escrowed funds will be paid to Sponsor, as and when earned and collected.

As the work progresses, Deposits held for Units conveyed to Purchasers may be released to Sponsor by Sponsor's Counsel or Escrow Agent, as the case may be, from time to time, provided the remaining Deposits maintained in the special escrow account, together with said unfunded construction loan (if any) or other acceptable collateral, shall be not less than the amount then so certified to be reasonably necessary to complete all remaining work in order to obtain a permanent Certificate of Occupancy. Sponsor's Counsel or Escrow Agent, as the case may be, will rely entirely upon such certificate in releasing such funds or other collateral and will not make any independent inquiry or evaluation. Any remaining balance of the escrow funds and/or other collateral will be released to Sponsor upon the issuance of a permanent Certificate of Occupancy for the Building. If Sponsor has deposited a letter of credit or surety bond, it will be subject to periodic reduction in amount upon the same terms as described above for the reduction and release of a cash deposit.

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

**f. Architect's Certification**

In accordance with Section 339-p of the New York Condominium Act, a registered architect or licensed professional engineer shall, simultaneously with the recording of the Declaration, certify within reasonable tolerances that the Floor Plans are an accurate copy of portions of the plans of the Building as filed with appropriate governmental authorities.

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

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

**h. Insurance**

Sponsor will initially cause the Condominium Board and/or the Residential Board to procure, to take effect on or before the date of the First Closing, the insurance relating to the Condominium and the Residential Section, as applicable, which is required to be maintained in accordance with the provisions of the Condominium By-Laws and/or the Residential By-Laws (see the Section entitled "Rights and Obligations of the Unit Owners and the Boards of Managers" in Part I of the Plan). Such required coverage(s) may be satisfied by any so-called builder's risk policy obtained in connection with the construction of the Building, provided the

limits and terms of coverage set forth in such budget(s) are provided under such policy/ies. To the extent any such policy/ies obtained and paid for by Sponsor shall satisfy the insurance requirements of the Condominium Board or Residential Board in respect of any period following the First Closing, the Condominium Board or Residential Board, as applicable, shall reimburse Sponsor for its prorated share of the cost of such coverage. (See the Section entitled "Rights and Obligations of the Unit Owners and the Boards of Managers" in Part I of the Plan for further discussion.)

**i. Right of Access**

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

**j. Dissolution**

In the event of the dissolution or liquidation of Sponsor, or the transfer of ten (10) or more Residential Units and/or Office Units or twenty percent (20%) or more of the total number of Residential Units and/or Office Units in the Condominium, whichever is less, to a single Purchaser, the principals of Sponsor will provide financially responsible entities or individuals who will assume the status and all of the obligations of Sponsor for those Units under the Plan and applicable Legal Requirements (including, without limitation, Sponsor's representation that will endeavor in good faith to sell the Units offered hereunder but subject to the reservation of the unconditional right to rent or lease, rather than sell, such Units).

**k. General**

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

Sponsor agrees to indemnify the Residential Board and the Residential Unit Owners against, hold them harmless from and defend on their behalf any suits, proceedings, or claims arising out of any default by Sponsor in performing its obligations under this Plan or any breach of any representation expressly made by Sponsor in this Plan and resulting: (a) as to any Residential Unit, from any occurrence taking place prior to the closing of title to such Residential Unit; or (b) as to the Common Elements, from any occurrence taking place prior to the First Closing. However, Sponsor will not be liable for, or obligated to defend, any suits, proceedings or claims arising out of any occurrence taking place from and after the respective dates set forth above, except those arising out of any negligence or violation of Article 23A of the New York State General Business Law by Sponsor or as explicitly stated in this Plan, which occur within six (6) months from the date this Plan is initially accepted for filing.

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

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

**l. Use of Unsold Units**

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

Notwithstanding the foregoing or anything contained herein, in the Declaration, By-Laws or the Rules and Regulations to the contrary, Sponsor or its designee may, without the permission of the Boards use or grant permission for the use of any Unsold Unit for any purpose, including, but not limited to, the use of 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 as to any such use.

**m. Alterations of Unsold Units**

Sponsor shall have the right, pursuant (and subject) to the terms of the Declaration, and the By-Laws, as the same may be amended from time to time, without the approval of any Board or any other Unit Owner or any Mortgagee, to make any alterations, additions, improvements or repairs in or to any Unsold Units, whether structural or non-structural, interior or exterior, ordinary or extraordinary (including, without limitation, the right to combine two (2) or more Unsold Units, or to add more 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 Unit. An initial Purchaser of an Unsold Unit shall have the right, without the approval of the Board(s), but subject to the applicable By-Laws provisions regarding the same, to make any alterations, additions, improvements or repairs in or to such Unit, provided that such Purchaser obtains all necessary approvals required by law and that Sponsor has consented to the same in writing at or prior to the closing of title to such Unit, which consent Sponsor may withhold or condition in its

sole and absolute discretion. Absent Sponsor's consent thereto, Purchasers shall have rights in respect of alterations as are set forth in Article 8 of the Condominium By-Laws and Article 6 of the Residential By-Laws and described generally below in the Section entitled "Rights and Obligations of Unit Owners and the Boards."

**n. Successors to Sponsor**

Sponsor reserves the right to sell two (2) or more Units and to designate the Purchaser of such block(s) of Units as a "sponsor" under this Plan. The party so designated as a "sponsor" will have those additional rights and obligations (including the obligation to comply with all applicable Legal Requirements) applicable to a "sponsor" as more fully described in the Plan.

**o. Reservation of Air and Development Rights**

Sponsor has retained and expressly reserves all excess Air Rights otherwise appurtenant to the Property and not used in connection with the Building as described in this Plan as of the recordation of the Declaration. As a result, unless Air Rights are separately acquired therefor on behalf of the Condominium or a Unit Owner, as the case may be, any future expansion of the Building by the Boards or of a Unit by any Unit Owner as may otherwise be permitted pursuant to any applicable Legal Requirements may not be possible or may be limited. Further, as a result of such reservation by Sponsor, Sponsor may transfer or sell such Air Rights to the owner(s) of adjoining properties and in such case such properties may be increased as a result of such transfer or sale.

The Air Rights reserved by Sponsor will not be used to add additional floors to the top of the Building. Except in the case of a sale or transfer for use in connection with other properties, the reserved Air Rights will be used in the Property solely for the purpose of reconfiguring certain areas (e.g., adding mezzanine space, converting mechanical space to space used for other purposes) which, pursuant to the applicable provision of the Zoning Resolution, will require the use of Air Right in excess of those used in connection with the Building in accordance with the Plan as of the recordation of the Declaration. Without limitation, Sponsor expressly reserves the right to create additional Units by adding floor slabs within multi-floor or double-height Units. In the event Sponsor creates such additional Units, Purchasers shall have no right of rescission with respect to their Unit(s). In the event such excess Air Rights are transferred to the owner(s) of adjoining properties, a Unit Owner's views and exposure to light may be affected.

**p. Miscellaneous**

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

**q. Sponsor's Rights Regarding Office Units**

Sponsor shall have the same rights enumerated within this "Rights and Obligations of Sponsor" Section of the Plan with respect to Office Units.

**r. Sponsor's Right to Acquire Lot 43**

Sponsor reserves the right to acquire Lot 43 and be the sole declarant under the Declaration.

**s. Sponsor's Right to Initially Issue Storage Licenses and Wine Cellar Licenses**

Sponsor (or its designee), in its own name or in the name of the Residential Board, shall have the exclusive right to initially issue Storage Licenses for Storage Closets and Wine Cellar Licenses for Wine Cellars.

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## O. CONTROL BY SPONSOR

Until the First Annual Meeting of the Residential Unit Owners (the "First Annual Residential Meeting"), the Residential Board shall generally consist of five (5) persons designated by Sponsor, all five (5) of which shall also serve as the Residential Section's five (5) designees to the seven (7) member Condominium Board. The Commercial Section shall have the right to designate the remaining two (2) of the seven (7) members of the Condominium Board. (See the Section entitled "The Condominium Board" in Part I of the Plan for further discussion). Until the First Annual Residential Meeting, Sponsor reserves the right to designate fewer than five (5) persons to the Residential Board; however, in such case, Sponsor's designees shall be the only members of the Residential Board and such designees shall collectively hold five (5) of the seven (7) votes on the Condominium Board (in addition to the votes of any representatives of the Commercial Section serving on the Condominium Board who were designated by Sponsor as the owner of a Commercial Unit, as applicable). Sponsor anticipates designating the following persons as the initial Residential Board members (all of whom are experienced in real estate matters, familiar with the Property, and who are affiliated with Sponsor): Charles E. Garner II, Harry Macklowe, Ryan Harter, Justin Gardinier and Jeff Mack. Sponsor will amend the Plan prior to the First Closing in the event such five (5) persons shall not constitute the initial Residential Board members. The First Annual Residential Meeting shall be held not later than thirty (30) days following the later to occur of: (a) the second anniversary of the First Closing; or (b) the closing of title to Residential Units representing at least fifty percent (50%) both in number and aggregate Common Interests of all Residential Units to Purchasers; and at such meeting, the incumbent five (5) member Residential Board designated by Sponsor will resign and a new Residential Board, consisting of five (5) members, will be installed, as described below.

As more particularly set forth in the Declaration, Condominium By-Laws and Commercial By-Laws, the Commercial Board shall generally have the power and authority to govern the affairs of the Commercial Section of the Condominium. During the Initial Control Period, Sponsor will be entitled to designate all members of the Commercial Board (and therefore control such Board).

The Residential By-Laws do not include a provision that after the expiration of the Initial Control Period a majority of the Residential Board must be Residential Unit Owner-occupants or members of a Residential Unit Owner-occupant's household who are unrelated to Sponsor and its principals. Residential Unit Owner-occupants and non-resident Residential Unit Owners, including Sponsor, may have inherent conflicts on how the Residential Section should be managed because of their different reasons for purchasing, i.e., purchase as a home as opposed to as an investment.

In addition, because Sponsor reserves the unconditional right to rent or lease Units, there is no commitment to sell more Residential Units than the fifteen percent (15%) of such Units necessary to declare the Plan effective and, accordingly, Residential Unit Owners may never gain effective control and management of the Condominium and/or Residential Section, and the First Annual Residential Meeting may never occur.

At meetings of the Residential Unit Owners, Sponsor will have the right to vote all of the Common Interests appurtenant to the Residential Units owned by Sponsor as it sees fit. In addition, at elections of members to the Residential Board held at and after the First Annual Residential Meeting, but before the expiration of the Initial Control Period, Sponsor and/or its designee shall have the right to designate four (4) of the five (5) members of the Residential Board, who may be persons related to and/or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners; and Sponsor, such designee and all other Residential Unit Owners shall have the right to elect the remaining one (1) member of the Residential Board who shall not be related to or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners.

At elections of members to the Residential Board held after the expiration of the Initial Control Period, but while Sponsor and/or its designee still owns at least one (1) Residential Unit, Sponsor and/or its designee shall have the right to designate at least one (1) of the five (5) members of the Residential Board, who may be a person related to and/or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners; and Sponsor, such designee and all other Residential Unit Owners shall have the right to elect the remaining members of the Residential Board who shall not be related to or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners. Accordingly, from and after the expiration of the Initial Control Period, at least four (4) of the five (5) members of the Residential Board shall not be designated by or related to or affiliated with Sponsor, its designee or other Unsold Residential Unit Owners; and subject to the foregoing shall be elected by all Residential Unit Owners (including Sponsor, its designee or other Unsold Residential Unit Owner). There is no restriction on the right of the Unsold Residential Unit Owners (including Sponsor) to vote for members of the Residential Board who are not related to or affiliated with Sponsor, its designee or other Unsold Residential Unit Owners. However, after the expiration of the Initial Control Period, neither the Sponsor nor its designee will designate all the members to the Residential Board at the annual meeting of Residential Unit Owners. The number of members of the Residential Board may not be increased without the consent of the owner(s) of the Unsold Residential Units, for so long as there remains at least one (1) Unsold Unit.

The five (5) members of the Residential Board shall also serve as the Residential Board's representatives on the Condominium Board. Until the First Annual Residential Meeting, such five (5) members shall be the five (5) Residential Board members designated by Sponsor, and during this time, Sponsor reserves the right to designate fewer than five (5) persons to the Residential Board; however, in such case, Sponsor's designees shall be the only members of the Residential Board and such designees shall collectively hold five (5) of the seven (7) votes on the Condominium Board (in addition to the votes of any representatives of the Commercial Section serving on the Condominium Board who were designated by Sponsor as the owner of a Commercial Unit, as applicable). From and after the First Annual Residential Meeting, until such time as none of Sponsor, its designee or any other Unsold Residential Unit Owner owns any Residential Units: (i) of the five (5) Residential Board members also serving as the Residential Section's representatives to the Condominium Board, at least one (1) of such members shall at all times be a Residential Board member designated by Sponsor, its designee or any Unsold Residential Unit Owner, and (ii) the Residential Board cannot be expanded to more than five (5) members without the prior written consent of Sponsor.

Until Sponsor no longer designates or elects a majority of the members of the Residential Board, Sponsor will, through its control of the Residential Board, be able to determine the maintenance and operation of, and the services to be provided by, the Residential Board, and also (subject to any General Common Charges assessed by the Condominium Board) the determination of Residential Common Charges to be paid by all Residential Unit Owners.

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

Moreover, during the Initial Control Period, the Residential Board may not, without the prior written consent of Sponsor: (i) make any addition, alteration or improvement to the Residential Limited Common Elements or any Residential Unit (unless required by any applicable Legal Requirements); (ii) assess any Residential Common Charges for the creation of, addition to or replacement of all or any reserve, contingency or surplus fund in respect of the Residential Section; (iii) increase or decrease the number of, or change the kind of, employees initially hired for the Residential Section, as provided for in Schedule B-1 – "Projected Budget for First Year of Residential Operation" set forth in the Plan; (iv) enter into any service or maintenance contract for work not covered by contracts in existence on the date of the First Closing or otherwise provide services in excess of those referred to in the Offering Plan, except as is required to reflect normal annual increases in operating services; (v) borrow money on behalf of the Residential Section, unless any such borrowing is approved by the owners of Residential Units representing at least seventy-five percent (75%) both in number and aggregate Common Interests of all Residential Units; or (vi) exercise any right of first refusal to lease or purchase a Residential Unit. However, the Residential Board may perform any function or take any action enumerated in subsections (i) through (v) hereinabove without the consent of Sponsor if, and only if, the performance of such function or the carrying out of such action is necessary, and no other alternative is available, either to enable the Residential Board to comply with any Legal Requirements, or to remedy any notice of violation entered against the Residential Section, or to comply with any proper work order by an insurer of the Residential Section, or for the health and safety (but not the general comfort or welfare) of the occupants of the Residential Section.

Sponsor may not exercise veto power over expenses described in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation", or over expenses required to comply with any Legal Requirements applicable to the Residential Section, or to remedy any notice of violation entered against the Residential Section or to comply with any proper work order by an insurer of the Residential Section. 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 Residential Units constitute less than twenty-five percent (25%) of the Common Interest, whichever is sooner.

Sponsor shall have the right, in its sole and absolute discretion, to cause the Residential Board to waive the collection of some or all of the Residential Common Charges from Residential Unit Owners for a period of time prior to full occupancy of the Building (the

"Waiver Period"); provided, however, that Sponsor shall be solely responsible for payment of all remaining expenses to operate the Residential Section during the Waiver Period (the "Operating Expenses"). In connection with the Waiver Period, (i) if the collection of Common Charges will be delayed, Sponsor shall file an amendment to the Plan prior to the First Closing indicating that the collection of Common Charges will not commence with the beginning of Condominium operations and the anticipated length of such Waiver Period; (ii) Sponsor shall file an amendment to the Plan disclosing the expiration of the Waiver Period at least thirty (30) days prior to such expiration; (iii) that during any such Waiver Period, Sponsor will timely pay all expenses of the Condominium, including but not limited to insurance premiums and any reserve fund payments required by lenders to the extent otherwise included in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation"; (iv) upon the commencement of the collection of Common Charges, there will be not be an assessment for any item set forth in the approved budget for the Condominium; and (v) Sponsor shall remain obligated to update the budget for the Condominium, as provided in the Condominium Documents.

All Operating Expenses paid by Sponsor during the Waiver Period are based on the actual cost of operating the Building and not on estimates set forth in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation". Purchasers should note that Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" will not be in effect until the expiration of the Waiver Period. Notwithstanding anything to the contrary set forth above, the Operating Expenses shall not include real estate taxes regardless of whether the Unit has been separately assessed. In all instances the Unit Owners will remain responsible for the payment of the real estate taxes. In addition, each Purchaser shall be responsible for payment of its allocable share of the property insurance premium attributable to its respective Unit during the Waiver Period, which expenses shall be separately assessed to each Purchaser in proportion to their respective Common Interest, as more particularly set forth in Schedule A. Sponsor, in its sole and absolute discretion, may upon thirty (30) days prior written notice to Unit Owners terminate the Waiver Period.

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## P. THE RESIDENTIAL BOARD

### 1. General

The affairs of the Residential Section shall be governed by the Residential Board, subject to any matters and authority vested in the Condominium Board as described in the Declaration, the Condominium By-Laws and the Residential By-Laws. The Residential Board shall generally consist of five (5) members designated by Sponsor until the First Annual Residential Meeting, at which time the incumbent Residential Board designated by Sponsor will resign and a new Residential Board, consisting of five (5) members, will be elected and/or designated by the Residential Unit Owners and Sponsor, as described below. The First Annual Residential Meeting shall be held not later than thirty (30) days following the later to occur of: (a) the second anniversary of the First Closing; or (b) the closing of title to Residential Units representing at least fifty percent (50%) both in number and aggregate Common Interests of all Residential Units to Purchasers. Until the First Annual Residential Meeting, Sponsor reserves the right to designate fewer than five (5) persons to the Residential Board; however, in such case, Sponsor's designees shall be the only members of the Residential Board and such designees shall collectively hold five (5) of the seven (7) votes on the Condominium Board (in addition to the votes of any representatives of the Commercial Section serving on the Condominium Board who were designated by Sponsor as the owner of a Commercial Unit, as applicable). Sponsor anticipates designating the following persons as the initial Residential Board members (all of whom are experienced in real estate matters, familiar with the Property, and who are affiliated with Sponsor): Charles E. Garner II, Harry Macklowe, Ryan Harter, Justin Gardinier and Jeff Mack. Sponsor will amend the Plan prior to the First Closing in the event such five (5) persons shall not constitute the initial Residential Board members. At elections of members to the Residential Board held at and after the First Annual Residential Meeting, but before the expiration of the Initial Control Period, Sponsor and/or its designee shall have the right to designate four (4) of the five (5) members of the Residential Board, who may be persons related to and/or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners; and Sponsor, such designee and all other Residential Unit Owners shall have the right to elect the remaining one (1) member of the Residential Board who shall not be related to or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners. Following the Initial Control Period but while Sponsor owns at least one (1) Residential Unit, Sponsor shall be entitled to designate at least one (1) Residential Board Member. (See the subsection entitled "Meetings and Votes of Residential Unit Owners" in this Section below and the Section entitled "Control by Sponsor" in Part I of the Plan for further discussion.)

The term of office of each of the five (5) members comprising the Residential Board elected or designated at the First Annual Residential Meeting shall be fixed at such meeting as follows: (a) two (2) of such members will serve for a term of approximately three (3) years; (b) two (2) of such members will serve for a term of approximately two (2) years; and (c) one (1) of such members will serve for a term of approximately one (1) year. Those members of the first five (5) member Residential Board who receive the highest number of votes will serve for the longest terms of office, but except as set forth in the Residential By-Laws, any members designated by Sponsor or its designee as the owner of Unsold Residential Units shall serve for the shortest terms of office. At each annual meeting of Residential Unit Owners subsequent to the first such meeting, the Residential Unit Owners shall elect (and/or Sponsor shall designate, as

the case may be) Residential Board members to replace the Residential Board members whose terms of office are then expiring, each to serve a term of office fixed at three (3) years. Notwithstanding the expiration of the term of office of a member of the Residential Board or anything contained herein to the contrary, such member of the Residential Board (including any member designated by Sponsor) shall serve until his or her successor shall be elected (or designated) and qualified. Subject to the requirements described in the Section of the Plan entitled "Control by Sponsor", there shall be no limit on the number of terms of office, successive or otherwise, that a Residential Board member (including any member of the Residential Board designated by Sponsor) may serve.

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

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

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

Members of the Residential Board shall serve without compensation. All Residential Board members and employees of the Residential Section will be covered by crime insurance or fidelity bonds (or similar insurance or bonds) at all times from and after the First Closing in favor of the Residential Section. The cost of same has been provided for in the estimate of the Residential Common Charges contained in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" herein.

## 2. Powers and Duties of and Determinations by the Residential Board

Subject to any matters and authority vested in the Condominium Board as described in the Declaration, the Condominium By-Laws and the Residential By-Laws, the Residential Board shall have the powers and duties necessary for or incidental to the administration of the affairs of the Residential Section. As more fully set forth (and except as may otherwise be provided) in the Residential By-Laws, all determinations required to be made by the Residential Board shall be by majority of the votes cast at any meeting at which a quorum is present.

The Residential Board shall make reports to the Residential Unit Owners on a regular basis, but at least annually, regarding the actions taken and matters coming before the Residential Board.

The Residential Board shall have the power to acquire the Club Unit and/or establish an entity to hold title to the Club Unit and to exercise such rights and fulfill such obligations. In such case, the Residential Board (or its nominee, corporate or otherwise) shall have the power to hold, lease, mortgage, convey, operate, maintain, set policies and rules for, and otherwise deal with the Club Unit. As set forth more particularly in the Residential By-Laws and as more particularly described in this Plan, the Residential Board shall have the power to establish a committee to oversee all aspects of the operation of the Club Unit.

For so long as the Club Unit is owned by the Residential Board (or its nominee), the Residential Board shall cause the same to be operated and maintained in compliance with all Legal Requirements, including, without limitation, all building codes, zoning ordinances and all requirements and limitations with respect to certificate(s) of occupancy for the Property.

## 3. Meetings and Votes of Residential Unit Owners

After the First Annual Residential Meeting as described above, annual meetings of Residential Unit Owners will be held within approximately four (4) weeks of the anniversary of the First Annual Residential Meeting, on a date to be set by the Residential Board. At each such meeting, the Residential Unit Owners shall elect (or designate, as applicable) members to replace those members, if any, of the Residential Board whose terms have expired. In addition, special meetings may be held from time to time pursuant to the Residential By-Laws. At all meetings of Residential Unit Owners, the presence in person or by proxy of more than fifty percent (50%) of the Common Interests attributable to all Residential Units shall constitute a quorum and, except as otherwise provided in the Residential By-Laws or Declaration, a majority of votes cast at any such meeting at which a quorum is present or is not required shall be binding on all Residential Unit Owners.

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

(proportionate among the Common Interest attributable to all Residential Units) appurtenant to his or her Residential Unit(s).

**4. Officers**

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

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

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

**5. Designation of Members to the Condominium Board**

All five (5) of the members of the Residential Board shall also serve as the Residential Board's representatives on the Condominium Board. Until the First Annual Residential Meeting, such five (5) members shall be the five (5) Residential Board members designated by Sponsor. During this time, Sponsor reserves the right to designate fewer than five (5) persons to the Residential Board; however, in such case, Sponsor's designees shall be the only members of the Residential Board and such designees shall collectively hold five (5) of the seven (7) votes on the Condominium Board (in addition to the votes of any representatives of the Commercial Section serving on the Condominium Board who were designated by Sponsor as the owner of a Commercial Unit, as applicable). From and after the First Annual Residential Meeting, until such time as none of Sponsor, its designee or any other Unsold Residential Unit Owner owns any Residential Units: (i) of the five (5) Residential Board members also serving as the Residential Section's representatives to the Condominium Board, at least one (1) of such members shall at all times be a Residential Board member designated by Sponsor, its designee or any Unsold Residential Unit Owner, and (ii) the Residential Board cannot be expanded to more than five (5) members without the prior written consent of Sponsor.

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## Q. THE CONDOMINIUM BOARD

### 1. General

While the exclusive affairs of the Residential Section will be governed by the Residential Board (as described more fully above and in the Residential By-Laws and Condominium By-Laws), and the exclusive affairs of the Commercial Section will be governed by the Commercial Board (as described more fully below and in the Commercial By-Laws and Condominium By-Laws), such governance is subject and subordinate to the governance of the Condominium overall which is vested in the board of managers of the Condominium (the "Condominium Board").

The Condominium Board shall generally consist of seven (7) members: (i) five (5) members designated by or on behalf of the Residential Board (see the subsection entitled "Designation of Members to the Condominium Board" in the Section entitled "The Residential Board" in Part I of the Plan); and (ii) and two (2) members designated by the Commercial Unit Owners pursuant to the Commercial By-Laws. (See the Section entitled "The Commercial Board" in Part I of the Plan for further discussion.) Moreover, it is initially intended that Sponsor may own one (1) or more Commercial Units and may, in such capacity (as set forth in the Commercial By-Laws), have the right to designate additional members to the Condominium Board in addition to the rights reserved to Sponsor with respect to the election and/or designation of members of the Residential Board.

The initial Condominium Board will be comprised of: (i) the following five (5) members designated by Sponsor as the initial Residential Board members: Charles E. Garner II, Harry Macklowe, Ryan Harter, Justin Gardinier and Jeff Mack; and (ii) two (2) members designated by the Commercial Unit Owners pursuant to the Commercial By-Laws (which may be designees of Sponsor if Sponsor is permitted to designate such members pursuant to the Commercial By-Laws), the names of which members will be included in the First Closing amendment to the Offering Plan if such members have not been previously identified at that time. Until the First Annual Residential Meeting, Sponsor reserves the right to designate fewer than five (5) persons to the Residential Board; however, in such case, Sponsor's designees shall collectively hold five (5) of the seven (7) votes on the Condominium Board (in addition to the votes of any representatives of the Commercial Section serving on the Condominium Board who were designated by Sponsor as the owner of a Commercial Unit, as applicable).

The term of office of each of the seven (7) members of the Condominium Board will expire annually and, in general, the replacement of such member, which may be the same person, will be made by the Board or Unit Owner which designated such member. Notwithstanding the expiration of the term of office of a member of the Condominium Board, such member shall serve until a successor has been elected and qualified.

Members of the Condominium Board shall serve without compensation. All officers, Condominium Board members and employees of the Condominium will be covered by crime insurance or fidelity bonds (or similar insurance or bonds) at all times in favor of the Condominium in amounts deemed appropriate by the Condominium Board. The cost of same

has been provided for in the estimate of the Common Charges allocated to all Unit Owners contained in Schedule B-2 – "Projected Budget for First Year of Condominium Operation".

With respect to the Condominium Board members: (i) the qualifications set forth in the Residential By-Laws (and described in the Section entitled "The Residential Board" in Part I of the Plan) for members of the Residential Board shall apply to the Condominium Board members (other than those designated by Sponsor) representing the Residential Section; and (ii) no restrictions shall apply as to which persons the Commercial Unit Owner may designate from time to time to the Condominium Board except that each Condominium Board member (and any proxy) must be a natural person and not an entity.

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

Prospective Purchasers are advised that Residential Unit Owners, Residential Unit occupants and non-resident Residential Unit Owners, including Sponsor and the Commercial Unit Owners 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 vs. investment vs. for business/commercial purposes.

The Residential Section and the Commercial Section will be represented on the Condominium Board, with the Residential Section having the right to appoint five (5) of the seven (7) members of the Condominium Board, and two (2) members designated by the Commercial Unit Owners pursuant to the Commercial By-Laws. As a result, the members of the Condominium Board representing the Commercial Section will never control a majority vote thereon, and the Residential Section (which will initially and may thereafter be controlled by Sponsor or affiliates of Sponsor) will control a majority of the votes on the Condominium Board. Moreover, it is initially intended that Sponsor may own one (1) or more Commercial Units and may, in such capacity (as set forth in the Commercial By-Laws), have the right to designate additional members to the Condominium Board in addition to the rights reserved to Sponsor with respect to the election and/or designation of members of the Residential Board. Residential Unit Owners and Office Unit Owners shall not be entitled to vote in their individual capacities as Unit Owners at any meeting of the Condominium Board.

## 2. 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. Subject to such authority of the Condominium Board, generally, but subject to the Declaration and Condominium By-Laws provisions governing the same, all determinations, which do not (to more than an immaterial extent) relate to or affect or involve the Condominium generally or the General Common Elements, and: (1) do not affect (to more than an immaterial extent) any portion of the Building other than the Residential Section, shall be made by the Residential Board; and (2) do not affect

(to more than an immaterial extent) any portion of the Building other than the Commercial Section as a whole shall be made by the Commercial Board. Any dispute between or among one or more of the Residential Board, Commercial Board and the Condominium Board as to which Board shall be entitled to make a particular determination shall be settled by arbitration in the manner provided in the Condominium By-Laws. As more fully set forth (and except as may otherwise be provided) in the Condominium 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.

For convenience of operation of the Condominium, the Residential Board may (with the Condominium Board's consent) designate the Condominium Board to act as its agent with respect to any matters the determination of which is entitled to be made by the Residential Board.

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

No joint annual meetings of the Residential Unit Owners and all other Unit Owners will be held unless required by law, in which event such joint annual meeting will be held on the date specified by the Condominium Board. Special meetings may be called from time to time pursuant to the Condominium By-Laws. At all such joint meetings of Unit Owners, if any, the presence in person or by proxy of Unit Owners representing not less than fifty percent (50%) (in Common Interest) of all Unit Owners shall constitute a quorum; provided that the members of the Condominium Board designated by the Commercial Unit Owners shall have the absolute right (except in the case of an Emergency (as defined in the Condominium By-Laws)) to require an adjournment of any such Unit Owners Meeting (notwithstanding the presence of a quorum) for a period not longer than thirty (30) days; and, except as otherwise provided in the Condominium By-Laws or Declaration, a majority of votes cast at any such meeting at which a quorum is present or is not required shall be binding on all Unit Owners.

Each Unit Owner, upon obtaining title, will in accordance with Section 339-e of the Real Property Law, automatically have the right to vote at all joint meetings of the Unit Owners, if any, based upon the Common Interest appurtenant to each of the Unit or Units owned by such Unit Owner, and at all such meetings, each Unit Owner (or his or her proxy) entitled to vote thereat (including Sponsor or its designee with respect to Unsold Units) shall be entitled to cast one (1) vote for each .0001% of interest in the Common Elements attributable to its, his or her Unit(s).

**4. Officers**

The principal officers of the Condominium will be the President, Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Condominium Board. The Condominium Board may also appoint additional officers as the Condominium Board in its judgment may deem advisable. None of the officers of the Condominium need be Unit Owners or have any interest therein or be Condominium Board members, or Residential Board members or Commercial Board members.

Except as otherwise determined by the Condominium Board, no officer shall receive any compensation for acting as such. Upon the affirmative vote of a majority of the members of the Condominium Board, any officer of the Condominium Board may be removed, either with or without cause, and his or her successor shall be elected, at any regular meeting of the Condominium Board or at any special meeting of the Condominium Board called for such purpose.

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

To the extent permitted by applicable law, Condominium Board members shall have no liability to the Unit Owners, except that a Condominium Board member shall be liable for his or her own bad faith, gross negligence or willful misconduct. The Condominium Board may contract or effect any other transaction with any Condominium Board member, any member of the Residential Board, the Commercial Board, any Unit Owner, Sponsor or its designee, or any affiliate of any of them without incurring any liability for self-dealing, except in cases of bad faith, gross negligence 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 the bad faith, gross negligence or willful misconduct of such member.

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## R. THE COMMERCIAL BOARD

### 1. General

As more particularly set forth in the Declaration, Condominium By-Laws and Commercial By-Laws, the Commercial Board shall generally have the power and authority to govern the affairs of the Commercial Section of the Condominium.

The Commercial Board shall generally consist of five (5) members: (i) one (1) member designated by or on behalf of the Garage Unit; (ii) one (1) member designated by or on behalf of Retail Unit C; and (iii) three (3) members elected by or on behalf of Retail Unit A Owner and Retail Unit B Owner, whichever has the greater Common Interest or as may otherwise be agreed by such Unit Owners. The Club Unit Owner and Office Unit Owners, in each instance, will not have the right to designate any member of the Commercial Board. During the Initial Control Period, Sponsor will be entitled to designate all members of the Commercial Board (and therefore control the Commercial Board).

The term of office of each of the five (5) members of the Commercial Board will expire annually and, in general, the replacement of such member, which may be the same person, will be made in the manner described above. Notwithstanding the expiration of the term of office of a member of the Commercial Board, such member shall serve until a successor has been elected and qualified. Members of the Commercial Board shall serve without compensation.

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

### 2. Powers and Duties of and Determinations by the Commercial Board

Subject to any matters and authority vested in the Condominium Board as described in the Declaration, the Condominium By-Laws and the Commercial By-Laws, the Commercial Board shall have the powers and duties necessary for or incidental to the administration of the affairs of the Commercial Section as a whole. As more fully set forth (and except as may otherwise be provided) in the Commercial By-Laws, all determinations required to be made by the Commercial Board shall be by majority of the votes cast at any meeting at which a quorum is present.

The Commercial Board shall make reports to the Commercial Unit Owners on a regular basis, but at least annually, regarding the actions taken and matters coming before the Commercial Board.

**3. Designation of Members to the Condominium Board**

During the Initial Control Period, Sponsor will be entitled to designate the two (2) representatives of the Commercial Section that will serve on the Condominium Board. Upon the expiration of the Initial Control Period, the members of the Commercial Board shall designate two (2) representatives to serve on the Condominium Board in accordance with the terms of the Commercial By-Laws.

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## S. RIGHTS AND OBLIGATIONS OF THE UNIT OWNERS AND THE BOARDS OF MANAGERS

### 1. Sales and Leases of Residential Units

Each Residential Unit Owner may sell his or her Residential Unit or lease his or her Residential Unit for a minimum term of one (1) year and a maximum term of two (2) years, in each instance, provided, in each case, such Residential Unit Owner first gives the Residential Board notice of intention to sell or lease such Residential Unit, accompanied by a fully executed copy of the contract of sale or lease, as the case may be. The Residential Board shall then have the right to purchase or lease the Residential Unit at the same price or rental and on the same terms as were offered in good faith by a prospective Purchaser or lessee, as more specifically set forth in Article 8 of the Residential By-Laws. If the Residential Board does not elect to purchase or lease the Residential Unit within twenty (20) days after receipt of the notice, or waives such election in writing, the Residential Unit Owner will have sixty (60) days thereafter to consummate the transaction set forth in the contract of sale or lease with the prospective Purchaser or lessee, as the case may be, as more particularly set forth in Section 8.1 of the Residential By-Laws. In the event that such sale or lease is not consummated, or if such contract or lease is renegotiated or modified in any way (whether orally, in writing or by a side agreement) to be on terms less favorable to the Residential Unit Owner, the Residential Unit Owner will be required again to offer the same first to the Residential Board. The Residential Board may not exercise its option to purchase or lease any Residential Unit without prior approval of a majority in interest of Residential Unit Owners present in person or by proxy and voting at a meeting at which a quorum is present. Any such lease shall be in the form and substance then approved by the Residential Board (as the same may be changed from time to time), including provisions such as a prohibition on assignment or subletting. The Residential Board shall have the right to release or waive such option without the prior approval or a vote of the Residential Unit Owners.

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

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

Further, in the event that title to a Residential Unit is taken by a corporation, partnership, limited liability company or other entity, the name of a principal of said entity shall be identified to Sponsor.

Notwithstanding the foregoing, without complying with the foregoing restrictions, a Residential Unit Owner may sell, lease or convey his or her Residential Unit, and the owner of any interest in a Residential Unit Owner which is a corporation, partnership, limited liability company or other entity, may sell, lease or convey such interest, to an affiliate or one (1) or more family members, as hereinafter defined, or convey a Unit or interest in a Residential Unit Owner, as the case may be, by gift, or devise it by will, or have it pass by intestacy. (An "affiliate" is defined for purposes hereof as a person or entity that owns fifty percent (50%) or more of the legal and beneficial interest of such Residential Unit Owner or owner of an interest in a Residential Unit Owner, as the case may be, or an entity with respect to which such Residential Unit Owner or owner of an interest in a Residential Unit Owner owns fifty percent (50%) or more of the legal and beneficial interest, and "family member" is defined for purposes hereof as a spouse, domestic partner, adult child, parent or adult sibling, or a trust for the benefit of any one or more of the foregoing and/or one or more minor children of any of the foregoing.) Article 8 of the Residential By-Laws more specifically describes the right of first refusal and those situations in which a Residential Unit Owner may sell or convey his or her Residential Unit to a related or controlled individual or entity.

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

Each conveyance of a Residential Unit by the Owner thereof shall include as part of the property to be conveyed, such Residential Unit Owner's: (i) undivided interest in the Common Elements; (ii) undivided interest in any Residential Unit or Residential Units acquired by the Residential Board from Unit Owners (or the proceeds received at a foreclosure or other judicial sale of a Residential Unit); and (iii) undivided interest in any other assets of the Residential Board or assets of the Condominium (including, without limitation, in the Resident Manager's Unit and the Club Unit). No part of a Residential 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 Residential Unit to which such interest appertains or as part of a sale, transfer or other disposition of the specific interest in the Residential Limited Common Elements or the General Common Elements by all affected Residential Unit Owners.

A Residential Unit may not be conveyed unless all unpaid Residential Common Charges and liens against such Residential Unit (other than Permitted Mortgages) are paid and satisfied at or prior to closing. The Residential Board may establish reasonable fees for the processing of such offers for sale or lease, which shall be payable by the selling or leasing Residential Unit Owner to the Residential Managing Agent. In addition, the Residential Board shall have the right to impose a fee in connection with any waiver of its right of first refusal pursuant to Section 8.1 of the Residential By-Laws, either with respect to a sale or a lease of a Residential Unit; provided, however, that no fee shall be assessed in connection with: (i) a renewal of a lease of a Residential Unit, as to which lease the Residential Board previously waived its right of first refusal in accordance with the Residential By-Laws; and (ii) sales or leases of Unsold Residential Units by Sponsor.

Notwithstanding anything to the contrary set forth in the Residential By-Laws or Residential Rules and Regulations, in the event a Residential Unit Owner leases his or her Residential Unit, such Residential Unit Owner's tenant shall not be permitted to keep or harbor pets of any kind in the Residential Unit.

**2. Sales and Leases of Office Units**

Each Office Unit Owner may sell his or her Office Unit or lease his or her Office Unit for a minimum term of one (1) year, provided, in each case, such Office Unit Owner first gives the Condominium Board notice of intention to sell or lease such Office Unit, accompanied by a fully executed copy of the contract of sale or lease, as the case may be. The Condominium Board shall then have the right to purchase or lease the Office Unit at the same price and on the same terms as were offered in good faith by a prospective Purchaser or lessee, as more specifically set forth in Article 8 of the Commercial By-Laws. If the Condominium Board does not elect to purchase or lease the Office Unit within twenty (20) days after receipt of the notice, or waives such election in writing, the Office Unit Owner will have sixty (60) days thereafter to consummate the transaction set forth in the contract of sale or lease with the prospective Purchaser or lessee, as the case may be, as more particularly set forth in Section 8.1 of the Commercial By-Laws. In the event that such sale or lease is not consummated, or if such contract or lease is renegotiated or modified in any way (whether orally, in writing or by a side agreement) to be on terms less favorable to the Office Unit Owner, the Office Unit Owner will be required again to offer the same first to the Condominium Board. The Condominium Board may not exercise its option to purchase any Office Unit without prior approval of a majority of the Condominium Board. Any such lease shall be in the form and substance then approved by the Condominium Board (as the same may be changed from time to time), including provisions such as a prohibition on assignment or subletting. The Condominium Board shall have the right to release or waive such option without the prior approval or a vote of the Office Unit Owners.

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

Further, in the event that title to an Office Unit is taken by a corporation, partnership, limited liability company or other entity, the name of a principal of said entity shall be identified to Sponsor.

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

Notwithstanding the foregoing, without complying with the foregoing restrictions, an Office Unit Owner may sell, lease or convey his or her Office Unit, and the owner of any interest

in an Office Unit Owner which is a corporation, partnership, limited liability company or other entity, may sell, lease or convey such interest, to an affiliate or one (1) or more family members, as hereinafter defined, or convey a Unit or interest in an Office Unit Owner, as the case may be, by gift, or devise it by will, or have it pass by intestacy. (An "affiliate" is defined for purposes hereof as a person or entity that owns fifty percent (50%) or more of the legal and beneficial interest of such Office Unit Owner or owner of an interest in an Office Unit Owner, as the case may be, or an entity with respect to which such Office Unit Owner or owner of an interest in an Office Unit Owner owns fifty percent (50%) or more of the legal and beneficial interest, and "family member" is defined for purposes hereof as a spouse, domestic partner, adult child, parent or adult sibling, or a trust for the benefit of any one or more of the foregoing and/or one or more minor children of any of the foregoing.) Article 8 of the Commercial By-Laws more specifically describes the right of first refusal and those situations in which an Office Unit Owner may sell or convey his or her Office Unit to a related or controlled individual or entity.

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

Each conveyance of an Office Unit by the Owner thereof shall include as part of the property to be conveyed, such Office Unit Owner's: (i) undivided interest in the Common Elements; (ii) undivided interest in any Units acquired by the Commercial Board from Unit Owners (or the proceeds received at a foreclosure or other judicial sale of a Unit); and (iii) undivided interest in any other assets of the Commercial Board or assets of the Condominium. No part of an Office 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 Office Unit to which such interest appertains or as part of a sale, transfer or other disposition of the specific interest in the Commercial Limited Common Elements or the General Common Elements by all affected Office Unit Owners.

An Office Unit may not be conveyed unless all unpaid Commercial Common Charges and liens against such Office Unit (other than Permitted Mortgages) are paid and satisfied at or prior to closing. The Condominium Board may establish reasonable fees for the processing of such offers for sale or lease, which shall be payable by the selling or leasing Office Unit Owner to the Condominium Managing Agent. In addition, the Condominium Board shall have the right to impose a fee in connection with any waiver of its right of first refusal pursuant to Section 8.1 of the Commercial By-Laws, either with respect to a sale or a lease of an Office Unit; provided, however, that no fee shall be assessed in connection with: (i) a renewal of a lease of an Office Unit, as to which lease the Condominium Board previously waived its right of first refusal in accordance with the Condominium By-Laws; and (ii) sales or leases of Unsold Office Units by Sponsor.

### 3. Assignment of Storage Licenses and Wine Cellar Licenses

To help protect the security of the Building, the holder of a Storage License or Wine Cellar License (in each case, other than Sponsor) must at all times be a Unit Owner; provided, however, that the foregoing restriction shall not apply: (i) to Sponsor or its designee; or (ii) to the

Residential Board or its designees. If the Residential Board terminates a Storage License or Wine Cellar License or a Unit Owner surrenders a Storage License or Wine Cellar License without assigning such license to another Unit Owner, the Residential Board shall have the right to issue a new Storage License or Wine Cellar License for the corresponding Storage Closet or Wine Cellar upon terms and conditions determined in its sole discretion. If at any time the licensee of a Storage Closet or Wine Cellar sells its Residential Unit, it shall simultaneously assign its license of the Storage Closet or Wine Cellar to the purchaser of such Residential Unit or to another owner of a Residential Unit, failing which, the Residential Board shall have the right to terminate the license of the Storage Closet or Wine Cellar and take possession of the same, without compensation to the licensee.

Upon the issuance of a Storage License and/or Wine Cellar License to a Unit Owner, such Unit Owner may freely assign such license without the consent of the Residential Board provided such assignee is also a Unit Owner; and provided further that the Residential Board is provided written notice of such assignment. Neither Sponsor nor the Residential Board shall have any liability or obligation with respect to a private assignment of a Storage License or Wine Cellar License.

**4. Use of Residential Units, Storage Closets and Wine Cellars**

A Residential Unit may be used only as a residence and, subject to compliance with the Condominium By-Laws and Residential By-Laws, for a lawful home occupation. Each such Residential Unit may only be occupied by: (i) any individual who is a Residential Unit Owner or permitted lessee; (ii) any officer, director, shareholder or employee of any corporation which is a Residential Unit Owner or permitted lessee; (iii) any partner or employee of any partnership which is a Residential Unit Owner or permitted lessee; (iv) any member or employee of any limited liability company which is a Residential Unit Owner or permitted lessee; (v) the fiduciary or beneficiary or employee of any fiduciary which is a Residential Unit Owner or permitted lessee; (vi) any principal or employee of any other entity (including, but not limited to, embassies and consulates of foreign governments) which is a Residential Unit Owner or permitted lessee; provided that in each instance in clauses (i) through (vi) above: (A) the individual, designated officer, director, shareholder, partner, member, fiduciary, beneficiary, principal or employee is designated as the primary occupant of the Residential Unit and is not being designated to use the Residential Unit on a transient basis or as other than the primary occupant; and (B) such use is not, in fact or in effect, part of or in furtherance of an Occupancy Plan; and (vii) family members, domestic partners, domestic employees and/or non-paying guests of any of the foregoing. Subject to the foregoing, Residential Units may only be leased in accordance with the Residential By-Laws and the Residential Rules and Regulations. An "Occupancy Plan" means a program, plan, agreement or other arrangement for the use, occupancy, marketing, advertising or promotion of one (1) or more Residential Units under short-term, timeshare, fractional or shared ownership, interval exchange (whether the program is based on direct exchange of occupancy rights, cash payments, reward programs or other point or accrual systems) or other membership plans or arrangements through which a participant in the plan or arrangement acquires a direct or indirect ownership interest in the Residential Unit(s) in question with attendant rights of periodic use and occupancy or acquires contract rights to such periodic use and occupancy of such Residential Unit(s) or a portfolio of accommodations including such Residential Unit(s).

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

The Storage Closets may only be used for storage purposes, and the Wine Cellars may only be used for the storage of wine and other beverages, and in no event may either be used as a dwelling space or for the storage of toxic or inflammable items or Combustibles (as such term is defined in the New York City Building Code). No materials which pose a health or safety threat or which otherwise create a nuisance may be stored in the Storage Closets and Wine Cellars. To do so may result in a violation placed against the Building by the Department of Buildings that will be the obligation of the licensee to remove. Notwithstanding the foregoing, Sponsor or its designee shall have the right to use without charge any Unlicensed Storage Closets and Unlicensed Wine Cellars for any lawful purpose or to change the permitted use of any Unlicensed Storage Closets and Unlicensed Wine Cellars, subject, however, to the provisions of Article 6 of the Residential By-Laws which provide, among other things, that no use shall be allowed in the Condominium which interferes with the peaceful possession and proper use of the Condominium by its occupants.

Each licensee shall be liable for all damage arising out of such licensee's use or misuse of its Storage Closet or Wine Cellar. Neither the Sponsor, nor its respective agents or employees shall be liable for any theft or damage to any property stored in the Storage Closets or Wine Cellars. Each licensee shall indemnify and hold Sponsor and its respective directors, officers, partners, parent and subsidiary and affiliated companies, agents and employees, harmless from and against any and all liabilities, claims, causes of action, damages, lawsuits, penalties, judgments, and liens, together with any related costs and expenses, including but not limited to reasonable legal fees, asserted against or sustained by any of them in connection with any act, omission, or negligence of a licensee or a licensee's family, servants, employees, agents, guests and invitees in connection with the purchase of a Storage License and/or Wine Cellar License.

All of the Wine Cellars will be located on the Subcellar 1 Level of the Building in a single room serviced by two (2) HVAC units (one (1) on-line and one (1) stand-by) that will set both temperature and humidity and are controlled by one (1) thermostat. The Wine Cellars will be built out by a to-be determined independent company engaged by Sponsor. The temperature range for the room containing the Wine Cellars shall be determined by the Residential Board in consultation with such company. The Residential Board shall have the authority to modify such temperature ranges in its sole discretion. The current design for the climate of the room in which the Wine Cellars are located is 52-57 degrees Fahrenheit with a relative humidity of sixty percent (60%) to seventy percent (70%). All wine and other beverages stored in a Wine Cellar shall be at the licensee's sole risk. Neither Sponsor, the Condominium Board, the Residential Board, nor the Managing Agents shall be liable for any spoilage caused by the failure of the HVAC or any other causes whatsoever.

Holders of Storage Licenses, excluding Sponsor with respect to Unlicensed Storage Closets, will be required to pay a monthly license maintenance fee to the Residential Board in an amount equal to $1 per month per square foot of such Storage Closet, which amount shall, following the First Closing, be subject to biannual increases based upon the CPI Increase Factor

in effect on the date of the First Closing. Holders of Wine Cellar Licenses, excluding Sponsor with respect to Unlicensed Wine Cellars, will be required to pay a monthly license maintenance fee to the Residential Board in an amount equal to $1 per month per square foot of such Wine Cellar, which amount shall, following the First Closing, be subject to biannual increases based upon the CPI Increase Factor in effect on the date of the First Closing. Further, the license fees are otherwise also subject to change from time to time as the Residential Board deems necessary or appropriate.

The form of Storage License to be used for licensing the use of such Storage Closets to individual Residential Unit Owners is set forth as Exhibit 16 in Part II of the Plan, and the form of Wine Cellar License to be used for licensing the use of such Wine Cellars to individual Residential Unit Owners is set forth as Exhibit 17 in Part II of the Plan.

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

No portion of a Residential Unit, other than the entire Residential Unit, may be leased. No nuisance or offensive or unlawful use shall be allowed in the Residential Section or any portion thereof. All Legal Requirements relating to any portion of the Property, shall be complied with at the sole expense of whichever Unit Owners or Board shall, pursuant to the Declaration or By-Laws, have the obligation to maintain or repair such portion of the Property.

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

**6. Mortgage of Residential Units by Residential Unit Owners**

Each Residential Unit Owner may mortgage his or her Residential Unit, in accordance with the provisions of Article 7 of the Residential By-Laws, which requires that the Residential Board be notified in writing of the making of such mortgage and receive a conformed copy of the note and mortgage and that the Residential Unit Owner first satisfy all unpaid liens against the Residential Unit, other than Permitted Mortgages. Each Commercial Unit Owner shall have the right to mortgage or otherwise encumber its Commercial Unit in accordance with the terms of the Condominium By-Laws.

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

As described in the Condominium By-Laws, the Condominium Board shall from time to time, but at least annually, prepare a budget setting forth its projections of General Common Expenses and will assess against the Residential Board, in the manner described in the Condominium By-Laws, the General Common Charges necessary to meet the Residential Section's allocated share of General Common Expenses. As described in the Residential By-Laws, the Residential Board shall from time to time, but at least annually, prepare or cause to be

prepared a budget setting forth its projections of the Residential Common Expenses for the next fiscal year of the Residential Section, including, the Residential Section's allocated share of the General Common Charges, and will allocate and assess to each Residential Unit Owner in proportion to such Residential Unit's percentage Common Interest compared to the total for all Residential Unit Owners, Residential Common Charges to meet the Residential Common Expenses. (Under the Condominium By-Laws, the Residential Common Charges collected by the Residential Board shall, in all instances, first be payable by the Residential Board to the Condominium Board in payment of the Residential Section's allocated share of General Common Charges and before application for any other purpose. If such priority of payment fails to occur, the Condominium Board shall have the right, without limitation, and in addition to all other remedies available at law, to avail itself of the remedy of specific performance with respect to the obligations of the Residential Board.) Generally, any Common Expenses incurred and related exclusively to the Residential Limited Common Elements will be allocated and assessed to the Residential Unit Owners. The respective Common Interests of the Units, as estimated by Sponsor, have been allocated to each Unit based upon floor space subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use and the overall dimensions of the particular Unit, in accordance with Section 339-i(1)(iv) of the New York State Real Property Law.

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

## 8. Collection and Lien for Non-Payment of Common Charges

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

On a resale of any Residential Unit, the Purchaser will be liable for the payment of any unpaid Residential Common Charges against such Unit; except that, to the extent then permitted by law, a Permitted Mortgagee acquiring a Residential Unit at a foreclosure sale will not be liable for a lien for the payment of Residential Common Charges assessed against such Unit for the period following the recording of the Permitted Mortgage and prior to such Unit's acquisition by the Permitted Mortgagee (which provision may change in the event of statutory modification).

In the event of a foreclosure by the Residential Board of its lien on any Unit for unpaid Residential Common Charges, or otherwise, if the net proceeds of the foreclosure sale are insufficient for the payment of such unpaid charges, or if a Unit is acquired by a mortgagee or Purchaser in foreclosure, the previous Unit Owner can be sued for the unpaid balance. The Residential Board will also have the right to assess such unpaid balance as a Common Charge among all Residential Unit Owners.

Pursuant to Section 339-z of the Real Property Law and under the provisions of the Residential By-Laws, the Residential Board, on behalf of all Residential Unit Owners will have a lien on each Residential Unit for unpaid Residential Common Charges together with interest thereon, assessed against such Unit. All such liens, however, to the extent permitted by applicable Law, will be subordinate to the lien of any first Permitted Mortgage of record and to liens for real estate taxes on the particular Unit. Pursuant to Section 339-aa of the Real Property Law, any lien for unpaid Residential Common Charges against a Residential Unit will be effective from and after filing of a verified notice thereof in the City Register's Office and 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. Such liens may be foreclosed by a suit brought in the name of the Residential Board (acting on behalf of all Residential Unit Owners) in the same manner as the foreclosure of a mortgage on real property, or an action may be brought by the Residential Board to recover unpaid Residential Common Charges without foreclosing such lien. In addition, the Residential Board may assess Residential Unit Owners a late charge of $.04 for each dollar of Residential Common Charges which remains unpaid for more than 10 days after the date when due, and interest at the rate of one and one-half percent (1.5%) per month on such unpaid amounts (plus any "late charges" theretofore collected), plus all expenses of collection. Sponsor obligates itself to cause any members of the Residential Board related to or affiliated with Sponsor to vote in favor of filing a lien against any Unsold Residential Units owned by Sponsor with respect to which payments of Residential Common Charges have not been made within thirty (30) days after the date when due.

As provided in the Residential By-Laws, the Residential Board shall take prompt action to collect any Residential Common Charges which remain unpaid for more than thirty (30) days after the due date for payment thereof, including, without limitation, the institution of such actions and the recovery of interest and expenses. In the event the Residential Board fails to take such action against a Unit Owner, then the Condominium Board may do so, in its own name or, if necessary, in the name of the Residential Board.

## 9. Obligations to Condominium Board for General Common Charges and Special Assessments

As described in the Condominium By-Laws and in Article 6 of the Residential By-Laws, under the Condominium By-Laws, and to the extent permitted by law, the Residential Common Charges collected by the Residential Board shall, in all instances, first be payable to the Condominium Board in payment of the Residential Section's allocated share of General Common Charges, and before application for any other purpose. If such priority of payment fails to occur, the Condominium Board shall have the right, without limitation, and in addition to

all other remedies available at law, to avail itself of the remedy of specific performance with respect to the obligations of the Residential Board.

In addition, in the event the Condominium Board levies a special assessment, a portion of which is allocated to the Residential Section, the Residential Board may levy a special assessment to meet the Residential Section's allocated share of any such special assessment levied by the Condominium Board.

**10. Borrowing by the Condominium Board**

Subject to the terms of the Condominium By-Laws, the Condominium Board shall have the power to borrow money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of, or the making of Repairs or Alterations (each as defined in the Condominium By-Laws) of, the General Common Elements or otherwise in connection with any permitted action or activity of the Condominium Board, provided, however, that: (i) a sixty-six and two-thirds (66-2/3%) vote of the members of the Condominium Board shall be required for any borrowings for such purposes if such borrowings are in excess of $500,000 (subject to increase by the CPI Increase Factor) in total in any one fiscal year or $1,500,000 (subject to increase by the CPI Increase Factor) in the aggregate (including borrowings from prior periods) at any one time; and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant Common Interest without the prior written consent of the owner of such Unit, or on the General Common Elements without the consent of all Unit Owners; and the power and right of the Residential Board to borrow money pursuant to the provisions of the Residential By-Laws is not limited or impaired by the foregoing.

**11. Borrowing by the Residential Board**

The Residential Board may, at any time, borrow money on behalf of the Residential Section when required in connection with: (i) the operation, care, upkeep and maintenance of, or the making of repairs, restorations and replacements of, and alterations, additions, or improvements to the Residential Limited Common Elements, or (ii) any permitted action or activity of the Residential Board; provided, however, that: (A) except as otherwise provided in the Residential By-Laws, the consent of at least sixty-six and two-thirds (66-2/3%) in Common Interest of all Residential Unit Owners shall be required for any borrowings for such purposes with respect to the Residential Limited Common Elements, if such borrowings are in excess of $250,000 (subject to increase by the CPI Increase Factor) in total any one (1) fiscal year or $500,000 (subject to increase by the CPI Increase Factor) in the aggregate (including borrowings from prior periods) at any one time; (B) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements (except to the extent permitted by applicable law) without the prior written consent of the owner of such Unit; and (C) no Unit Owner other than the Residential Unit Owners shall be liable for the repayment of any such borrowing with respect to the Residential Limited Common Elements exclusively, and the loan documentation in such case shall so provide. Any such debt may be secured by future income and Residential Common Charges in which event the Residential Common Charges shall be deemed trust funds for the purpose of paying such debt. The Residential Board cannot secure such debt by a lien on the Common Elements without the consent of all affected Unit Owners.

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

## 12. Repairs to and Maintenance of Residential Units and Common Elements

Except as may otherwise be provided in the Condominium By-Laws and/or Residential By-Laws, generally, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, or ordinary or extraordinary: (a) in or to any Residential Unit (other than any Common Elements included therein) will be made by the Owner of such Unit at his or her expense, (b) in or to the General Common Elements will be made by the Condominium Board and the expense thereof will be charged to the Unit Owners as a General Common Expense, and (c) in or to the Residential Limited Common Elements will be made by the Residential Board and the expense thereof will be charged to the Residential Unit Owners in the proportion that their respective Common Interests bear to the aggregate Common Interests of all Residential Unit Owners. Without limiting the foregoing, Residential Unit Owners shall be responsible for all maintenance, repairs and replacements of all plumbing, appliances and lighting fixtures, and heating and air conditioning units in their respective Units. Notwithstanding the foregoing, each Residential Unit Owner shall be responsible for all ordinary maintenance and cleaning of each Terrace appurtenant to its Residential Unit; however, the costs and expenses of any repairs or replacements, structural or otherwise with respect to each such Terrace (unless caused by or attributable to the applicable Unit Owner), shall be charged to all Residential Unit Owners as a Common Expense. Each Residential Unit Owner shall promptly comply with all Legal Requirements applicable to his or her Residential Unit. No Residential Unit Owner shall use or permit the use of Hazardous Materials (as defined in the Condominium By-Laws) on, about, under, or in his or her Residential Unit or the Property. Each Residential Unit Owner agrees to indemnify and hold harmless the Condominium Board, the Residential Board and each other Unit Owner from and against any and all claims or demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including, but not limited to, costs of investigation, remedial response, and reasonable attorneys' fees and cost of suit, arising out of or resulting from any Hazardous Material used or permitted to be used by such Residential Unit Owner on, about, under or in his or her Residential Unit or the Property.

The Tower will feature a window washing rig for the cleaning of the exterior glass surfaces of windows. The washing and cleaning of interior glass surfaces of windows in the Residential Units shall be the responsibility of the respective Residential Unit Owners. All window interiors shall be cleaned a minimum of four (4) times per calendar year, which cleaning can be coordinated and performed, at each Residential Unit Owner's option, through a Sponsor-recommended vendor, whose information will be on file with the Residential Managing Agent. The Condominium Board and the Residential Board may from time to time enforce the responsibility of Unit Owners to wash and clean the interior surfaces of windows located in their respective Units and charge the defaulting Unit Owner therefor. The exterior glass surfaces will be washed, cleaned and replaced at the direction of the Condominium Board and the cost thereof charged as a General Common Expense.

All normal maintenance and repairs of any Residential Limited Common Element exclusively appurtenant to a particular Residential Unit shall be made by the Residential Unit Owner having access thereto, at its own cost and expense; any structural or extraordinary repairs or replacements thereto (including leaks) shall be made by or for the Residential Board and the cost and expense thereof shall be charged to all Residential Unit Owners as a Residential Common Expense, unless due to the negligence, misuse, neglect or abuse of such Residential Unit Owner or its tenant, agent, invitee, licensee or guest, in which event such Residential Unit Owner shall bear the entire cost thereof, and the same shall, for all purposes hereunder, constitute part of the Residential Common Charges payable by such Residential Unit Owner.

In order to promote a consistent appearance of the Tower from the outside, unless waived by the Residential Board, each Residential Unit Owner will be required to install and maintain window treatments having a white-colored backing on the sides facing and nearest to the windows in its Residential Unit, which window treatments and backings must conform to any specifications (including a new color) established from time to time by the Residential Board. Neither the interior nor the exterior glass surfaces of any windows located in any Residential Unit may be altered, colored or painted.

Unless expressly authorized by the Residential Board in each case, at least eighty percent (80%) of the floor area of each Residential Unit (excepting only kitchens, pantries, bathrooms, closets and foyers) must be covered with rugs, carpeting or equally effective noise reducing material.

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

In the event the Residential Board fails to take action within after notice from the Condominium Board against a Residential Unit Owner who is in default beyond the expiration of any notice or cure period in or the performance of any other obligation under the Declaration, the Condominium By-Laws or the Residential By-Laws, then the Condominium Board may do so, in its own name or, if necessary, in the name of the Residential Board.

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

## 13. Representation on Condominium Board

As described in Articles 2 and 3 of the Residential By-Laws and in the Condominium By-Laws, Residential Unit Owners shall not be entitled to vote in their individual capacities as Unit Owners at any meeting of the Condominium Board. The entire Common Interest of such Unit Owners shall be represented on the Condominium Board by the designees of the Residential Board. Similarly, as described in the Commercial By-Laws and in the Condominium By-Laws, Office Unit Owners shall not be entitled to vote in their individual capacities as Unit Owners at any meeting of the Condominium Board. The entire Common Interest of such Unit Owners shall be represented on the Condominium Board by the designees of the Commercial Board.

## 14. Alterations and Improvements of Residential Units

No Residential Unit Owner (other than Sponsor or its designee or other owner of Unsold Residential Units) may make any alteration, addition, improvement or repair in or to such Unit Owner's Unit that affects the structure of the Tower and/or the Building's systems without the prior written approval of the Residential Board and in certain circumstances, the Condominium Board, but this provision does not apply to an Unsold Residential Unit. Except as otherwise permitted in the Condominium By-Laws and/or Residential By-Laws, no Residential Unit Owner may make any alteration, addition, improvement or repair in or to the Common Elements without the prior written approval of the Condominium Board and/or the Residential Board, as applicable. The Residential Board may impose fees upon such Unit Owner to reimburse the Condominium and/or the Residential Board for costs incurred in connection with the review or supervision of such Unit Owner's work.

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

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

The foregoing restrictions affecting Residential Units shall not apply to Sponsor or its designee in respect of the Unsold Residential Units or to the Owner(s) of the Commercial Units. There are no restrictions on the ability of Sponsor or its designee to alter or improve any Unsold Residential Unit (including, without limitation, dividing, subdividing and combining one or more Unsold Residential Units or portions of same). Additionally, to the extent permitted by law, and subject to certain restrictions set forth in the Condominium By-Laws and Declaration, the Commercial Unit Owners will each have the right with regard to its Unit, without the consent of the Condominium Board, the Residential Board, the Commercial Board (in the case of the Commercial Units), the Managing Agents, other Unit Owners, 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 affect the structural, mechanical, electrical or plumbing elements of the Building or the exterior appearance of the Building shall be subject to the approval, not to be unreasonably withheld, of the Condominium Board) and to combine or subdivide its Commercial Unit into one (1) or more newly constituted Commercial Units.

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

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

## 15. Alterations and Improvements of Common Elements

Generally, all alterations, additions or improvements in or to the Common Elements will be made by whichever Board or Unit Owner is required to maintain and repair such Common Elements. The costs of alterations, additions or improvements to the General Common Elements will be charged either to all Unit Owners as a General Common Expense; and costs attributable to the Residential Limited Common Elements will be charged to all Residential Unit Owners as a Residential Common Expense in the proportion that their respective Common Interests bear to the aggregate Common Interests of all Residential Unit Owners or the Residential Unit Owner(s) responsible therefore, as the case may be. Whenever, in the judgment of the Residential Board, the Residential Limited Common Elements for which it is responsible require additions, alterations or improvements which are capital in nature and would cost more than $100,000

(subject to increase by the CPI Increase Factor) in any calendar year or $250,000 in the aggregate (subject to increase by the CPI Increase Factor), then such additions, alterations or improvements may not be made unless first approved by a majority in number and Common Interest of Residential Unit Owners liable for the cost thereof, including Sponsor, if it then owns any Residential Unit, at a duly constituted meeting of the Residential Unit Owners, and by the Residential Mortgagee Representatives, if any, appointed pursuant to the Residential By-Laws, or unless the same is a non-capital repair or necessary to comply with applicable Legal Requirements, to remedy any violation imposed against the Property, to comply with a proper work order of an insurer of the Property, or for the health or safety (but not the general comfort or welfare) of the residents or occupants of the Property. In any such event, the Residential Board may, in its discretion, assess each Residential Unit Owner liable therefor for his or her pro-rata share of the cost of such additions, alterations, or improvements, according to his or her Common Interest, as part of the Residential Common Charges.

Any additions, alterations or improvements costing the amounts set forth above or less, in the aggregate, in any calendar year or which is a non-capital repair may be made by the Residential Board without the approval of the Residential Unit Owners or Residential Mortgagee Representatives.

Notwithstanding the foregoing, elevator landings which serve a single Residential Unit may be decorated and/or furnished by the applicable Residential Unit Owner as they desire (subject to the conditions of the Residential By-Laws), at their expense, provided that such Residential Unit Owner consents in writing thereto, and the Residential Board gives its written consent to such decoration and/or furnishing, which consent of the Residential Board may granted or withheld in such board's sole discretion. After an elevator landing is decorated and/or furnished by the Residential Unit Owner serviced by the same, the owner of such Residential Unit, and not the Residential Board, will be responsible for keeping the decor and furnishings in a first class condition and state of repair and performing, at its own expense, all repairs and maintenance necessary or desirable in order to accomplish the same.

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

The Residential Board shall control all rights and interests, and shall be responsible for all obligations and liabilities, appurtenant to the Main Lobby; provided, however, that the cost for maintaining the Main Lobby shall be shared among all Unit Owners in proportion to their respective Common Interests.

## 16. Rights of Access

As more fully set forth in the Condominium By-Laws and the Residential By-Laws, the Residential Board, the Condominium Board and any managing agent, manager and other persons authorized by the foregoing will have a right of access to any Residential Unit for the purposes, among others, of: (a) making inspections of, or removing violations of Legal Requirements against, any part of the Property; (b) curing defaults under the Condominium By-Laws, the Residential By-Laws, Declaration, General Rules and Regulations or Residential Rules and Regulations, as applicable, by the owner of such Unit; (c) performing maintenance, installations, alterations, repairs or replacements to the mechanical, plumbing or electrical systems, or other portions of the Common Elements, located within such Unit or elsewhere in the Building; or (d) correcting any conditions originating in any Residential Unit and threatening another Unit or any Common Element. Additionally, in the case of an emergency affecting a Commercial Unit Owner or its Unit, such Unit Owner will have a right of access to any Residential Unit for the purpose of curing or abating such emergency for so long as and only so long as such emergency shall exist.

## 17. Compliance with Terms of Declaration, By-Laws and Rules and Regulations

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

## 18. Repair or Reconstruction after Fire or Other Casualty

If any portion of the Property other than solely the Residential Section is damaged or destroyed by fire or other casualty, or if any portion of the Residential Section is damaged or destroyed together with any other portion of the Property, the provisions of the Condominium By-Laws shall control as to control over repair and restoration. In the event that solely the Residential Section or any part thereof is damaged or destroyed by fire or other casualty (unless, in accordance with the Condominium By-Laws, the Building is not to be repaired), the Residential Board will arrange for the prompt repair and restoration of the Residential Section (including each Residential Unit, but excluding improvements, betterments, equipment, furniture, furnishings or other personal property in any such Unit) and the Residential Board, or the Insurance Trustee, as provided in the Condominium By-Laws, shall disburse the proceeds of all applicable insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

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

If only the Commercial Units (or a portion thereof) are destroyed or damaged by fire or other casualty and if the net insurance proceeds are insufficient to cover, or exceed, the cost of repairs and restoration, the affected Commercial Unit Owners will bear the entire amount of the deficit, or shall receive all of the excess, as the case may be, in proportion to their respective Common Interests. Similarly, if only the Residential Units and/or the Residential Limited Common Elements are 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 by all Residential Unit Owners in proportion to their respective Common Interests. If said damage or destruction by fire or other casualty affects the General Common Elements, or any combination of (i) the Commercial Units and (ii) the Residential Units, then any deficit or surplus in insurance proceeds shall be borne or shared by all Unit Owners, or by the Unit Owners of the affected portions of the Building, as appropriate, in proportion to their respective Common Interests.

Any surplus allocable to any Residential Unit pursuant to the applicable provision of the Residential By-Laws shall first be lessened by such amounts as may be required to discharge unpaid liens (other than mortgages which are not Permitted Mortgages) on any such Unit in the order of priority of such liens, and the remaining surplus, if any, shall then be paid to the owner of such Unit.

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

## 19. Insurance

Under Article 11 of the Condominium By-Laws, subject to the provisions of the final paragraph of the preceding section, the Condominium Board is required to obtain and maintain, to the extent obtainable and to the extent determined by the Condominium Board to be appropriate, the following insurance: (a) fire insurance with coverage for special causes of loss, including, flood earth movement and seepage from sewers and drains and vandalism and malicious mischief endorsements, insuring the entire Building (including the physical structure

of each Unit, but excluding fixtures, furniture, furnishings, betterments and improvements, 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, each Board and all Residential Unit Owners and Permitted Mortgagees, as their respective interests may appear, in an amount equal to the full replacement value of the Building on a replacement cost basis (exclusive of foundation and footings), without deduction for depreciation; (b) business income, extra expense rent insurance in an amount equal to General Common Charges for one year; (c) workers' compensation and New York State disability benefits insurance, as required; (d) boiler and machinery insurance; (e) collision insurance; (f) fidelity insurance covering all Condominium Board members, officers, directors and employees of the Condominium, the Residential Section and any managing agents; (g) directors' and officers' errors and omissions coverage; and (h) such other insurance as the Condominium Board may from time to time determine. (Notwithstanding the foregoing, the Condominium Board will at all times maintain any insurance coverage required pursuant to any mortgage or other security instrument granted by Sponsor, or any affiliate thereof, prior to the First Closing.)

The amount of fire insurance and all risk extended coverage to be maintained until the first meeting of the Residential Board following the First Annual Residential Meeting shall be in at least the sum of $500,000,000.

All policies of physical damage insurance shall contain, to the extent obtainable, waivers of subrogation and waivers of any defense based on: (i) co-insurance, (ii) other insurance, (iii) invalidity arising from any acts of the insured, or (iv) pro rata reduction of liability, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Condominium Board and to all of the insureds, including all Residential Unit Owners and Permitted Mortgagees, who have requested the same from the Condominium Board (or the Residential Board, in the case of a Residential Unit Owner) in writing. Duplicate originals or certificates of insurance of all policies of insurance and of all renewals thereof, if obtainable, together with proof of payment of premiums, shall be delivered to the Residential Board, in all events, and all Unit Owners and Permitted Mortgagees who have requested the same from the Condominium Board in writing. Renewals shall be obtained 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, commercial general liability insurance against claims for personal injury or bodily injury occurring in, on or about the Property, in such amounts as are carried by prudent owners of comparable properties in the City of New York as the Condominium Board may from time to time determine, covering: (i) the Boards, and the managing agent(s) thereof, and each Board member and each officer and employee of the Condominium, the Residential Section and the Commercial Section, and (ii) each Unit Owner except that such policy will not cover liability of a Unit Owner arising from occurrences within his or her own Unit or within the Common Elements, if any, exclusive to its Unit. In no event shall the commercial general liability insurance afford protection to the limit of less than $1,000,000 per occurrence. 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 the Condominium Board may determine. The premiums for all insurance referred to

above shall be a General Common Expense and shall be borne by the Unit Owners, in such proportions between them, with consideration of the respective risks, liabilities and replacement values, as are equitable (determined by the respective insurance carriers) as part of Common Charges.

Neither the Condominium Board nor the Residential Board or the Commercial Board, as the case may be, is required to obtain or maintain any insurance with respect to any property contained in any Unit or any liability with respect to occurrences or operations in or about each Unit or the Limited Common Elements appurtenant thereto. Consequently, all Residential Unit Owners and Office Unit Owners are required to obtain and maintain liability insurance (a personal liability policy if the Residential Unit Owner is an individual or a commercial general public liability policy if the Residential Unit Owner is a corporate entity) against claims for personal injury, death or property damage occurring in, on or about such Unit Owner's Unit or the Common Elements, if any, exclusive to his or her Unit, affording protection of at least $1,000,000 per occurrence, plus at least $4,000,000 umbrella liability coverage. Requirements with respect to such insurance are more particularly set forth in the Residential By-Laws. In addition, all Residential Unit Owners are urged to obtain personal property insurance with respect to the fixtures, furniture, furnishings and other personal property located within their respective Units. Purchasers are also advised that the insurance policies to be maintained by or on behalf of the Residential Board will be on a "replacement cost" and will not cover losses to the extent that market value may exceed such replacement cost.

Unit Owners may carry additional insurance, provided that any 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.

## 20. Liability of Residential Board and Residential Unit Owners

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

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

Interests, indemnify each Residential Board member against any liability or claim except those arising out of the bad faith or willful misconduct of such member.

## 21. Amendments to Condominium Documents

Generally, subject to certain exceptions, any provision of the Declaration, Condominium By-Laws or Residential By-Laws affecting only the Residential Units or the Residential Unit Owners (and not affecting, *inter alia*, the General Common Elements) may be amended, added to or deleted by affirmative vote of at least sixty-six and two-thirds percent (66-2/3%) in number and in Common Interest of the Residential Unit Owners; provided, however, that the use of Units or the Common Interest appurtenant to each Unit as expressed in the Declaration shall not be altered without the written consent of all Unit Owners affected thereby.

Notwithstanding any provision contained herein or the Declaration, Condominium By-Laws or Residential By-Laws to the contrary, no amendment, modification, addition to or deletion of the Declaration, the Condominium By-Laws or the Residential By-Laws, or the General Rules and Regulations and Residential Rules and Regulations shall be effective in any way against: (a) Sponsor or its designee, for so long as Sponsor or its designee is the owner of one (1) or more Residential Units, or any Unsold Residential Unit, unless Sponsor or its designee, as applicable, has given its prior written consent thereto; or (b) the holder of any present or future mortgage, pledge or other lien or security interest covering any Unsold Residential Unit unless such holder has given its prior written consent thereto.

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

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

## 22. Termination of Condominium

The Condominium shall continue and the Property shall not be subject to an action for partition until: (a) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in the Condominium 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 eighty percent (80%) both in number and aggregate of the Common Interests of all Unit Owners. No such vote shall be effective, however: (a) without the written consent (which consent shall not be unreasonably withheld or delayed) of a majority of the Residential Mortgagee Representatives, if any; and (b) without the written consent of the Sponsor or any other owner of Unsold Residential Units for so long as any such Person owns any Unsold Residential Unit(s), provided that in no event shall any such consents in this clause (b) be required more than five (5) years after the earlier to occur of the First Closing.

To the fullest extent permissible under Legal Requirements, each Unit Owner shall be deemed to have waived any right to seek partition of the Property. In the event said withdrawal is authorized as aforesaid, and only to the extent the waiver contained in the preceding sentence shall be inapplicable or unenforceable, 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, together with the net proceeds of any applicable insurance policies, shall be divided among all Unit Owners in accordance with their respective Common Interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of its share of such funds, such amounts as may be necessary to discharge all unpaid liens on its Unit (other than mortgages which are not Permitted Mortgages) in the order of the priority of such liens.

## 23. Residential Units Acquired by the Residential Board

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

The purchase of any Residential Unit by the Residential Board or its designee, on behalf of all Residential Unit Owners, may be made from the funds deposited in the capital and/or expense accounts of the Residential Board by or on behalf of Residential Unit Owners. If the funds in such accounts are insufficient to effectuate any such purchase, the Residential Board may levy an assessment against each Residential Unit in proportion to its respective Common Interest, as a Residential Common Charge, and/or the Residential Board may, in its discretion, finance the acquisition of such Unit, subject to the limitations on borrowing otherwise set forth herein, and in the Residential By-Laws and Declaration, and provided, however, that no such financing may be secured by an encumbrance or hypothecation of any portion of the Residential Section (except to the extent permitted by law) other than the Unit to be purchased together with its appurtenant interest in the Common Elements.

## 24. Procedure to Review Real Estate Tax Assessments

The Residential Board, on behalf of and as agent for all Residential Unit Owners, will be authorized to commence, pursue and settle certiorari proceedings to obtain reduced real estate tax assessments with respect to the Residential Units. All Residential Unit Owners will share the costs in connection therewith and the benefits derived therefrom. In the event any Residential Unit Owner individually seeks to have the assessed valuation of his or her Unit reduced by bringing a separate certiorari proceeding, the Residential Board, if necessary for such proceeding, will execute any documents or other papers required for, and otherwise cooperate with such Unit Owner in pursuing such reduction, provided that such Unit Owner indemnifies the Residential Board from all claims, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) resulting from such proceedings. Each Commercial Unit Owner shall pursue any such proceedings separately and not as part of the proceedings described in this paragraph in respect of the Residential Units.

## 25. Mechanics' Liens

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

## 26. Easements

In order to facilitate the operation and maintenance of the Residential Section and the sale or leasing of the Units therein, each of the Residential Units will be subject to certain easements, including, but not limited to, easements in favor of Sponsor. These easements, which are more particularly set forth in Article 15 of the Declaration, include an easement in favor of each Residential Unit Owner to install, operate, maintain, repair, alter, rebuild, restore and replace Common Elements and, generally, an easement of support and of necessity in favor of all Units and the Common Elements. Additionally, the Condominium Board, Sponsor and Sponsor's designee will each have an easement to install and maintain pipes, conduits, wires, ducts and other facilities in the space between the underside of each such floor slab and the top surface of each Unit's finished ceiling, without any need to obtain the consent of any Unit Owner with respect to the same. These easements shall be exercised in a manner that will not unreasonably interfere with the normal conduct of business of the tenants and occupants of the Units or with the use of such Units, Storage Closets or Wine Cellars for their permitted purposes. As is set forth in more detail in the Declaration and Condominium By-Laws, the Commercial Unit Owner shall likewise have similar easements benefiting and burdening its Unit.

Among other things, Sponsor shall also have an easement to erect, maintain, repair and replace lights and lighting fixtures and to erect maintain and replace satellite communication equipment and similar equipment, as permitted by law, on the roofs and facade of the Building and elsewhere on the Common Elements which shall entitle Sponsor to utilize such easement for its own account or the account of any licensee of Sponsor for the purpose of servicing the Condominium or any other building or area. In addition, Sponsor and the owner of any Unsold Residential Units shall have an easement to erect, maintain, repair and replace any signs, awnings, marquees, canopies, banners, flags, pennants, aerials, antennas or the like (each a "Sign") permitted by law on the Property (including, without limitation, on its roof and exterior walls) for the purposes of advertising the sale of any Unit, the leasing of space in any Unit and the operation of any business of a tenant or occupant of any Unit.

Sponsor (successor-in-interest to 440 Park Avenue (NY) Owner, LLC) is the owner of: (a) development rights and easements in connection with that certain real estate having a street address of 46 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 43 pursuant to a Zoning Lot Development and Easement Agreement dated December 23, 2010, and recorded under CRFN 2011000014567 on January 12, 2011 between Sponsor and Lot 43 Owner (as defined herein); (b) development rights and easements in connection with that certain real estate having a street address of 38 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 46 and a street address of 40 East 57th Street, New York, New York and as formerly set forth on the Tax Map as Block 1292, Lot 145 (now part of Lot 33) pursuant to a Zoning Lot Development and Easement Agreement dated September 29, 2007, and recorded under CRFN 2007000542730 on October 29, 2007 between Dakotah Travel Co. LLC and 440 Park Avenue Associates LLC ("Associates"), as assigned to Sponsor; (c) development rights and easements in connection with that certain real estate having a street address of 48 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 42 pursuant to a Zoning Lot Development Agreement dated as of December 4, 2006, and recorded under CRFN 2006000680850 on December 12, 2006 between Angel Enterprises, L.L.C. and Associates, as assigned to Sponsor; (d) development rights and easements in connection with that certain real estate having a street address of 44 East 57th Street, New York, New York and as formerly set forth on the Tax Map as Block 1292, Tax Lot 44 (now part of Lot 33) pursuant to a Zoning Lot Development Agreement dated as of September 13, 2006, and recorded under CRFN 2006000596371 on October 25, 2006 between 44 East 57th St. Realty Corp., Inc. and Associates, as assigned to Sponsor; and (e) development rights and easements in connection with that certain real estate having a street address of 50 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 41 pursuant to a Zoning Lot Development Agreement dated as of November 2, 2011, and recorded under CRFN 2011000394772 on November 10, 2011 between Sponsor's predecessor-in-interest, as developer, and Sponsor's predecessor-in-interest, as owner.

## 27. Special Windows

The windows on the Tower's west façade in the north half of the Tower are located within 8' of the property line. None of these windows will provide legal light and air for the surrounding rooms for the purpose of permissible occupancy of those rooms. Windows located on the Tower below 118'-5" from grade or 60' above the roof of adjacent building roof (e.g., Floor 4) will be provided with tempered glass and will be protected with sprinklers. If, in the

future, the adjacent buildings within 60' are extended in height, the protection of the windows with tempered glass and sprinklers should be extended accordingly, and they may be required to be closed with a solid and rated enclosure or replaced with one hour rated windows. The cost of the required changes will be paid by the owner of the affected Unit. Further, the windows on the Tower's east façade are located at the tax lot line between Lots 42 and 43 of Block 1292. An agreement has been signed with the owner of Lot 42 that provides a perpetual easement for light and air over its property as well as a limitation that such owner will not build higher than the present height of the building on Lot 42. Windows at this tax lot line will be protected with sprinklers and will have safety glass to a height of 60' above the roof of the building on Lot 42 (e.g., Floor 5). The windows of the Club Unit and Office Units will have similar characteristics and restrictions. These "special windows" are indicated with an asterisk on the on the Floor Plans set forth as Exhibit 7 in Part II of the Plan. (See "Description of Property and Specifications" as set forth as Exhibit 6 in Part II of the Plan for further discussion.)

**28. Signage**

There will be signs, notices, advertisements and illuminations (collectively "Signage") in various exterior portions of the Building, on or at windows and in interior public spaces of the Building, which may be affixed by the Residential Board, the Condominium Board, the Commercial Board and/or one or more of the Commercial Unit Owners, all as provided in the Condominium By-Laws. The Condominium By-Laws contain general guidelines governing Signage. Sponsor makes no representation and shall have no liability whatsoever with respect thereto. Such Signage may include, without limitation, the name of the Building and/or the Condominium, the identity of the stores occupying all or any portion of the Commercial Units. The Residential Board will have approval rights and will control any signage proposed to be placed within or upon the Residential Limited Common Elements and on the exterior windows of any Residential Unit.

**29. Use of Condominium Name or Likeness Prohibited**

No individual Residential Unit Owner (other than Sponsor or Project Declarant or its/their designee) may use the name or likeness of the Building or the Condominium to promote or in connection with any commercial venture.

**30. Maintenance Contracts with HVAC Vendors**

As more particularly set forth in the Residential By-Laws and Commercial By-Laws, Residential Unit Owners and Office Unit Owners are required to obtain and maintain a maintenance, service and repair contract ("Maintenance Contract") with an HVAC vendor approved by the Residential Board or the Commercial Board, as the case may be, (the "Vendor") qualified to perform maintenance services on the heating, ventilation and air conditioning system and humidification system, if any, located in their Residential Unit or Office Unit (the "HVAC") in accordance with guidelines established, from time to time, by the Residential Board or the Commercial Board, as the case may be. A copy of the Maintenance Contract shall be delivered to the Residential Managing Agent or Condominium Managing Agent, as the case may be. Renewal Maintenance Contracts shall be delivered to the Residential Managing Agent or

Condominium Managing Agent, as the case may be, prior to the date on which the then current Maintenance Contract expires.

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## T. REAL ESTATE TAXES

The projection of the real estate taxes that will be payable for each of the Residential Units during the projected First Year of Residential Section Operation and each of the Office Units during the projected First Year of Commercial Section Operation, is based upon an opinion of counsel letter prepared by Marcus & Pollack LLP, Sponsor's real estate tax attorney (the "Real Estate Tax Opinion").

As per the Real Estate Tax Opinion, by applying the estimated rate of 13.5% to the estimated transitional assessed value of $63,000,000, it is estimated that the real estate taxes for the Residential Units will be approximately $8,505,000 for the First Year of Residential Section Operation, and applying the estimated rate of 10.5% to the estimated transitional assessed value of $1,015,000, it is estimated that the real estate taxes for the Office Units will be approximately $106,575 for the First Year of Commercial Section Operation. However, since such periods and estimates take into account anticipated reductions due to progress of construction of the Building, the projections of the real estate taxes that will be payable are instead made in respect of the 2016/2017 tax year (the first full year that taxes are anticipated to be assessed for the fully constructed property). Thus, by applying the estimated rate of 13.5% to the estimated transitional assessed value of $81,000,000, it is estimated that real estate taxes for the Residential Units will be approximately $10,935,000 during the projected First Year of Residential Section Operation, and by applying the estimated rate of 10.5% to the estimated transitional assessed value of $1,305,000, it is estimated that real estate taxes for the Office Units will be approximately $137,025 during the projected First Year of Commercial Section Operation. (The Real Estate Tax Opinion is reproduced in the subsection entitled "Real Estate Tax Opinion" in the Section entitled "Opinions of Counsel" in Part I of the Plan.)

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 Residential Section Operation, the estimates of the portions of such assessed valuations that will be allocable to the Units and the projection of the average real estate tax rate that will be in effect during such first year) will approximate the actual amount; (iii) the estimated or actual amount of assessed value of the Property following the projected First Year of Residential Section Operation and the taxes payable based upon such assessment (which may be significantly higher to the extent that a portion of the Property is not fully assessed during such First Year); or (iv) the Real Estate Tax Assessment Bureau of the New York City Department of Finance will allocate the Property's aggregate assessed valuation between the Units or classifications of Units in accordance with the values and methods used by Sponsor's real estate tax attorney for such purpose, or that such bureau will allocate the aggregate assessed valuation attributable to the Units among the different Units. 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 Residential Unit Owner will pay to the Residential Board a share of the Property's real estate taxes for the period in question calculated on the basis of the Common Interest, and each Office Unit Owner will pay to the Commercial Board a share of the Property's real estate taxes for the period in question calculated on the basis

of the Common Interest. The Residential Board or the Commercial Board, as the case may be, will pay (or cause to be paid) such real estate taxes timely to the Department of Finance of The City of New York, or directly to Sponsor if Sponsor has paid such taxes, so that no lien will be placed on any portion of the Residential Section or Commercial Section or on any Residential Unit or Office Unit. If Sponsor fails to pay real estate taxes attributable to any Unsold Residential Unit or Unsold Office Unit in a timely manner and as a result of such failure a lien is placed on the Residential Section or Commercial Section and/or any other Unit, Sponsor will immediately cause such lien to be removed at its sole cost and expense. If Residential Unit Owners or Office Unit Owners fail to pay their pro rata share of real estate taxes as set forth above, the Residential Board or Commercial Board, as the case may be, will be entitled to assess late charges and/or place a lien on their Units as if such unpaid share were Residential Common Charges or Commercial Common Charges, as the case may be. (See the subsection entitled "Collection and Lien for Non-Payment of Common Charges" in the Section entitled "Rights and Obligations of the Unit Owners and the Board of Managers" in Part I of the Plan for further discussion.) A Unit Owner will not be responsible for the payment of, and will not be subject to any lien arising from the non-payment of real estate taxes assessed against any other Units. At such time as a Unit is separately assessed and separate tax bills are issued, the Unit Owner will pay such taxes directly to the taxing authority.

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

Real estate taxes will be adjusted between Sponsor and each Purchaser at the closing of title to each Unit based on the period for which real estate taxes have been prepaid by Sponsor either directly to the taxing authority or as part of Common Charges. 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 in question a prorated portion of the actual taxes for the Building for such period as described generally above and determined as provided in the By-Laws.

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

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

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

KRAMER LEVIN NAFTALIS & FRANKEL LLP IS COUNSEL TO SPONSOR AND NOT TO ANY PURCHASER UNDER THE PLAN. EACH PURCHASER SHOULD CONSULT WITH HIS OR HER OWN TAX COUNSEL, ACCOUNTANT OR OTHER FINANCIAL ADVISOR AS TO THE TAX CONSEQUENCES OF THE OWNERSHIP OF A RESIDENTIAL UNIT.

### 1. Deductibility of Real Estate Taxes and Mortgage Interest

Each Residential Unit Owner will own legal (fee simple) title to his or her Residential Unit, together with an undivided interest in the Common Elements. Subject to certain restrictions, each Residential Unit Owner may mortgage his or her Residential Unit, and thereby become individually liable for the payment of the principal and any finance charges or interest on such mortgage indebtedness. Additionally, each Residential Unit will be a separate tax lot for purposes of New York City real estate taxes and assessments. As a result, each Residential Unit Owner will be individually liable for the real estate taxes and assessments levied against his or her Residential Unit.

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

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

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

Sponsor's Counsel expresses no opinion with respect to any deductions in connection with the Office Units or any other Commercial Unit.

Qualified residence interest includes interest paid by the Residential Unit Owner on: (i) debt used to acquire, construct or substantially improve any "qualified residence," as defined below, and secured by such residence, up to $1,000,000 in the aggregate ($500,000 in the case of a married individual filing a separate return); and (ii) in general, other indebtedness secured by a qualified residence, up to $100,000 in the aggregate ($50,000 in the case of a married individual filing a separate return). Interest on home mortgage indebtedness in excess of these limitations is not deductible.

A "qualified residence" generally means: (i) the "principal residence" of the Residential Unit Owner and (ii) one other residence selected by the Residential Unit Owner, provided that, if such other residence is rented at any time during the taxable year, it will not be a qualified residence unless the taxpayer uses it for personal purposes for a number of days which exceeds the greater of (i) fourteen (14) days of (ii) ten percent (10%) of the number of days during such year for which such unit is rented at a fair value.

Prospective Purchasers should note that no deduction will be allowed to a cash basis taxpayer in the year of payment for prepaid interest (except in the case of "points" paid under certain circumstances), and that the deductions for real estate taxes and qualified residence interest may be subject to the overall limitation on the allowance of itemized deductions for federal income tax purposes. No deduction for real estate taxes is permitted for purposes of the Federal alternative minimum tax and interest deductions may be limited for such purposes. New York State and New York City limitations on deductions, by as much as 100% of the deductions, may also apply.

No portion of the Common Charges payable by Residential Unit Owners attributable to real estate taxes assessed against the Resident Manager's Unit (which will be owned by the Board on behalf of all Residential Unit Owners) or interest on any mortgage indebtedness the Board incurs to acquire or refinance the Resident Manager's Unit will be deductible by a Residential Unit Owner.

## 2. Taxation of the Condominium

In certain circumstances, a condominium management association may elect to be treated as a "homeowners association" within the meaning of section 528(c) of the Internal Revenue Code of 1986, as amended (the "Code") and, therefore, could elect to be exempt from Federal income tax on amounts received as membership dues, fees, or assessments from owners of condominium housing units ("exempt function income"). In order for a condominium board to qualify to make such an election, Code section 528 and the Treasury Regulations promulgated thereunder require, among other things, that at least eighty-five percent (85%) of the total square footage of all the units within the condominium management association be used by individuals for residential purposes and that the condominium board meet certain gross income and expenditure tests.

It is currently anticipated that more than eighty-five percent (85%) of the total square footage of all the Residential Units in the Residential Section will be used by individuals for residential purposes. If such residential use requirement is in fact satisfied, and provided the other requirements of Code section 528 are satisfied, the Residential Board should be eligible to make this election. For any taxable year for which the Residential Board is eligible to and does elect to be treated as a homeowners association under Code section 528, it will be subject to tax at a thirty percent (30%) rate on the excess of its non-exempt function income over the allowable deductions (computed with certain modifications) directly connected with the production of such income.

The Condominium Board will not be eligible to elect to be treated as a homeowners association under Section 528 because less than eighty-five percent (85%) of the total square footage of all Units in the Condominium will be used for residential purposes.

The status of a condominium board or for Federal, New York State, and New York City income tax purposes is uncertain if the condominium board does not qualify under Code section 528, as will be the case with respect to the Condominium Board, or if the condominium board does qualify under Code section 528, but does not elect to be treated as a homeowners association under Code section 528, as may be the case with respect to the Residential Board. Absent the application of Code section 528, if the Residential Board or the Condominium Board are deemed to be merely conduits for the Residential Unit Owners and the Unit Owners, respectively, rather than as separate taxpayers, all income earned by the Residential Board or the Condominium Board, less the expenses incurred in earning such income, would be deemed to constitute income to the Residential Unit Owners and Unit Owners, respectively, and be taxable to them.

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

No warranties are given that the Internal Revenue Service, the New York State Department of Taxation and Finance or the New York City Department of Finance will allow any of the deductions mentioned in this Section of the Plan or that the tax laws or the regulations or rulings issued thereunder, or any judicial interpretation thereof, upon which counsel to Sponsor bases its opinion, will not change. In addition, no warranties are given by Sponsor,

counsel to Sponsor, the Residential Board, the Condominium Board, the Selling Agent, the Managing Agents or any other person connected with this offering, with respect to the tax consequences of the Plan or the tax consequences of ownership of any Units offered under the Plan, and no one has been authorized to give any such warranties.

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

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# V. OPINIONS OF COUNSEL

## TAX OPINION OF SPONSOR'S COUNSEL

KRAMER LEVIN NAFTALIS & FRANKEL LLP

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May 9, 2012

56th and Park (NY) Owner, LLC
515 Madison Avenue, 41st Floor
New York, New York 10022

Re: Condominium Offering Plan for
432 Park Condominium (the "Condominium")

To Whom it May Concern:

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

In connection with rendering this opinion, we have reviewed this Plan (including the exhibits thereto), relevant sections of the Internal Revenue Code of 1986, as amended (the "Code"), the New York State Tax Law, the New York City Administrative Code, the Regulations promulgated thereunder and such other material as we deemed relevant. The opinions expressed herein are based upon the assumptions that (1) this Plan becomes effective and is consummated in accordance with its terms, (2) condominium ownership of Residential Units located in the premises known as 432 Park Condominium is established under applicable law, and (3) the legal consequences of the Plan are as described therein. Except where otherwise indicated, the terms used in this opinion have the same meaning as in this Plan.

This Plan provides for the establishment of condominium ownership of the land and building, and appurtenances thereto, comprising 432 Park Condominium, situated at 432 Park Avenue, New York, New York. The Condominium will be comprised of Residential Units, Commercial Units and Common Elements. This opinion addresses certain of the Federal, New York State and New York City income tax consequences that would result from the ownership of



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a Residential Unit by an individual who is a resident of New York City for tax purposes who uses the Residential Unit as a qualified residence. It does not address, among other things, the tax consequences of ownership of Commercial Units or a Storage License or Wine Cellar License by any person or entity; tax consequences of the ownership of Units by corporations, other entities, foreign persons or individuals who are not residents of New York City, or by an individual taxpayer in connection with his or her trade or business, for investment, or for the production of income; or the estate tax consequences of ownership of Units.

Deductibility of Mortgage Interest and Real Estate Taxes

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

Based on the foregoing, and subject to the limitations expressed herein, it is our opinion that each individual Residential Unit Owner who itemizes deductions will be entitled under current law to deduct from his or her gross income for Federal income tax purposes, real estate taxes assessed against his or her Residential Unit and paid by the Residential Unit Owner to the local authority, subject to an overall limitation on itemized deductions as set forth in section 68 of the Code. Further, no deduction will be allowed to a cash basis taxpayer in the year of payment for prepaid interest (except in the case of "points" paid under certain circumstances), and no deduction for real estate taxes is permitted for purposes of the Federal alternative minimum tax. Residential Unit Owners should consult their tax advisers regarding the applicability of the overall limitation on itemized deductions to the deductibility of real estate taxes, and the effect of the alternative minimum tax.

A taxpayer is entitled to a deduction for Federal income tax purposes for interest paid during the taxable year on "acquisition indebtedness" or "home equity indebtedness" with respect to a "qualified residence" of the taxpayer. A "qualified residence" generally means: (i) the principal residence of the taxpayer and (ii) one other residence selected by the Residential Unit Owner, provided that, if such other residence is rented at any time during the taxable year, it will not be a qualified residence unless the taxpayer uses it for personal purposes for a number of



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days which exceeds the greater of (i) fourteen (14) days or (ii) ten percent (10%) of the number of days during such year for which such unit is rented at a fair value. "Acquisition indebtedness" means any indebtedness which is secured by any qualified residence of the taxpayer and which is incurred in acquiring, constructing or substantially improving the qualified residence (or which constitutes a refinancing thereof, to the extent that such indebtedness does not exceed the amount of the refinanced debt). The aggregate amount treated as acquisition indebtedness for any period cannot exceed $1,000,000 ($500,000 in the case of a married individual filing a separate return). "Home equity indebtedness" means any indebtedness (other than acquisition indebtedness) secured by a qualified residence, up to the excess of the fair market value of such qualified residence over the amount of acquisition indebtedness with respect to such residence. The aggregate amount treated as home equity indebtedness for any period cannot exceed $100,000 ($50,000 in the case of a married individual filing a separate return). Accordingly, an owner of a Residential Unit who itemizes deductions and who uses such Residential Unit as a qualified residence will be entitled, under current law, to deduct from his or her gross income, subject to Federal overall limitations on itemized deductions, interest paid by him or her on (i) acquisition indebtedness incurred with respect to such Unit to the extent that such indebtedness, when added to the amount of acquisition indebtedness incurred with respect to a second qualified residence (if any), does not exceed $1,000,000 ($500,000 in the case of a married individual filing a separate return) and (ii) home equity indebtedness with respect to such Unit to the extent that such indebtedness, when added to the amount of home equity indebtedness incurred with respect to a second qualified residence (if any), does not exceed $100,000 ($50,000 in the case of a married individual filing a separate return). Since the rules and limitations regarding the deductibility of home mortgage interest are complex, Purchasers are urged to consult their tax advisers regarding the application of such rules to them, as well as regarding the deductibility of interest with respect to their Residential Units for alternative minimum tax purposes (which at present is subject to rules different from those described above for regular tax purposes). Residential Unit Owners should consult their tax advisers regarding the applicability of the Federal overall limitations on itemized deductions, the effect of the alternative minimum tax, and the tax implications of renting their Units.

Each owner of a Residential Unit who uses such Residential Unit as a residence will generally be entitled to the same deduction for interest and real estate taxes paid or accrued with respect to such Residential Unit for New York State and New York City income tax purposes as is allowed for Federal (regular) income tax purposes. However, under New York State and New York City income tax law, itemized deductions, such as interest and real estate tax deductions, are subject to reduction by as much as 100% in the case of individuals having income exceeding certain prescribed levels. Furthermore, Purchasers should consult their tax advisers to determine the application, if any, of the New York State and New York City



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minimum tax to the deduction for interest and real estate taxes with respect to their Residential Units.

**Common Charges**

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

In certain circumstances, a condominium management association may elect to be treated as a "homeowners association" within the meaning of Code section 528(c) and, therefore, could elect to be exempt from Federal income tax on its exempt function income. In order for a condominium board to qualify to make such election, Code section 528 requires, among other things, that substantially all of the units in the condominium be used by individuals for residences. The Treasury Regulations promulgated under Code section 528 state that substantially all of the condominium units will be considered as used by individuals for residences if at least eighty-five percent (85%) of the total square footage of all the units within the project is used by individuals for residential purposes. It is currently anticipated that more than eighty-five percent of the total square footage of all the Residential Units in the Residential Section will be used by individuals for residential purposes. If such residential use requirement is in fact satisfied, and provided the other requirements of Code section 528 are satisfied, the Residential Board should be eligible to elect to be treated as a homeowners association.

Among such requirements are that sixty percent (60%) or more of the gross income of the Residential Board for the taxable year be exempt function income, and that ninety percent (90%) or more of the expenditures of the Residential Board for the taxable year be qualifying expenditures for the acquisition, construction, management, maintenance, and care of association property. "Exempt function income" means amounts received as membership dues, fees, or assessments from Residential Unit Owners in their capacity as such, if such amounts are used by the Residential Board for qualifying purposes.

For any taxable year for which the Residential Board is eligible to and does elect to be treated as a homeowners association under section 528, it will be subject to Federal taxation only on its homeowners association taxable income for such year. Such tax will be imposed at the rate of thirty percent (30%). For this purpose, "homeowners association taxable income" is defined as an amount equal to the excess (if any) of the gross income for the taxable year (excluding any exempt function income) over allowable deductions that are directly connected with the production of the gross income (excluding exempt function income). Such



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allowable deductions are computed with certain modifications, including the disallowance of the net operating loss deduction and special deductions otherwise allowable to corporations, including the deduction for dividends received and the amortization of organizational expenditures.

The Condominium Board will not be eligible to elect to be treated as a homeowners association because less than eighty-five percent (85%) of the total square footage of all Units in the Condominium will be used for residential purposes.

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



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

It should be noted that this opinion is based solely on the facts and documents referred to above and is not binding on the Internal Revenue Service, the New York State Department of Taxation and Finance, or the New York City Department of Finance. Moreover, the Federal, New York State and New York City tax laws and regulations and the rulings and decisions thereunder may change and thereby affect the opinions stated above in whole or in part. We undertake no obligation to update, modify or supplement this opinion in the event of any such change in applicable law, although we have advised Sponsor that it is obligated to do so.

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



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**Internal Revenue Service Circular 230 Disclosure**

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

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

Very truly yours,

Kramer Levin Naftalis & Frankel LLP



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## OPINION REGARDING ALLOCATION OF COMMON INTERESTS

KRAMER LEVIN NAFTALIS & FRANKEL LLP

December 9, 2011

56th and Park (NY) Owner, LLC
767 Fifth Avenue, 21st Floor
New York, New York 10153

Re: 432 Park Condominium (the "Condominium")

Ladies and Gentlemen:

You have requested our opinion regarding the allocation of common interests to the Units at the Condominium as required by NYCRR Section 20.3(y)(5). Except where otherwise indicated, the terms used in this opinion shall have the same meaning as set forth in the Offering Plan (the "Plan") for the Condominium.

In connection with rendering this opinion we have reviewed the allocation of Common Interests of the Units as shown on Schedule A of the Plan to be included in the Declaration establishing the Condominium. We have also considered the relevant sections of the New York State Condominium Act and such other materials as we deemed relevant. Our opinion is based upon the factual determinations made by Cooper Square Realty, Inc. as set forth in its opinion contained in the Plan as required by NYCRR Section 20.3(i). We have made no independent investigation of the truth or accuracy of the factual determinations of Cooper Square Realty, Inc.

Based upon our review of the foregoing, we have determined that Common Interests were allocated to the Units pursuant to the method set forth in Real Property Law ("RPL") Section 339-i(1)(iv), i.e., based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use and the overall dimensions of the particular Unit.

Accordingly, based on the foregoing it is our opinion that RPL Section 339-i has been complied with in assigning Common Interests to the Units. This opinion, while based upon existing rules of law applied to the facts and documents referred to above, is not a guarantee to Purchasers. In no event will the Sponsor, Kramer Levin Naftalis & Frankel LLP, Selling Agent, the Managing Agents or the Boards be liable if there are changes in the facts on which we have relied in issuing this opinion or if there are changes in RPL Section 339 or other applicable law.

Very truly yours,

Kramer Levin Naftalis & Frankel LLP

Kramer Levin Naftalis & Frankel LLP

**REAL ESTATE TAX OPINION**

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ROBERT M. POLLACK

PHILIP H. AZARIAN
BRUCE A. BRASKY

May 10, 2012

56th and Park (NY) Owner, LLC
515 Madison Avenue, 41st Floor
New York, New York 10022

Re: 432 Park Condominium
Manhattan, Block 1292 Lots 33, 43, 45 & 46
(Tax Lots to be Merged and Condominium Tax Lots to be Created)
Projection of Estimated Real Estate Taxes for the
Residential Section, Office Units, Club Unit, Garage Unit and Retail Units
for the First Year of Operation

Dear Sir/Madam:

Pursuant to your request, we have reviewed the information furnished to us by you and/or your agents regarding the above referenced development project as a mixed-use condominium apartment building. You have asked us to project the real estate tax liability for the residential apartment units, commercial office units, club unit, garage unit and the retail units (hereinafter the "Residential Units", "Office Units", "Club Unit", "Garage Unit", and "Retail Units") for the first year of operation and upon completion of construction, exclusive of any exemptions or abatement benefits that may apply.

You have advised us of the following facts regarding this project:

1. The completed building will be an 84 story mixed-use luxury apartment building which will be divided into a condominium regime consisting of residential apartment units, and commercial office, retail, garage and club units. The residential apartments, commercial office, retail, garage and social health club units (collectively referred to as "Units") will each have separate tax lot designations and separate assessed valuations.

2. You have advised that construction commenced (consisting by the pouring of initial footings) in September of 2011 with regard to the base of the building. You have further advised that vertical construction of the tower portion of the condominium will commence in September of 2012, and that construction of the residential portion of the condominium will be substantially complete by July 1, 2015 and fully completed by December 1, 2015.

3. You have advised that the Residential Units will consist of approximately 147 apartments comprising approximately 601,798 gross square of residential space. The apartments will consist of 25 studio units, 12 one bedroom units, 49 two bedroom units, 44 three bedroom units, 8 four bedroom units and 9 penthouse apartments, consisting of 4 full-floor five bedroom apartments and 5 full-floor six-bedroom apartments. The Residential Units will be assigned separate tax lot numbers. The building will also include, as residential limited common elements, 59 storage closets and 18 wine cellars comprising approximately 4,096 square feet of sub-basement storage space for the exclusive use of the residential unit owners. The storage closets and wine cellars will be limited common elements licensed to certain residential apartments and will not be assigned individual tax lot numbers. An accessory garage of approximately 46 spaces comprising approximately 9,200 square feet, 29 parking spaces will be for the exclusive use of the residential section and 17 parking spaces will be for the exclusive use of tenants or employees of the commercial units. The garage will be a separately assessed commercial unit.

4. The Office Units will consist of approximately 12 office spaces comprising approximately 8,789 net sellable gross square feet on floors 18 through 20 in the tower portion of the condominium. The Office Units will be assigned separate tax lots and will be commercial units.

5. The Club Unit will be a for the use of the residential unit owners, their guests, and other members. The Club Unit will have a floor area of approximately 32,099 gross square feet and will be given a separate tax lot designation. The Club Unit will be owned and operated by the Residential Section Board of Managers. The Club Unit will have a commercial zoning designation and is contemplated to be taxed as a class four commercial condominium unit.

6. The Retail Units will be comprised of three separate units known as Retail Unit A, Retail Unit B and Retail Unit C and will have a total gross floor area of approximately 77,083 square feet. The Retail Units will also be assigned separate tax lots.

7. The first year of the condominium operation is assumed to run from July 1, 2015 through June 30, 2016. Real estate taxes due for the first year of condominium operation will therefore be based on the real estate taxes for the 2015/16 tax year. Because the tower is not anticipated to be fully complete until late 2015, the taxes for the first year of operation for the Residential, Office, Club, Garage and Retail Units will therefore not reflect a fully completed mixed use condominium in full operation.

**Discussion**

There are three recognized appraisal methods which are employed by the Real Property Assessment Department to determine the full market value of income producing real property. These methods are the original cost method, capitalization of income approach and the sales price comparison method.

The original cost method is based on the theory that the value of a given property is reflected by its cost of construction plus the acquisition cost of the underlying land. This method of valuation is considered a significant indicator of value with respect to new buildings. Relevant data used in the cost method includes material and labor ("hard") costs, and financing, engineering, architectural, testing and professional fees and construction period taxes ("soft") costs.

The capitalization of income method is based upon the proposition that the annual net income generated by a property, when divided by the rate of return an investor at a given time would accept for his money in a competing investment, yields a close estimate of the market value of the property. In past years, the Department of Finance has used gross income multipliers to decrease the variations in operating expenses for residential properties. However, the Department of Finance has recently indicated that they will no longer utilize this approach to value.

The sales price comparison method is founded upon the belief that value can be ascertained by surveying market prices. Market value has been defined as that price which a property would bring in a competitive and open market, wherein both buyer and seller are acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. However, the addition of sale prices of individual units may not be the basis for arriving at the assessed valuation of a residential condominium or cooperative housing corporation. Real Property Tax Law Section 581 requires that the Department of Finance assess residential condominiums without regard to their form of ownership. This requirement has been interpreted to mean that cooperatives and condominiums are to be assessed as if they were rental properties, thus requiring a valuation based upon the capitalization of income utilizing rents imputed from comparable rental properties.

Since tax year 1982/83, Real Property Tax Law §1805(3) has mandated that increases in assessed valuation must be phased in over a five year period, resulting in a "transitional assessment". However, the statute requires the Finance Department to include all physical (new construction,

renovation, rehabilitations, or additions of square footage to existing structures) changes directly into the taxable assessed valuation without the five-year phase-in. The "actual assessment" is the target value which will be reached at the end of the five year period, assuming the assessment is not increased in the interim. Taxes are based upon the lower of the two values.

In arriving at the assessed valuation for each unit in a condominium, the building is first assessed in its entirety. This overall assessment is then apportioned among the respective units, each of which will be assigned a tax lot designation once the condominium Declaration has been recorded and the floors plans are filed with the office of the City Register. In the past, the apportionment was based in part upon the proportion of the projected selling price presented in the Offering Plans for each residential unit bears to the gross sellout price for all residential units available for purchase in the project (hereinafter, "Proportionate Valuation"), and in part upon extrinsic indicia of value, including location, square footage, amenities, income producing potential and existing leases, if any, on particular units. However, more recently, the Department of Finance had enunciated a policy which has allocated assessed values for the residential within a condominium by utilizing each unit's respective percent interest in the common elements. We make no representation that the Department of Finance will use any particular method to apportion the assessed valuation among the Units for the purpose of computing the portion of the condominium tax assessment that will be allocated to the Units or to apportion the residential assessments among the individual Residential Units.

In estimating the assessed valuations herein we examined comparable rents from other newly constructed apartment buildings in the area of the Project. In addition, we have also studied the assessed valuations of newly constructed residential buildings in the area comparable to the Project upon completion. These comparable assessment studies have enabled us to ascertain the current assessing policies of the City of New York with regard to newly constructed residential buildings. However, there are no assurances that these policies will remain unchanged, or that the indicators of market value will be adjusted prior to the completion of the referenced project, resulting in an assessment differing significantly from the estimate contained herein.

In deriving our projected valuations, we considered the income approach utilizing income based upon comparable rents but relied primarily upon the assessed valuation studies for recently completed comparable residential buildings. All prospective purchasers are advised that although our estimate of the property's assessed valuation upon completion is a good faith estimate; the assessment when actually made may be less or greater than as estimated herein.

The Total Aggregate Actual and Transitional assessed valuations for the four (4) tax lots making up subject property for the current 2012/13 tax year are set forth as follows:

| Tax Year | | Total A.V. |
|---|---|---|
| 2012/13 | Aggregate Actual | $25,942,950 |
| 2012/13 | Aggregate Trans. | $27,735,400 |

The first year of Condominium operation, as set forth above, is anticipated to be the 2015/16 tax year (running from July 1, 2015 through June 30, 2016). For purposes of our projection, it is presumed that the 2016/17 tax year will be the first tax year wherein the building will be assessed as a fully constructed and constituted condominium in full operation. Because the tower is not anticipated to be fully complete until late 2015, the taxes for the first year of operation for the Residential, Office, Club, Garage and Retail Units will not reflect a fully completed mixed-use condominium in full operation.

**Estimated Real Estate Taxes For Tax Year 2015/16**

**Residential Units**

We project that the City Department of Finance will assess the building as only 75% complete as of the January 5, 2015 taxable status date for the fiscal 2015/16 tax year. For tax year 2015/16 we estimate the following aggregate assessed values for the Residential Units:

| | Total A.V. |
|---|---|
| Aggregate Actual | $74,700,000 |
| Aggregate Trans. | $63,000,000 |

For tax year 2015/16 we have estimated a residential tax rate of 13.5%. Applying the estimated 2015/16 tax rate of 13.5% to the estimated total transitional assessed value of $63,000,000, we estimate that the 2015/16 real estate taxes for the Residential Units will be approximately $8,505,000.

**Office Units**

With respect to the Office Units, we likewise project that the City Department of Finance will assess the building as only 75% complete as of the January 5, 2015 taxable status date for the fiscal 2015/16 tax year. For tax year 2015/16 we therefore estimate the following partially completed aggregate assessed values for the Office Units as follows:

| | Total A.V. |
|---|---|
| Aggregate Actual | $1,203,500 |
| Aggregate Trans. | $1,015,000 |

For tax year 2015/16 we have estimated a commercial tax rate of 10.5%. Applying the estimated 2015/16 tax rate of 10.5% to the estimated total transitional assessed value of $1,015,000, we estimate that the 2015/16 real estate taxes for the Office Units will be approximately $106,575.

56th and Park (NY) Owner, LLC
May 10, 2012

**Club Unit**

Adopting the same assumptions for the Club Unit with respect to the level of completion for the building, we estimate the following partially completed assessed values for the Club Unit as follows:

| | Total A.V. |
|---|---|
| Actual | $4,335,339 |
| Trans. | $3,656,310 |

For tax year 2015/16 we have estimated a commercial tax rate of 10.5%. Applying the estimated 2015/16 tax rate of 10.5% to the estimated total transitional assessed value of $3,656,310, we estimate that the 2015/16 real estate taxes for the Club Unit will be approximately $383,913.

**Garage Unit**

Adopting the same assumptions for the Garage Unit with respect to the level of completion for the building, we estimate the following partially completed assessed values for the Garage Unit as follows:

| | Total A.V. |
|---|---|
| Actual | $996,000 |
| Trans. | $840,000 |

For tax year 2015/16 we have estimated a commercial tax rate of 10.5%. Applying the estimated 2015/16 tax rate of 10.5% to the estimated total transitional assessed value of $840,000, we estimate that the 2015/16 real estate taxes for the Garage Unit will be approximately $88,200.

**Retail Units**

Applying the same methodology for the Retail Units with respect to the level of completion for the building, we estimate the following partially completed aggregate assessed values for the Retail Units as follows:

| | Total A.V. |
|---|---|
| Aggregate Actual | $22,410,000 |
| Aggregate Trans. | $18,900,000 |

For tax year 2015/16 we have estimated a commercial tax rate of 10.5%. Applying the estimated 2015/16 tax rate of 10.5% to the estimated total transitional assessed value of $18,900,000, we estimate that the 2015/16 real estate taxes for the Retail Units will be approximately $1,984,500.

56th and Park (NY) Owner, LLC
May 10, 2012

**Estimated Real Estate Taxes For Tax Year 2016/17**

As set forth above, we project that the Department of Finance will not assess the building as a fully completed until the following January 5, 2016, taxable status date for tax year 2016/17. Accordingly, we have therefore assumed that the 2016/17 tax year, running from July 1, 2016 through June 30, 2017, will be the first tax year in which the Residential, Office, Club, Garage and Retail Units will be assessed and taxed as fully completed and in operation.

**Residential Units**

After consideration of all relevant factors, we have estimated the following 2016/17 total aggregate assessed value for the Residential Section as follows:

| | Total A.V. |
|---|---|
| Aggregate Actual | $90,000,000 |
| Aggregate Trans. | $81,000,000 |

For tax year 2016/17 we have also estimated a residential class two tax rate 13.5%. Applying the estimated rate of 13.5% to the estimated transitional assessed value of $81,000,000, we estimate the 2016/17 real estate taxes for the Residential Units will be approximately $10,935,000, exclusive of any exemption or abatement programs that may apply.

**Office Units**

After consideration of all relevant factors, we have estimated the following 2016/17 total aggregate assessed value for the Office Units as follows:

| | Total A.V. |
|---|---|
| Aggregate Actual | $1,450,000 |
| Aggregate Trans. | $1,305,000 |

For tax year 2016/17 we have also estimated a commercial class four tax rate 10.5%. Applying the estimated rate of 10.5% to the estimated transitional assessed value of $1,305,000, we estimate that the 2016/17 real estate taxes for the Office Units will be approximately $137,025.

**Club Unit**

For the Club Unit we estimate the assessed values for the first tax year following completion of construction as follows:

| | Total A.V. |
|---|---|
| Actual | $5,223,300 |
| Trans. | $4,700,970 |

For tax year 2016/17 we have estimated a commercial tax rate of 10.5%. Applying the estimated tax rate of 10.5% to the estimated total transitional assessed value of $4,700,970, we estimate that the 2016/17 real estate taxes for the Club Unit will be approximately $493,602.

**Garage Unit**

For the Garage Unit we estimate the assessed values for the first tax year following completion of construction as follows:

| | Total A.V. |
|---|---|
| Actual | $1,200,000 |
| Trans. | $1,080,000 |

For tax year 2016/17 we have estimated a commercial tax rate of 10.5%. Applying the estimated tax rate of 10.5% to the estimated total transitional assessed value of $1,080,000, we estimate that the 2016/17 real estate taxes for the Garage Unit will be approximately $113,400.

**Retail Units**

For the Retail Units we estimate the aggregate assessed values for the first tax year following completion of construction as follows::

| | Total A.V. |
|---|---|
| Aggregate Actual | $27,000,000 |
| Aggregate Trans. | $24,300,000 |

For tax year 2016/17 we have estimated a commercial tax rate of 10.5%. Applying the estimated tax rate of 10.5% to the estimated total transitional assessed value of $24,300,000, we estimate that the 2016/17 real estate taxes for the Retail Units will be approximately $2,551,500.

**Real Estate Taxes for the First Year of Operation**

**Residential Units**

For the first year of operation, running from July 1, 2015 through June 30, 2016, we project that the real estate taxes for the Residential Section will be approximately $8,505,000 which based upon the projected 2015/16 assessed value which is estimated to reflect the building as only 75% complete.

**Office Units**

Likewise, for the Office Units, we project that the aggregate real estate taxes for the first year of operation running from July 1, 2015 through June 30, 2016, will be approximately $106,575 which is based upon the projected 2015/16 assessed value which is estimated to reflect the building as only 75% complete.

**Club Unit**

For the Club Unit, we estimate real estate taxes for the first year of operation running from July 1, 2015 through June 30, 2016, at approximately $383,913 which is based upon the projected 2015/16 assessed value which is estimated to reflect the building as only 75% complete.

**Garage Unit**

For the Garage Unit, we estimate real estate taxes for the first year of operation running from July 1, 2015 through June 30, 2016, at approximately $88,200 which is based upon the projected 2015/16 assessed value which is estimated to reflect the building as only 75% complete.

**Retail Units**

With respect to the Retail Units, we estimate real estate taxes for the first year of operation running from July 1, 2015 through June 30, 2016, at approximately $1,984,500 which is based upon the projected 2015/16 assessed value which is estimated to reflect the building as only 75% complete.

**East Mid-Manhattan Business Improvement District**

The property is located in the East Mid- Manhattan Business Improvement District (BID). A property located in the BID is assessed an annual BID charge which is used to fund community improvements and beautification projects undertaken by the BID. The estimated BID rate for residential condominium tax lots (condominium units) is one dollar ($1.00) per unit and for commercial condominium tax lots, the estimated assessment rate is eight cents ($.08) per square foot.

Accordingly, it is estimated that the BID charges for the first year of operation are as follows:

| | Total Annual BID |
|---|---|
| Aggregate Residential Units | $ 147 |
| Aggregate Office Units | $2,364 |
| Club Unit | $2,568 |
| Garage Unit | $ 736 |
| Aggregate Retail Units | $6,167 |

We note that the estimated real estate taxes for the first year of operation are based upon an assessed value which reflects a partially completed building. Accordingly, the real estate taxes after the first year of operation are expected to be higher, reflecting twelve months of taxes based on a fully completed luxury condominium in full operation.

In formulating our tax estimates we utilized estimated rents from newly constructed residential apartment buildings as well as estimated assessment factors derived from newly constructed condominium apartment buildings of comparable size and quality as the subject. In deriving our estimates we place greater weight on comparable assessment studies for newly constructed luxury residential condominiums.

This letter was prepared at the sponsor's request. Certain figures set forth herein are approximations derived from material submitted by the sponsor and are subject to variation. We have not passed upon the accuracy of any figures or estimates contained in the Plan, and offer no warranties of the amount of any tax liabilities for any period.

Prospective Purchasers are advised that while there is a formula which has been utilized by the Real Property Assessment Department in assessing such projects as the Subject in the past, it has not been employed consistently, and it is therefore not possible to estimate or determine the post-completion assessed valuation of this property with any degree of certainty. However, the estimates presented above are based upon our understanding of the current policies and practices of that department. All prospective purchasers are further advised that although the estimate of assessed valuation upon completion of construction is a good-faith estimate, such assessed valuation, when actually made, may be significantly less or more than as estimated herein.

The opinions expressed above are based on our interpretation of the Real Property Tax Law, Administrative Code of the City of New York, and the applicable rules and regulations, policies and practices of the Department of Finance in effect as of the date hereof. While we believe our opinions are well founded, they are not intended, and should not be construed as representations or warranties. You should be aware that the laws, regulations and practices of the Department of Finance upon which this opinion is predicated may in the future be revised in a manner adverse to your interests, or that there may be an adverse interpretation of the law or regulations by one or more agencies of the

MARCUS & POLLACK LLP

56th and Park (NY) Owner, LLC
May 10, 2012

City of New York, or Courts of competent jurisdiction.

The foregoing analysis is based upon our experience with the Real Property Assessment Department and the Tax Commission of the City of New York, and their assessment policies regarding newly constructed or renovated properties held in condominium ownership. Application of a particular approach to valuation by an individual assessor may yield a significantly different result.

We hereby consent to the inclusion of this letter in the Offering Plan.

Very truly yours,

Marcus & Pollack LLP

Marcus & Pollack LLP

RMP:er

## W. WORKING CAPITAL FUND; NO RESERVE FUND

The Purchaser of each Residential Unit shall be required to make a contribution to the Residential Board at the closing of title to such Residential Unit(s) to or in respect of the working capital fund of the Residential Section (the "Working Capital Fund"). Such contribution shall be in an amount equal to two (2) months' Residential Common Charges then in effect for such Residential Unit pursuant to the budget then in effect for the Residential Section and in accordance with Schedule A hereto, as the same may be amended from time to time. Purchasers of Office Units will not make payments at their respective Closings toward such Working Capital Fund.

No reserve fund is being established for the Condominium. Sponsor has elected not to provide for such a reserve fund for capital replacements or repairs, because the Building will be newly constructed. The Condominium Board, in its discretion, and subject to certain restrictions contained in the Condominium By-Laws, may decide in the future to create a reserve fund by special assessment or by increases in Common Charges.

No reserve fund is being established for the Residential Section. In the Residential Board's discretion, subject to the terms of the Residential By-Laws, the Residential Board may decide in the future to establish a reserve fund or pay for necessary repairs or capital items to the Residential Limited Common Elements by special assessment or by increasing Residential Common Charges. The Condominium Board may also decide in the future to establish a reserve fund for repairing and maintaining the General Common Elements (such as the roofs and various mechanical, and building systems). In each case, each Residential Unit Owner would be individually liable for the amount of such special assessment against, or increase payable by, the Residential Board to the extent of such Residential Unit Owner's proportionate Common Interest among all Residential Unit Owners.

At the First Closing, Sponsor will apportion the following items with the Residential Board, or Condominium Board, as applicable, 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 and/or Residential Section;

(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 Residential Units);

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

(7) premiums for transferable insurance policies; and

(8) other customary adjustments.

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

The Working Capital Fund may be held or used for working capital, to make repairs and/or for such other appropriate purposes permitted under the Declaration and the Residential By-Laws as will be determined by the Residential Board, in its sole discretion; and may be augmented by allocations from monthly Residential Common Charges collected by the Residential Board. Other than as provided in the preceding sentence (with respect to monthly Residential Common Charges), Sponsor will not separately contribute to the Working Capital Fund. However, while Sponsor controls the Residential Board, the Working Capital Fund will not be used to reduce estimated Residential Common Charges, and in no event shall any portion of the Working Capital Fund be used to pay any Residential Common Charges attributable to Unsold Residential Units.

No representation is made that the Working Capital Fund, together with the Residential Common Charges, will be, or is intended to be, adequate to cover expenses for the first or any subsequent year of 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 Residential Common Charges or to impose special assessments on Residential Unit Owners.

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

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# X. MANAGEMENT AGREEMENTS

## 1. Residential Section Management Agreement

It is presently contemplated that at or prior to the First Closing, the Residential Board will enter into a management agreement (the "Residential Section Management Agreement") with Cooper Square Realty, Inc., having a principal office at 622 3rd Avenue, New York, New York 10017, to act as managing agent with respect to the Residential Section (the "Residential Managing Agent").

It is contemplated that the Residential Section Management Agreement will provide for an initial term of three (3) years commencing on the First Closing and thereafter, if not otherwise terminated by either party, for a one (1) year period. The Residential Managing Agent will receive an annual fee of $175,000 for such first year, payable in equal monthly installments. The annual fee will increase by four percent (4%) for each successive year. Either party may terminate the Residential Section Management Agreement without cause at any time upon thirty (30) days prior written notice to the other party; provided, however, that that if the Agreement is terminated without cause by the Residential Board prior to the first anniversary of the commencement date thereof, the Residential Board shall pay the Residential Managing Agent an amount equal to twenty-five percent (25%) the unpaid portion of the first year management fee. At any time, the Agreement may be terminated "for cause" upon notice from one party to the other.

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

(a) Supervise, hire and discharge employees necessary for the proper maintenance and operation of the Residential Section.

(b) Cause the Residential Limited Common Elements to be maintained, repaired, replaced and altered in the manner deemed advisable by the Residential Board. The approval of the Residential Board is necessary for any expenditure of over $2,500 for any one item of ordinary repairs or alterations (other than emergency repairs or repairs to comply with a governmental notice or order).

(c) Contract for necessary services and purchasing all supplies necessary to properly maintain and operate the Residential Section and its Residential Limited Common Elements subject to the approval of the Residential Board. The approval of the Residential Board is necessary for any contract with a term of more than one (1) year or in excess of $2,500.

(d) Advise the Residential Board with respect to proper insurance coverage pertaining to the Residential Section, and its employees.

(e) Check all bills received in connection with the maintenance and operation of the Residential Limited Common Elements and causing all such bills and other expenses to be paid.

(f) If requested by the Residential Board, list and offer for sale, lease or sublease space reserved, acquired or reacquired by the Residential Board in the Residential Section.

(g) Assist in the creation of an application package and accept applications from all prospective Residential Unit Owners, and prospective tenants of space being leased by a Residential Unit Owner or the Residential Board.

(h) Supervise and coordinate the moving in and out of Residential Unit Owners and lessees and, as far as possible, arrange the dates thereof so that there shall be a minimum of disturbance to the operation of the Residential Section and of inconvenience to other Residential Unit Owners.

(i) Bill and collect Common Charges payable by the Residential Unit Owners.

(j) Consider and, when reasonable, attend to complaints of Residential Unit Owners and lessees, providing such complaints concern a violation of the Condominium Documents, a general Building system, service, or common area.

(k) Cause to be prepared and filed the necessary forms for unemployment insurance, withholding and social security taxes and all other tax and other forms relating to employment of Residential Section employees and the maintenance and operation of the Residential Section as required by any Federal, State or municipal authority.

(l) Not later than the twentieth ($20^{th}$) day of each month, render monthly statements of receipts and disbursements to the Residential Board or other designated entity.

(m) Maintaining accurate sets of books for the Residential Board.

(n) Cooperate with the Residential Board's accountants with regard to the annual audit of the books of account of the Residential Board.

(o) When requested by Residential Board, cooperate with the Residential Boards' accountants in preparing and submitting annually to the Residential Board an operating budget of the anticipated income and expenses for the ensuing year.

(p) Attend meetings of the Residential Board and annual meetings of the Residential Unit Owners at the Residential Section's expense to record the minutes of such meetings.

(q) Prepare and send out all letters, notices and reports as the Residential Board may request, including but not limited to notices of meetings, special, annual and monthly, as required by the Residential By-Laws and the Offering Plan, as directed by the Residential Board.

(r) Assist the Residential Board in preparing an operating budget for the Residential Section for the ensuing year.

The management fee will be included as a Residential Common Expenses as discussed above in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation." The Residential Managing Agent will be entitled to additional fees for certain special services performed by it, including, among others:

(a) Fees for discretionary services rendered pursuant to the Residential Section Management Agreement:

(i) Unit Sales. In connection with the processing of an application for the sale/transfer of ownership by a Residential Unit Owner and conducting a credit check, a nonrefundable sum of $1,000.00 to be paid by the Residential Unit Owner/transferee and not by the Residential Board;

(ii) Unit Leases. In connection with the processing of a lease application on behalf of a Residential Unit Owner, a non-refundable sum of $1,000.00 to be paid by the Residential Unit Owner/sublessee and not by the Residential Board;

(iii) Lease Renewals. In connection with the renewal of a lease, a fee of $500.00 to be paid by the Residential Unit Owner/sublessee and not by the Residential Board;

(iv) Unit Mortgage Refinancing. In connection with Residential Unit Owner's application for appraisal or mortgage refinancing, a fee of $500.00 for each application, to be paid by Residential Unit Owner in advance and not by the Board;

(v) Alteration Agreements. If a Residential Unit Owner undertakes an alteration to an apartment requiring Residential Board review and approval of architect's plans, issuance of building department permits, and the negotiation and execution of an Alteration Agreement between the Residential Board and the Residential Unit Owner, a fee in the amount of $300.00 decoration requests, $500.00 for regular alterations and $1,500.00 for major alterations to be paid by the Residential Unit Owner and not by the Residential Board;

(c) Reimbursement for out of pocket expenses for items such as messenger service, postage, facsimile transmissions, photocopying, printing, scanning, on-line payment service fee and other administrative expenses incurred by the Residential Managing Agent.

The Residential Board will indemnify the Residential Managing Agent against liability for all claims for all acts properly performed by the Residential Managing Agent pursuant to the management agreement or at the instructions of the Residential Board, provided, however, any such indemnification shall not cover any claims resulting from the Residential Managing Agent's gross negligence or willful misconduct.

Notwithstanding anything to the contrary set forth above, the Residential Managing Agent's responsibility under the management agreement shall not extend to supervising or managing major capital renovations or major capital improvements, unless specifically agreed upon in writing by the parties and unless the Residential Managing Agent receives an additional fee therefor.

The Residential Managing Agent, at its own expense, will maintain: (i) general and umbrella liability insurance with limits of not less than $25,000,000 per occurrence and in the aggregate, which liability insurance shall cover Residential Managing Agent's activities at Residential Managing Agent's offices and not at the Property and which insurance shall be

secondary to the similar insurance maintained by the Residential Board; (ii) fidelity/crime insurance in an amount of not less than $1,000,000; (iii) workers' compensation and employer's liability insurance covering Residential Managing Agent's employees; and (iv) professional liability insurance in an amount of not less than $1,000,000.

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

**2. Condominium Management Agreement**

It is presently contemplated that at or prior to the First Closing, the Condominium Board will enter into a management agreement (the "Condominium Management Agreement") with Cooper Square Realty, Inc. (who will also act as the Residential Managing Agent), to act as managing agent with respect to the Condominium (the "Condominium Managing Agent"). The terms of the Condominium Management Agreement will be substantially similar to those of the Residential Section Management Agreement described above, but will set forth the Condominium Managing Agent's duties with respect to management of the Condominium. It is contemplated that the Condominium Management Agreement will provide for an initial term of three (3) years commencing on the First Closing and thereafter, if not otherwise terminated by either party, for a one (1) year period. The Condominium Managing Agent will receive an annual fee of $75,000 for such first year, payable in equal monthly installments. The annual fee will increase by four percent (4%) for each successive year. Either party may terminate the Condominium Management Agreement without cause at any time upon thirty (30) days prior written notice to the other party; provided, however, that that if the Agreement is terminated without cause by the Condominium Board prior to the first anniversary of the commencement date thereof, the Condominium Board shall pay the Condominium Managing Agent an amount equal to twenty-five percent (25%) the unpaid portion of the first year management fee. The management fee for the Condominium will be included in General Common Expenses as discussed above in Schedule B-2 – "Projected Budget for First Year of Condominium Operation." In addition, the Condominium Managing Agent shall, at its sole expense, obtain and maintain a fidelity or general surety bond in favor of the Condominium Board in the minimum amount of $1,000,000 for any loss resulting from fraudulent or dishonest acts committed by the Condominium Managing Agent, its directors, officers or employees.

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## Y. IDENTITY OF PARTIES

### 1. Sponsor

Sponsor is 56th and Park (NY) Owner, LLC, a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to do business in the State of New York, with an office at 515 Madison Avenue, 41st Floor, New York, New York 10022. Sponsor, in its capacity as co-declarant under the Declaration, is referred to as "Project Declarant".

The principal of Sponsor is Charles E. Garner II, with an office c/o CIM Group, 7250 Woodmont Avenue, Suite 300, Bethesda, Maryland 20814. Mr. Garner has been involved in billions of dollars of real estate transactions including the acquisition, joint venture investment, disposition and equity and debt financing of more than 100 properties. Mr. Garner has been a principal of sponsor in the condominium offering plan for 15 William Street Condominium, 15 William Street, New York, New York (CD06-0330). Other than as stated above, Mr. Garner has not been involved in any cooperative or condominium offerings in the State of New York within the past five (5) years. Further, Sponsor has not been involved in any cooperative or condominium offerings in the State of New York within the past five (5) years and does not own ten percent (10%) or more of the unsold residential units or unsold shares in any building.

The Secretary of State has been designated to receive service of process for Sponsor.

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

### 2. Co-Declarant

46 East 57th St. (NY), LLC ("Lot 43 Owner"), a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to do business in the State of New York, with an office at 6922 Hollywood Blvd., Suite 900, Los Angeles, California 90028, is Sponsor's co-declarant under the Declaration. Lot 43 Owner is the owner of Lot 43, which is on a portion of the Land upon which the Building is being constructed. Sponsor and Lot 43 Owner are both subsidiaries of the same parent entity. At or prior to the First Closing, Sponsor and Lot 43 Owner will enter into a separate agreement in which Lot 43 Owner will receive a portion of profits realized from the sale of Units in exchange for Lot 43 Owner contributing Lot 43 to the Property. Lot 43 Owner is not a sponsor hereunder.

### 3. Attorneys for Sponsor

Sponsor has retained the law firm of Kramer Levin Naftalis & Frankel LLP, having an office at 1177 Avenue of the Americas, New York, New York 10036 ("Sponsor's Counsel"), to represent it in connection with the Plan. Jonathan H. Canter, Esq. and Josh S. Winefsky, Esq. had principal responsibility for the preparation of the Plan, the Declaration, the Condominium By-Laws, Residential By-Laws, Commercial By-Laws and the forms of Agreement, Residential Unit Deed, Office Unit Deed, Residential Unit Owner Power of Attorney and Office Unit Owner

Power of Attorney. Sponsor's Counsel has also rendered opinions with respect to the possible availability of income tax deductions to Purchasers of Residential Units and the allocation of Common Interests. Sponsor's Counsel will serve as Escrow Agent under the Agreements and will represent Sponsor in connection with Unit closings.

**4. Selling Agent**

The Selling Agent for the project is Macklowe Properties Sales LLC, having an address at 767 Fifth Avenue, 21st Floor, New York, New York. In the past, Macklowe Properties Sales LLC has engaged in all phases of real estate sales and marketing, including sales of cooperative and condominium apartments.

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

**5. Managing Agents**

Sponsor presently anticipates that the initial Managing Agent for both the Residential Section and the Condominium will be Cooper Square Realty, Inc., having a principal office at 622 3rd Avenue, New York, New York 10017. Cooper Square Realty, Inc. has been engaged in the management of over 250 condominium, cooperative and residential rental properties over the course of the past 25 years.

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

**6. Budget Expert**

Cooper Square Realty, Inc., having a principal office at 622 3rd Avenue, New York, New York 10017, estimated all amounts of income and expenses in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" and Schedule B-2 – "Projected Budget for First Year of Condominium Operation," in consultation with Sponsor. The budget expert has no financial interest in the Property or in Sponsor, or in any other party interested in this transaction, except: (i) for its fees for services rendered in connection with the same; or (ii) that it is presently designated as Managing Agent.

**7. Real Estate Tax Attorney**

Marcus & Pollack LLP, having an office at 708 Third Avenue, 19th Floor, New York, New York 10017, has been engaged as a real estate tax attorney in connection with the Plan. The firm prepared a forecast of the assessed valuation of the Units following construction and submission of the Property to a condominium regime of ownership that was used in preparing the provisions of Schedule A and other disclosures in the Plan regarding projected real estate taxes. The real estate tax attorney has no financial interest in the Property, in Sponsor, in the

Managing Agent, or in any other party interested in this transaction, except for its fees for services rendered in connection with the same.

## 8. Construction Professionals

The architect who prepared the property description and Floor Plans appearing as Exhibit 7 in Part II of the Plan is SLCE Architects, LLP, located at 841 Broadway, New York, New York 10003. Sponsor's architect has no financial relationship, past or present, to the Property or to Sponsor, except that it is paid a fee for services it renders in its capacity as architect. SLCE Architects, LLP was founded in 1941, and provides a full range of architectural design and technical services with special expertise in large scale residential, hospitality, mixed-use, and commercial developments.

The mechanical engineer for the Project is WSP Flack and Kurtz Inc., located at 512 Seventh Avenue, New York, New York 10018. Sponsor's mechanical engineer has no financial relationship, past or present, to the Property or to the Sponsor, except that it is paid a fee for services it renders in its capacity as mechanical engineer. Flack + Kurtz was founded in 1969 and after joining the WSP Group in 2001 became known as WSP Flack and Kurtz Inc. The firm is considered to be an international leader in providing complete engineering services in mechanical, electrical, plumbing, fire protection, security, information technology and architectural lighting design.

The structural engineer for the Project is WSP Cantor Seinuk, located at 228 East 45$^{th}$ Street, New York, New York 10017. Sponsor's structural engineer has no financial relationship, past or present, to the Property or to Sponsor, except that it is paid a fee for services it renders in its capacity as structural engineer. WSP Cantor Seinuk is an internationally recognized structural engineering firm with over 40 years of experience that spans the full range of building types, with a specialty in high-rise buildings in severe wind and seismic environments.

None of the construction professionals has a financial interest in the Property, in Sponsor, in the Managing Agent, or in any other party interested in this transaction, except for their respective fees for services rendered in connection with the same.

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## Z. REPORTS TO UNIT OWNERS

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

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

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

3. a copy of the proposed annual budget of the Residential Section at least thirty (30) days prior to the date set for adoption thereof by the Residential Board.

While Sponsor is in control of the Residential Board, such budget shall be certified in compliance with Section 20.4(d) of the Regulations of the Department of Law.

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## AA. DOCUMENTS ON FILE

Pursuant to the provisions of Section 352-e of the New York General Business Law, copies of the Plan, all documents referred to herein and all Exhibits submitted to the Department of Law in connection with the filing of the Plan shall be kept on file and available for inspection without charge, and for copying at a reasonable charge, at Sponsor's office for a period of six (6) years after the First Closing. In addition, a set of Floor Plans showing the layout, locations and approximate dimensions of each Unit and its Unit number designation and tax lot number, certified by the appropriate governmental authority of The City of New York as conforming to the official tax lot number for each such Unit, will be filed in the City Register's Office when the Declaration is recorded, or in an amendment to the Declaration filed prior to the First Closing and an additional set will be furnished to each of the Condominium Board and the Residential Board at the time of the First Closing.

The Declaration and By-Laws will be recorded in the City Register's Office prior to or concurrently with the First Closing, and a copy thereof will be furnished to each of the Condominium Board and Residential Board at such time.

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## BB. GENERAL

Except as set forth herein, there are no lawsuits, administrative proceedings or other proceedings, the outcome of which may materially affect the offering, the Property, Sponsor's capacity to perform all of its obligations under the Plan, the Condominium or the operation of the Condominium.

To the best of Sponsor's knowledge, the Property has not been the subject of any prior cooperative or condominium offerings filed with the Department of Law. No preliminary binding agreements have been entered into and no money has been collected from prospective Purchasers.

Sponsor and the Selling Agent each hereby represent that it will not discriminate against any person on the basis of race, creed, color, national origin, gender, sexual orientation, age, disability, marital status or other grounds prohibited by law.

Sponsor hereby represents that no contracts or agreements, written or oral, have been entered into, and no funds received, with respect to any of the Units offered in this Plan as of the date this Plan is first accepted for filing by the Department of Law.

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 proposed forms of Declaration, Condominium By-Laws, Residential By-Laws, Agreement, Residential Unit Deed, Office Unit Deed, Residential Unit Owner Power of Attorney, Office Unit Owner Power of Attorney and other documents. Statements made in Part I of the Plan as to the provisions of such documents or any other document referred to herein, copies of which are on file with Sponsor, are necessarily not complete. Each such statement is qualified in all respects by the contents of such documents and, in the case of any such documents executed by or with the written consent of a Purchaser pursuant to the Plan, any rider or separate agreement changing or adding provisions to such document.

No party other than any Purchaser shall have any right or benefit herein or herefrom, including, without limitation, the right to insist upon or enforce against Sponsor the performance of all or any of the Sponsor's obligations hereunder and no party other than any Purchaser shall be deemed to have received any benefit as a result of any of the provisions of the Plan.

Sponsor reserves the right, from time to time prior to the First Closing, to substantially revise the terms and conditions upon which the Units offered hereunder are to be sold, including, without limitation, changes affecting the rights, obligations and liabilities of Sponsor and/or prospective Purchasers under the Plan. However, no such change with respect to any such Unit for which an Agreement is then in effect may be made without the consent of the Purchaser thereunder. All substantive or material revisions will be contained in a duly filed amendment to the Plan. If there is a material change that adversely affects any Purchasers, Sponsor shall grant such Purchasers a right to rescind their respective Agreements by written notice to Sponsor given within fifteen (15) days after the date of presentation of such amendment. In such event,

Sponsor shall direct the Escrow Agent to return the Deposit of any Purchasers who duly rescind their Agreements.

No person has been authorized to make any statement or representation or furnish any information not expressly contained herein. Any information, data, or representations not contained herein or in the documents and exhibits referred to herein must not be relied upon. The Plan may not be changed or modified orally.

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## CC. RESERVATION OF AIR AND DEVELOPMENT RIGHTS

Sponsor has retained and expressly reserves all excess Air Rights otherwise appurtenant to the Property and not used in connection with the Building as described in this Plan as of the recordation of the Declaration. As a result, unless Air Rights are separately acquired therefor on behalf of the Condominium or a Unit Owner, as the case may be, any future expansion of the Building by the Boards or of a Unit by any Unit Owner as may otherwise be permitted pursuant to any applicable Legal Requirements, may not be possible or may be limited. Further, as a result of such reservation by Sponsor, Sponsor may transfer or sell such Air Rights to the owner(s) of adjoining properties and in such case such properties may be increased as a result of such transfer or sale.

The Air Rights reserved by Sponsor will not be used to add additional floors to the top of the Building. Except in the case of a sale or transfer for use in connection with other properties, the reserved Air Rights will be used in the Property solely for the purpose of reconfiguring certain areas (e.g., adding mezzanine space, converting mechanical space to space used for other purposes) which, pursuant to the applicable provision of the Zoning Resolution, will require the use of Air Right in excess of those used in connection with the Building in accordance with the Plan as of the recordation of the Declaration. Without limitation, Sponsor expressly reserves the right to create additional Units by adding floor slabs within multi-floor or double-height Units. Purchasers shall have no rights or reservations with respect to such Units. In the event such excess Air Rights are transferred to the owner(s) of adjoining properties, a Unit Owner's views and exposure to light may be affected.

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## DD. SPONSOR'S STATEMENT OF BUILDING CONDITION

Sponsor hereby adopts the Description of Property and Specifications set forth as Exhibit 6 in Part II of the Plan.

Sponsor has exercised due diligence to obtain a detailed technical report on the condition of the Property as at a date contemporary with this Plan. Sponsor believes and hereby represents that the Description of Property and Specifications set forth as Exhibit 6 in Part II of the Plan (plus any information included in any amendment to the Plan), represents accurately what will be the condition of the Building upon substantial completion. The firm preparing the Description of Property and Specifications has no financial interest in the Property, Sponsor, the Condominium, the Selling Agent, any affiliates thereof, or any other party interested in this transaction, except for the fee for services rendered. Sponsor knows of no facts or information inconsistent with the report.

Sponsor represents that it has no knowledge of any material defects or need for major repairs to the Building except as hereinafter set forth in the Description of Property and Specifications, and the violations search and the inspection and other reports and materials set forth in Part II of the Plan. Sponsor has no specific knowledge about problems with or needed repairs to the facade of the Building. Sponsor makes no representations as to the scope or nature of the work which may be required to maintain the facade in the future, provided, however, that Sponsor has no reason to believe that there is a problem with the structural integrity of the facade or that there is a need for any work to the facade except for routine building maintenance.

The Units are being sold "as is" in the condition in which they exist at the time of transfer of title to such Unit, unless Sponsor and the Purchaser of such Unit otherwise agree in writing. Except as otherwise expressly provided in this Plan, Sponsor's obligation to make repairs in any Unit shall cease upon the closing of title to such Unit. Sponsor will, however, maintain and operate the Building until the First Closing in substantially the same manner and condition as on the filing date of this Plan (subject to ordinary wear and tear) except to the extent that Sponsor is precluded from so doing by acts of God, fire or other casualty, storm, strikes, lockouts, labor difficulties, riots, insurrection, inability to obtain materials, equipment or labor, governmental restrictions or any other acts over which Sponsor is reasonably unable to exercise control. If for any of the reasons set forth in the preceding sentence, other than fire or other casualty, Sponsor is prevented from so maintaining the Building and the Common Elements (or causing the same to be maintained), Sponsor shall make or cause to be made, within a reasonable period of time after such act ceases to exist, any repairs subsequent to the First Closing that it was obligated to make prior to the First Closing.

As more fully described in the subsection entitled "The Property" in the Section entitled "Introduction" above, and subject to the matters described therein, Sponsor anticipates that construction of the Building will be sufficiently completed to allow the first closing of a Unit to occur in or about July, 2015. A new Certificate of Occupancy will be issued for the Building when the construction of the Building is complete. Sponsor will obtain a temporary Certificate of Occupancy permitting occupancy of specific Units prior to the closing of the sale of such Units. All notices of building code violations or other violations of law which have been received with respect to the Property will be cured prior to the First Closing.

SPONSOR:

56TH AND PARK (NY) OWNER, LLC

**PART II**

**EXHIBIT 1**

FORM OF UNIT PURCHASE AGREEMENT

# UNIT PURCHASE AGREEMENT

_____

_____,

Purchaser(s)

with

**56th and Park (NY) Owner, LLC,**

Sponsor/Seller

**Unit Number ____**
**432 Park Condominium**
**432 Park Avenue**
**New York, New York 10016**

**PURCHASE AGREEMENT**
**UNIT NO. ___**

**432 Park Condominium**
**432 Park Avenue**
**New York, New York 10016**

(to be executed in quintuplicate)

PURCHASE AGREEMENT (this "Agreement"), made as of the ___ day of _____ 20__, between 56th and Park (NY) Owner, LLC, a Delaware limited liability company, having an office at 515 Madison Avenue, 41st Floor, New York, New York 10022 (hereinafter, "Sponsor"), and

_____

_____

having an address at _____ (hereinafter, "Purchaser").

**W I T N E S S E T H:**

1. Definitions. Terms used in this Agreement and not otherwise defined herein shall have the meanings set forth in the Offering Plan for the 432 Park Condominium (such plan, together with any amendments thereto filed prior to the date hereof, is hereinafter referred to as the "Plan").

2. The Unit. Sponsor hereby agrees to sell to Purchaser and Purchaser hereby agrees to acquire from Sponsor condominium Unit No. ___ (the "Unit") at the Condominium (as designated in the Declaration) (also being known and designated as Block 1292, Lot ___ on the Tax Map of the City of New York), together with the undivided ___% interest in the Common Elements appurtenant to such Unit, upon and subject to the terms and conditions set forth herein. The land upon which the Condominium is located is as described on Schedule A annexed hereto.

3. Purchase Price.

3.1 The purchase price for the Unit (the "Purchase Price") is $_____ payable as follows:

(a) $_____ (the "Initial Deposit"), due upon the signing and submitting of this Agreement, receipt of which (subject to collection) is hereby acknowledged;

(b) $_____ (the "Additional Deposit"; the term "Deposit", as used herein, refers to both the Initial Deposit and, if the same has been paid at the time in question, the Additional Deposit), due upon the earlier to occur of: (i) _____ (the date which is four (4) months after the date of this Agreement); or (ii) thirty (30) days after Sponsor serves Purchaser with written notice of an amendment declaring the Plan effective, but in no event later than the

closing of title, subject to collection; provided, however, that if this Agreement is entered into after the Plan has been declared effective, Sponsor reserves the right to require both the Initial Deposit and the Additional Deposit due and payable upon execution of this Agreement.*; and

(c) $_____ (the "Balance"), constituting the balance of the Purchase Price, at the closing as hereinafter provided.

3.2 All checks shall represent United States currency, be drawn on or issued by a New York bank which is a member of the New York Clearing House Association and shall be unendorsed. Checks for the Deposit shall be Purchaser's good check(s) or, at Sponsor's option, Purchaser's certified check(s) or an official bank check(s), made payable to the direct order of "Kramer Levin Naftalis & Frankel LLP, as escrow agent". The check or checks for the Balance and all other sums due Sponsor pursuant to this Agreement shall be good certified check of Purchaser or official bank or cashier's check, made payable to the direct order of "56th and Park (NY) Owner, LLC" (or such other party as Sponsor directs to Purchaser, in writing, prior to the date of closing of title). If any check is returned, dishonored or fails collection for insufficient funds or for any other reason, the Escrow Agent is authorized to deliver such check to Sponsor and Sponsor will have the choice of remedies set forth in the Plan and in this Agreement with respect to an Event of Default (which shall include suing on such dishonored check or (at Sponsor's option) canceling this Agreement and returning the instrument to Purchaser without affording Purchaser a grace period to cure such default).

4. Deposit.

4.1 The Initial Deposit shall be deposited within five (5) business days after this Agreement is countersigned by or on behalf of Sponsor and returned to Purchaser, and the Additional Deposit shall be deposited within five (5) business days after its receipt by Sponsor or Sponsor's agents, employees or the Escrow Agent, in each case into a segregated special interest-bearing escrow account (the "Escrow Account") at Citibank N.A., 666 Fifth Avenue, New York, New York 10103 (the "Depository") entitled "432 Park Condominium Attorney Escrow Account" subject to the provisions of the Plan with respect to the designation of a substitute bank and/or account type or title. The Deposit shall be held in trust in such account in conformity with Sections 352-e(2)(b) and 352-h of the New York General Business Law and the Attorney General's regulations promulgated pursuant thereto until such funds may be withdrawn in accordance with such laws and regulations and the terms of this Agreement and the Plan. While the same are being so held, such funds shall not be commingled with any other funds of Sponsor (except, at Sponsor's sole election, funds deposited by other purchasers under the Plan). The Escrow Account will be interest-bearing and, unless Purchaser defaults, interest will be credited to Purchaser at the closing. The interest rate to be earned will be the prevailing rate for these accounts. (No representation or guarantee is made as to the actual rate of interest that will be earned on such funds.) Interest, if any, will begin to accrue within five (5) business days after this Agreement is fully executed and tender for payment of the check representing the Deposit. Notwithstanding anything to the contrary contained herein, unless and until Purchaser has

* Omit if Purchaser is a foreign government, a resident representative of a foreign government or such other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e. diplomatic immunity).

delivered to the Escrow Agent a completed and signed Form W-9 (Request for Taxpayer Identification Number and Certification) or Form W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding), whichever may be applicable, the Deposit will be deposited in a non-interest-bearing escrow account at the Depository.

4.2 The Deposit shall be held in the escrow account identified in Section 4.1 above until Kramer Levin Naftalis & Frankel LLP (the "Escrow Agent") is otherwise directed in: (a) a writing signed by both Sponsor and Purchaser; or (b) a determination of the Attorney General pursuant to the dispute resolution procedures contained in the Attorney General's regulations; or (c) a judgment or order of a court of competent jurisdiction.

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

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

4.5 Purchaser or the Escrow Agent may apply to the Attorney General in the event of a dispute for a determination on the disposition of the escrowed funds and any interest thereon. Sponsor must avail itself of this procedure if there is a dispute which needs to be resolved. A form for this purpose is attached as Exhibit 8 of Part II of the Plan. The party applying for a determination must send all other parties a copy of the application. Pending the determination of the Attorney General to grant or deny the application, Sponsor, Purchaser and the Escrow Agent shall abide by any interim directive issued by the Attorney General.

4.6 Sponsor and Purchaser hereby jointly direct the Escrow Agent as follows:

(a) if title to the Unit is transferred to Purchaser, the Deposit shall be paid to Sponsor, and any interest earned on the Deposit shall be paid to Purchaser; or

(b) if Purchaser becomes entitled to cancel this Agreement in accordance with the terms of this Agreement or the Plan, and actually cancels this Agreement as so provided, the Deposit and any interest earned on the Deposit shall be refunded in full.

4.7 Sponsor is required by law to submit a Form 1099 to the Internal Revenue Service reporting any interest earned on the Deposit, if any. Purchaser will be taxed accordingly on such interest, whether or not Purchaser ultimately receives the interest in accordance with the terms of this Article or Article 8.

5. Closing Date and Place.

5.1 The closing of title shall be held at the offices of Sponsor (or such other place in the City and State of New York as Sponsor may designate to Purchaser) and on such date and hour as Sponsor may designate to Purchaser on not less than thirty (30) days' prior notice. Sponsor may, from time to time, adjourn such date and hour upon reasonable prior notice to Purchaser, which notice shall fix a new date (and hour and place, if appropriate) for the closing of title (but in no event may Sponsor adjourn the date originally set for a closing, once set, for more than twelve months in the aggregate without the consent of Purchaser).

5.2 Whenever used herein, the terms "Closing Date" or "closing of title" or words of similar import shall mean the date on which the deed to the Unit is delivered to Purchaser.

6. Delivery of Deed and Power of Attorney.

6.1 At the closing of title, Sponsor shall deliver to Purchaser a bargain and sale deed with covenant against grantor's acts conveying fee simple title to the Unit to Purchaser, subject only to the liens, encumbrances and title conditions set forth on Schedule B annexed hereto and made a part hereof. Sponsor shall prepare the deed, which shall be substantially in the form set forth in Exhibit 4 (in connection with the purchase of a Residential Unit) or Exhibit 5 (in connection with the purchase of an Office Unit) in Part II of the Plan, and Sponsor and Purchaser shall execute the deed and have the same acknowledged, in form for recording.

6.2 At the closing of title, Purchaser shall execute and acknowledge a power of attorney to: (a) the Condominium Board, Residential Board and Sponsor in connection with the purchase of a Residential Unit, or (b) the Condominium Board, Commercial Board and Sponsor in connection with the purchase of an Office Unit, prepared by Sponsor and substantially in the forms set forth as Exhibit 2 and Exhibit 3 in Part II of the Plan, respectively.

6.3 The executed deed and power of attorney 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 City Register's Office, which recording shall be at Purchaser's expense. After being recorded: (i) the deed shall be returned to Purchaser; and (ii) the power of attorney in favor of the Boards and Sponsor shall be returned to the Residential Board (in connection with the purchase of a Residential Unit) or the Condominium Board (in connection with the purchase of an Office Unit) (or as such Boards shall direct).

6.4 Purchaser's payment of the Balance and acceptance of the deed to the Unit shall constitute Purchaser's recognition that Sponsor has fully and satisfactorily performed those obligations stated in the Plan and/or this Agreement to be performed by Sponsor prior to closing. However, nothing herein contained shall excuse Sponsor from performing those obligations (if any) expressly stated herein or in the Plan to be performed subsequent to the closing, and nothing herein shall be in derogation of the rights of purchasers under Article 23-A of the General Business Law, the Plan or Part 20 of the Regulations issued by the Department of Law.

7. State of Title.

7.1 The title conveyed by Sponsor to Purchaser shall be subject only to the liens, encumbrances and title conditions set forth in Schedule B annexed hereto and made a part hereof. Any lien, encumbrance or condition to which title is not to be subject shall not be an objection to title if: (a) the instrument required to remove it of record is delivered at or prior to the closing of title to the proper party or to First American Title Insurance Company of New York, 633 Third Avenue, New York, New York 10017; Attn: Matthew C. Cahill; (212) 850-0646 (or such other title or abstract company designated by Sponsor; the "Title Company"), together with the recording or filing fee; or (b) Purchaser's title insurance company will insure Purchaser, at the company's regular rates and without additional premium, that it will not be collected out of, or enforced against, the Unit; or (c) Purchaser's title insurance company is unwilling to issue the affirmative insurance described in subsection (b) at its regular rates and without additional premium, and the Title Company would be willing to do so at its regular rates and without additional premium (as evidenced by the issuance of the same by the Title Company in connection with the closing of any other Units in the Condominium).

7.2 Sponsor shall be entitled to adjourn the closing to remove or correct any defect in title which is not set forth in Schedule B. However, if such defect existed at least ten (10) days prior to the closing and Purchaser, or Purchaser's attorney, failed to send Sponsor's attorney written notice of such defect in title at least ten (10) days prior to the closing, then, for purposes of Article 12 below, Purchaser shall be deemed at fault for not having sent timely notice, and the closing adjournment to allow Sponsor to correct or remove such title defect shall be considered as having been requested by Purchaser.

7.3 The covenants in the deed will be solely for the personal benefit of Purchaser and will not inure to the benefit of Purchaser's successors or subrogees. In the event of a claimed breach of any covenant of the grantor contained in the deed, Purchaser must first seek recovery against Purchaser's title insurance company before proceeding against Sponsor, it being agreed that the liability of Sponsor will be limited to any loss or damage not covered by such title insurance. In the event that Purchaser elects not to purchase title insurance, then the liability of Sponsor shall be limited to any loss or damage which would not have been covered by the title insurance that was available to Purchaser at the closing. The terms of any marked-up title binder of any title insurance company authorized to do business in New York State issued in connection with any Unit shall be conclusive evidence of the title insurance coverage that was available to Purchaser. The provisions of this Section 7.3 shall survive the closing of title or the termination of this Agreement.

8. Closing Adjustments.

8.1 The following costs with respect to the Unit shall be apportioned between Sponsor and Purchaser as of the Closing Date:

(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) if Purchaser is allowed to occupy the Unit prior to the closing, accrued rent and any other charges pursuant to an interim lease or occupancy or other agreement, if any, covering the Unit.

8.2 If the Unit has been separately assessed but the closing of title occurs before the tax rate is fixed, adjustment of taxes shall be based upon the latest tax rate applied to the most recent applicable assessed valuation. Installments for tax assessments due after the delivery of the deed, if any, shall be paid by Purchaser; however, the installment for the then current period shall be apportioned appropriately. If the Unit has not been separately assessed as of the Closing Date for the then current tax period, the adjustment under subsection 8.1(a) hereof shall be based upon the Property's actual taxes and assessment for such period prorated to the Unit in the manner set forth in Section 6.15 of the Residential By-Laws (in connection with the purchase of a Residential Unit) or Section 6.15 of the Commercial By-Laws (in connection with the purchase of an Office Unit) and in Part I of the Plan.

8.3 Sponsor shall remit or cause to be remitted to Purchaser an amount equal to interest, if any, earned on the Deposit, on or promptly after the Closing Date.

8.4 In the event that Purchaser fails to close title to the Unit on the date originally scheduled for the closing of title, postpones the closing for any reason, or is deemed at fault for not timely sending notice of a title defect as provided in Article 7 above, and title thereafter closes, then:

(a) the closing apportionments shall be made as of the originally scheduled closing date regardless of when the actual closing of title occurs; and

(b) Purchaser shall pay Sponsor interest at the rate of 0.05% per day (or such lower rate per day which is the legal limit, if 0.05% per day exceeds the legal limit) on the total purchase price, computed from the original Closing Date until this transaction is actually closed. If, through no fault of Purchaser, Sponsor postpones the originally scheduled Closing Date, the foregoing provisions shall apply to the rescheduled Closing Date if Purchaser fails for any reason to close title to the Unit on the rescheduled Closing Date.

8.5 Adjustments and apportionments shall be calculated on the basis of the actual number of days in the period for which payments were made or are due, as the case may be. The "Customs in Respect to 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 aforesaid and as otherwise provided herein or in the Plan.

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

9. Closing Costs.

Purchaser shall be required to pay certain costs in connection with the purchase of the Unit, in addition to any net credit in favor of Sponsor that may result from the closing adjustments and any interest or late closing charge described in Article 8. Other than any such

net credit in favor of Sponsor that may result from the closing adjustments (or certain other fees which may be payable prior to the closing, as described below), all such closing costs shall be paid by Purchaser, at closing, by Purchaser's unendorsed, personal certified check or by official bank check, in either event drawn only upon a bank that is a member of the New York Clearing House Association. Such closing costs will include the following, the amounts of which (where applicable) are based on rates in effect on the date hereof and are subject to change without prior notice:

9.1 If Purchaser elects to obtain fee title insurance, Purchaser will pay a premium to the title company for such insurance, which will vary depending upon the amount of insurance purchased.

9.2 Purchaser will pay a fee to the City Register for recording the deed and the power of attorney of approximately $37.00 for each instrument plus $5.00 for each page (including the cover page), plus either a $125.00 filing fee for the RP-5217 form if Purchaser is purchasing a Residential Unit, or a $250.00 filing fee for the RP-5217 form if Purchaser is purchasing an Office Unit. In addition, Purchaser's title insurance company may charge various fees and service charges in connection with such recordings and filings, all of which shall be payable by Purchaser.

9.3 If Purchaser obtains a mortgage loan, Purchaser shall pay all closing costs associated with such loan, which may include, but need not be limited to, the following:

(a) a fee and service charge for recording the mortgage at the same rates given above for recording the deed and power of attorney;

(b) a mortgage recording tax in the amount provided for by law, which on the date hereof for a Residential Unit is 2.05% of the principal amount of the mortgage for mortgages of less than $500,000 and 2.175% of the principal amount of the mortgage for mortgages equal to or greater than $500,000, and for an Office Unit is 2.05% with respect to mortgages of less than $500,000 and 2.80% with respect to mortgages in the amount of $500,000 or more (further, mortgage lenders require commercial borrowers to pay the additional tax levied in the amount of 0.25% on all mortgages affecting commercial condominium Units), and in each case, the amount payable to Sponsor under subparagraph (c) below is deducted;

(c) to Sponsor, a sum equal to the full amount (but not in excess thereof) of the partial mortgage recording tax credit provided by Section 339-ee(2) of the New York Condominium Act, to the extent the same is or becomes available, as a reimbursement for the mortgage recording taxes previously paid (such credit is based, in general, on the Common Interest of the Units being purchased multiplied by a portion of the mortgage tax previously paid on account of pre-existing mortgages on the Property);

(d) the premium for mortgage title insurance, if required by Purchaser's lender;

(e) deposits for Common Charges, real estate taxes, any assessments, water charges and sewer rents (if separately assessed), if required by Purchaser's lender; and

(f) such other costs and expenses in connection with such loan as determined by Purchaser's lender.

9.4 Purchaser will be responsible for payment of the following fees to Kramer Levin Naftalis & Frankel LLP, Sponsor's counsel, in connection with the closing of title to such Purchaser's Unit: (i) the sum of $3,000 to reimburse Sponsor for a portion of its legal fees incurred in connection with the closing of title to each Unit purchased hereunder, and for each issuance of a Storage License or Wine Cellar License, the sum of $500 to reimburse Sponsor for a portion of its legal fees in connection with processing the issuance of such Storage License or Wine Cellar License; (ii) if the Purchaser requests the closing to occur other than at the offices of Sponsor's counsel (or such other place as Sponsor may designate in its closing notice) and Sponsor consents to such change (in its sole discretion), an attendance fee of $500 (closings may not be scheduled to occur outside Manhattan); (iii) if the closing is adjourned through no fault of Sponsor, an additional fee of $300 for each such adjournment to help defray the cost of preparing for and coordinating the new closing; (iv) if Sponsor, in its sole discretion, consents to a Purchaser's request for an assignment of the Agreement, or for the addition, deletion or substitution of names on the Agreement, a fee of $1,500, payable in advance, for preparation of an assignment agreement; (v) $250 for the preparation of ACRIS transfer documents required by the City of New York; (vi) if Purchaser obtains mortgage financing, an additional fee of $700 to Sponsor's Closing Counsel to defray the additional costs associated therewith. Purchaser may be required to pay more than one fee pursuant to the preceding provisions of this paragraph with respect to a single Unit; and (vii) Purchaser shall pay Sponsor's counsel the sum of $600 in connection with the consideration, review and processing of any agreement of exchange or the like which Sponsor is requested to execute in connection with any tax deferred exchange under §1031 of the Internal Revenue Code. 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.

9.5 Purchaser (in the case of a Residential Unit) shall make a contribution to the Working Capital Fund of the Condominium, payable to the Residential Board, in an amount equal to two (2) months' Common Charges then in effect for each Residential Unit pursuant to the Condominium budget and in accordance with Schedule A in the Plan, as the same may be amended from time to time.

9.6 Purchaser shall pay to either the Residential Board or the Commercial Board the Residential Common Charges or Commercial Common Charges, as the case may be, for the Unit for the first full month following the month in which title closes. In addition, if Purchaser is a foreign government, a resident representative of a foreign government or such other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity) shall pay to the Residential Board or Commercial Board an amount equal to the Residential Common Charges or Commercial Common Charges, as the case may be, for such Unit for a period of two (2) years as security for the faithful observance by such Unit Owner of the terms, provisions and conditions of the Residential By-Laws or Commercial By-Laws, as the case may be. In the event that Purchaser defaults in respect of the terms, provisions and conditions of the Residential By-Laws or Commercial By-Laws, the Residential Board or Commercial Board, as the case may be, may use, apply, or retain the whole or any part of the security so paid in advance to the extent required for

the payment of any Residential Common Charges or Commercial Common Charges, as the case may be, or any other sum as to which Purchaser is in default; and such Unit Owner shall, within thirty (30) days after notice from the Residential Board or Commercial Board, deposit with such Board the amount so applied or retained so that at the option of such Board, the Board shall have the full amount of said security on hand at all times. The provisions of the preceding sentence shall survive the closing of title.

9.7 Purchaser shall pay the Real Estate Transfer Tax due to the State of New York (the so-called "deed stamps" and, if applicable, the so-called "mansion tax"), the Real Property Transfer Tax due to the City of New York and any other real property transfer tax due to the City or State of New York. Purchaser agrees to indemnify and hold Sponsor harmless from and against any and all liabilities and expenses (including, without limitation, reasonable legal fees and disbursements) incurred by Sponsor by reason of the non-payment by Purchaser of any of the taxes Purchaser is obligated to pay hereunder in connection with the purchase of the Unit. Purchaser's obligations to pay the taxes described in this Section 9.7 and to indemnify Sponsor as herein provided shall survive the closing of title or the termination of this Agreement.

9.8 In connection with the purchase of a Residential Unit, Purchaser will be required to the Residential Board: (i) Purchaser's share of the purchase price of the Resident Manager's Unit determined in proportion to Purchaser's respective Common Interest in accordance with Schedule A in the Plan; (ii) Purchaser's share of the purchase price of the Club Unit determined in proportion to Purchaser's respective Common Interest in accordance with Schedule A in the Plan; and (iii) if applicable, an assessment for the Initial Private Residential Dining Period.

10. Transfer Tax Returns. At the closing, Purchaser shall duly complete and sign before a notary public the real property transfer tax return required to be filed with The City of New York ("RPT Form") and Purchaser shall duly complete and sign the Combined Real Estate Transfer Tax Return and Credit Line Mortgage Certificate ("Combined Tax Form") required to be filed with the Department of Taxation and Finance of the State of New York (the "Tax Department"), or such other forms as may then be required by law. The RPT Form and Combined Tax Form shall be delivered at closing to the representative of Purchaser's title insurance company (or, if none, to Sponsor's attorney) for filing with the proper governmental officer. Sponsor will similarly execute all of such forms and other documents required in connection with recording of the deed including, without limitation, smoke detector and multiple-dwelling affidavits.

11. The Plan.

11.1 Purchaser acknowledges having received and read a copy of the Plan, including all amendments thereto, if any, filed prior to the date hereof with the Department of Law of the State of New York, at least three (3) business days before submitting this Agreement. If, however, Purchaser did not receive a copy of the Plan at least three (3) business days before submitting this Agreement, Purchaser may rescind this Agreement, by sending written notice of same to Sponsor by certified or registered mail, return receipt requested, or by personal delivery, in either case within seven (7) days of Purchaser's submission of this Agreement.

11.2 The Plan is incorporated herein by reference and made a part hereof with the same force and effect as if set forth herein at length. In the event of any inconsistency between the provisions of this Agreement and the Plan, the Plan shall govern, except with respect to express modifications to the terms of the Plan included in this Agreement and agreed to by Sponsor and Purchaser, in which case such modifications will govern.

11.3 Purchaser hereby adopts, accepts and approves the Plan (including, without limitation, the Declaration, the Condominium By-Laws, the Residential By-Laws (as applicable), the Commercial By-Laws (as applicable) and Rules and Regulations contained therein) and agrees to abide and be bound by the terms and conditions thereof, as well as all amendments to the Plan duly filed by Sponsor.

12. Default by Purchaser. (a) Any of the following shall constitute an "Event of Default" hereunder:

(i) Purchaser's failure to pay the Additional Deposit on the date set forth in Article 3 hereof, Purchaser's failure to pay the Balance or any closing apportionment or closing cost required to be paid by Purchaser in Article 8 or 9 hereof on the Closing Date designated by Sponsor pursuant to Article 5 hereof, or the dishonor of any check given by Purchaser to Sponsor; or the failure to pay, perform or observe any of Purchaser's other obligations hereunder; or

(ii) the occurrence of any Events of Default under any other Agreement between Sponsor and Purchaser, or between Sponsor and any member or members of Purchaser's immediate family or between Sponsor and any parent, affiliate or subsidiary of Purchaser; or

(iii) if Purchaser is permitted to become the tenant or other occupant of the Unit, Purchaser's failure to pay rent or to perform some other lease or occupancy obligation within the period after notice, if any, set forth in the lease or occupancy or other agreement and either (x) Sponsor has obtained an order of eviction against Purchaser from a court of competent jurisdiction or (y) Purchaser has vacated the Unit; or

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

(v) if a non-bankruptcy trustee or receiver is appointed over Purchaser or Purchaser's property, or an involuntary petition in bankruptcy is filed against Purchaser; or

(vi) if a judgment or tax lien is filed against Purchaser and Purchaser does not pay or bond the same within thirty (30) days.

(b) **TIME IS OF THE ESSENCE** with respect to Purchaser's obligations to pay the Balance and to pay, perform or observe Purchaser's other obligations

under this Agreement. Upon the occurrence of an Event of Default, Purchaser shall have thirty (30) days from the giving of written notice of such default to cure the specified default. If the default is not cured within such thirty (30) days, TIME BEING OF THE ESSENCE, then Sponsor, in its sole discretion, may thereupon cancel this Agreement. If Sponsor elects to cancel, this Agreement shall be deemed cancelled, and Sponsor shall have the right to retain, as and for liquidated damages, the Deposit and any interest earned on the Deposit. Alternatively, instead of retaining the Deposit (or such portion thereof that Sponsor may be entitled to as set forth below in this paragraph (b)), Sponsor may elect to bring an action against the Purchaser for specific performance, in which event the Purchaser could be compelled to complete the purchase of the Unit. Upon the cancellation of this Agreement, Purchaser and Sponsor will be released and discharged of all further liability and obligations hereunder and under the Plan, and the Unit may be sold to another as though this Agreement had never been made, and without accounting to Purchaser for any of the proceeds of such sale. Notwithstanding anything to the contrary contained herein, if this Agreement is not exempt under Section 1702 of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701, et. seq., and if Purchaser loses rights and interest in the Unit as a result of a default or breach of this Agreement which occurs after Purchaser has paid fifteen percent (15%) of the Purchase Price of the Unit, excluding any interest owed under this Agreement, Sponsor (or Sponsor's successor) shall refund to Purchaser any amount which remains after subtracting (A) fifteen percent (15%) of the Purchase Price, excluding any interest owed under and disposed of in accordance with this Agreement, or the amount of damages incurred by Sponsor (or Sponsor's successor) as a result of such breach, whichever is greater, from (B) the amount paid by Purchaser with respect to the Purchase Price of the Unit, excluding any interest paid under this Agreement (which interest shall be disposed of as set forth in this Agreement).

(c) Sponsor and Purchaser each hereby agree and acknowledge that it would be impractical and/or extremely difficult to fix or establish the actual damage sustained by Sponsor as a result of a default by a Purchaser hereunder, and that the Deposit (including all interest) shall constitute and be deemed to be the reasonable and agreed upon liquidated damages of Sponsor in respect of the possible loss of a timely closing, the possible fluctuation of values, additional carrying costs of the Unit and other expenses that may be incurred, including, without limitation, attorneys' fees, and shall be paid by Purchaser to Sponsor. The payment of the deposit (including all interest) as liquidated damages is not intended to be a forfeiture or penalty, but is intended to constitute liquidated damages to Sponsor.

(d) NEITHER SELLER NOR PURCHASER SHALL CHALLENGE THE VALIDITY OF THE PROVISIONS OF THIS AGREEMENT OR THE PLAN WITH RESPECT TO LIQUIDATED DAMAGES OR ANY RIGHT OF SPONSOR SET FORTH HEREIN OR THEREIN TO RETAIN THE DEPOSIT IN THE EVENT OF A PURCHASER DEFAULT. SUCH PROVISIONS HAVE BEEN AGREED TO VOLUNTARILY, AFTER NEGOTIATION, WITHOUT DURESS OR COERCION BY ANY PARTY UPON ANY OTHER PARTY, AND WITH EACH PARTY HAVING BEEN (OR HAVING HAD FULL AND ADEQUATE OPPORTUNITY TO BE) REPRESENTED AND ADVISED BY COUNSEL, ACCOUNTANTS, BROKERS, APPRAISERS AND OTHER EXPERTS AND ADVISORS OF ITS OWN CHOOSING.

13. Agreement Subject to Lien of Mortgage. No lien or encumbrance shall arise against the Property or the Unit as a result of this Agreement or any money deposited hereunder, except as hereinafter set forth. In furtherance and not in limitation of the provisions of the preceding sentence, Purchaser agrees that the provisions of this Agreement are and shall continue to be subject and subordinate to the lien of any mortgage 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 fullest 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, unless, if Purchaser is obtaining financing on the Unit, Purchaser assumes such mortgages (at Sponsor's discretion). The existence of any mortgage or mortgages encumbering the Property, or portions thereof, other than the Unit and its undivided interest in the Common Elements, shall not constitute an objection to title or excuse Purchaser from completing payment of the Purchase Price or performing all of Purchaser's other obligations hereunder or be the basis of any claim against, or liability of, Sponsor, provided that any such mortgage is subordinated to the Declaration, or the Unit is released from, or not subject to, the lien of such mortgage at closing (unless Purchaser has assumed the continuation of a mortgage lien encumbering such Unit as hereinabove described).

14. Agreement Subject to Plan Being Effective. The performance by Sponsor of its obligations under this Agreement is contingent upon the Plan having been declared effective in accordance with the terms and provisions of the Plan (as the same may be amended from time to time). The Plan may be withdrawn or abandoned by Sponsor only under certain conditions and at certain times, as set forth in the Plan. If the Plan is abandoned or if, after being declared effective, the Plan is not consummated for any reason and Purchaser is not in default under this Agreement beyond any applicable grace period, this Agreement shall be deemed cancelled and the Deposit, together with interest, if any, earned thereon, shall be returned to Purchaser. Upon such return, neither party shall have any further rights, obligations or liability to or against the other and the parties shall be released and discharged from all obligations and liability under this Agreement and the Plan.

15. Sponsor's Inability to Convey the Unit. If Sponsor is unable to deliver title to the Unit to Purchaser in accordance with the provisions of this Agreement and the Plan by reason of a defect in title, substantial damage or destruction of the Building by fire or other casualty, or the taking of any material portion of the Property by condemnation or eminent domain, Sponsor shall not be obligated to bring any action or proceeding or otherwise incur any cost or expense of any nature whatsoever in excess of its obligations set forth in the Plan in order to cure such inability. If Sponsor is not so obligated under the Plan and notifies Purchaser of its election not to cure such inability, and Purchaser is not in default hereunder, Purchaser's sole remedy shall be to either (a) take title to the Unit subject to such inability (without any abatement in or credit against the Purchase Price, or any claim or right of action against Sponsor for damages or otherwise) or (b) terminate this Agreement. If Purchaser so elects to terminate this Agreement, Sponsor shall, within thirty (30) days after receipt of notice of termination from Purchaser, return the Deposit to Purchaser, together with interest, if any, earned thereon. Upon making such payment, this Agreement shall be terminated and neither party shall have any further rights, obligations or liability to or against the other and the parties shall be released and discharged

from all obligations and liability under this Agreement and the Plan. The foregoing remedy must be exercised by written notice sent by Purchaser to Sponsor within ten (10) days after the giving of Sponsor's notice of election not to cure such inability, failing which it shall be conclusively deemed that Purchaser elected the first remedy above to acquire title subject to such inability.

16. Fixtures, Appliances and Personal Property. Only those fixtures, appliances and items of personal property which are described in the Plan as being included in the Unit are included in the sale of the Unit pursuant to this Agreement. No portion of the Purchase Price shall be attributable to such items.

17. Construction.

17.1 The construction and renovation of the Building and the Unit, including the materials, equipment and fixtures to be installed therein, shall be substantially in accordance with the Plan and the Plans and Specifications (as defined in the Plan), subject to the right of Sponsor to amend the Plan and the Plans and Specifications in order to substitute materials, equipment or fixtures of equal or better quality, provided that the approval of any governmental authorities having jurisdiction is first obtained (if required). The issuance of a temporary or permanent Certificate of Occupancy for the Building shall be deemed presumptive evidence that the Building and the Unit have been fully completed in accordance with the Plan and the Plans and Specifications. However, nothing herein contained shall excuse Sponsor from its obligation to correct any defects in construction in accordance with the conditions set forth the Section entitled "Rights and Obligations of Sponsor" in Part I of the Plan.

17.2 The construction and renovation of the Building and the Unit and the correction of any defects in the construction thereof to the extent required under the Plan are the sole responsibility of Sponsor. Purchaser acknowledges and agrees that Sponsor will not be liable for, and will have no obligation to correct, certain variations from the Plan and Plans and Specifications as indicated in the Section entitled "Rights and Obligations of Sponsor" in Part I of the Plan and will only be responsible to correct any construction defects to the extent, and on the terms and conditions, set forth in such Section.

17.3 The closing of title shall occur only after, or concurrently with, compliance with the prerequisites set forth under "Prerequisites to Closing of Title" in Part I of the Plan. As a result, if all other prerequisites not involving the construction of the Unit are met, Purchaser shall be obligated to close and complete payment of the full Purchase Price (without any credit against or abatement in the Purchase Price and without any provision for escrow) once a temporary or permanent Certificate of Occupancy is issued for the Unit (notwithstanding any construction items noted on Purchaser's Inspection Report (as hereinafter defined) remaining for Sponsor to complete and/or correct in accordance with its obligations under the Plan, and notwithstanding the incomplete construction and/or decoration of any other portions of the Building not preventing Purchaser's occupancy of the Unit).

17.4 Sponsor has projected that, based upon currently anticipated schedules, construction/renovation of the Building will be sufficiently completed to permit closings of Units to begin in or about July, 2015. The actual date for the First Closing is only an estimate and is not guaranteed or warranted, and may be earlier or later depending on the progress of

construction and compliance with the other prerequisites described in the Plan. Purchaser acknowledges that construction may be delayed by weather, casualty, labor difficulties (including work stoppages and strikes), late delivery or inability to obtain on a timely basis or otherwise materials or equipment, governmental restrictions, or other events beyond Sponsor's reasonable control. Purchaser further acknowledges that the Units in the Building will be completed at varying times over a period that could extend well beyond the First Closing. The order in which the Units will be completed is in the discretion of Sponsor. Purchaser acknowledges that except as otherwise expressly provided in the Plan, Purchaser shall not be excused from paying the full Purchase Price, without credit or set-off, and shall have no claim against Sponsor for damages or losses, in the event that the First Closing occurs substantially earlier or later than the projected date or the time to complete or to close title to the Unit is accelerated, delayed or is postponed by Sponsor, Purchaser's rights as set forth in Plan in respect thereof being in lieu of any other rights or remedies which may be available pursuant to any applicable law, regulation, statute or otherwise, all of are hereby expressly waived by Purchaser.

18. Inspection of Unit. At least one (1) week prior to the Closing Date, at Sponsor's direction, Selling Agent shall notify Purchaser that the Unit is ready for inspection. Upon receipt of the notice, Purchaser shall promptly arrange an appointment with Selling Agent to inspect the Unit within the week prior to the Closing Date. Purchaser or his or her duly authorized agent shall attend such inspection, shall carefully inspect the Unit, and shall complete, date and sign the Inspection Statement (in the form set forth as Schedule C to this Agreement) and deliver same to Selling Agent at the conclusion of the inspection. Failure of Purchaser either to arrange such appointment or to inspect the Unit within the week prior to the Closing Date or to so sign and deliver the completed Inspection Statement shall not excuse Purchaser from paying the Balance when due and shall constitute Purchaser's full acceptance of the Unit. Sponsor reserves the right to limit the number of individuals who may accompany Purchaser in its inspection of the Unit. However, nothing herein shall relieve Sponsor of its obligations as set forth in "Rights and Obligations of Sponsor" in the Plan.

19. Damage to the Unit. If between the date of this Agreement and the closing of title, the Unit is damaged by fire or other casualty, the following shall apply:

19.1 The risk of loss to the Unit by fire or other casualty, until the earlier of closing of title or possession of the Unit by Purchaser, is assumed by Sponsor; provided that Sponsor shall have no obligation or liability to repair or restore the Unit. In the event of damage or destruction of the Unit due to fire or other casualty prior to the closing of title and the election by Sponsor to repair or restore the Unit, this Agreement shall continue in full force and effect, Purchaser shall not have the right to reject title or receive a credit against, or abatement in, the Purchase Price and Sponsor shall be entitled to a reasonable period of time within which to complete the repair or restoration. Any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss shall, subject to the rights of the Board and other Unit Owners if the Declaration has theretofore been recorded, belong entirely to Sponsor and if such proceeds are paid to Purchaser, Purchaser shall promptly upon receipt thereof turn them over to Sponsor. The provisions of the preceding sentence shall survive the closing of title or the termination of the Agreement.

19.2 In the event of damage to or destruction of the Unit by fire or other casualty prior to the closing of title and the election by Sponsor, with notice thereof to Purchaser, that it does not elect to repair or restore the Unit, or, if the Declaration has been recorded prior thereto, then if the Unit Owners do not resolve to make such repairs or restoration pursuant to the By-Laws, this Agreement shall be deemed cancelled and of no further force or effect and Sponsor shall return to Purchaser all sums deposited by Purchaser hereunder, together with interest, if any, earned thereon, and neither party shall have any further rights, obligations or liability to or against the other and the parties shall be released and discharged from all obligations and liability hereunder and under the Plan, except that if Purchaser is then in default hereunder (beyond the applicable grace period, if any), Sponsor shall retain all such sums deposited by Purchaser hereunder and any interest earned thereon, as and for liquidated damages.

20. No Representations. Purchaser acknowledges that Purchaser has not relied upon any architect's plans, sales plans, selling brochures, advertisements, websites, representations, warranties, statements or estimates of any nature whatsoever, whether written or oral, made by Sponsor, Selling Agent or otherwise, including, but not limited to, any relating to the description or physical condition of the Property, the Building or the Unit, or the size or the dimensions of the Unit or the rooms therein contained or any other physical characteristics thereof, the services to be provided to Unit Owners, the estimated Common Charges allocable to the Unit, the estimated real estate taxes of the Unit, the ability to rent the Unit and/or the rental income therefor, the right to any income tax deduction for any real estate taxes or mortgage interest paid by Purchaser, or any other data, except as herein or in the Plan specifically represented; Purchaser has relied solely on his or her own judgment and investigation in deciding to enter into this Agreement and purchase the Unit. No person has been authorized to make any representations on behalf of Sponsor. No oral representations or statements shall be considered a part of this Agreement. Purchaser agrees (a) to purchase the Unit, without offset or any claim against, or liability of, Sponsor, whether or not any layout or dimension of the Unit or any part thereof, or of the Common Elements, as shown on the Floor Plans on file in Sponsor's office and [to be]* filed in the City Register's Office, is accurate or correct, and (b) that Purchaser shall not be relieved of any of Purchaser's obligations hereunder by reason of any immaterial or insubstantial inaccuracy or error. The provisions of this Article 20 shall survive the closing of title or the termination of this Agreement.

21. Prohibition Against Advertising. Purchaser hereby covenants and agrees that it shall not, prior to the closing of title hereunder, list the Unit for sale or resale with any broker or otherwise advertise, promote, or publicize the availability of the Unit for sale. Any such listing of the Unit or form of advertising, promotion or publicizing of the Unit by Purchaser or its agents or representatives prior to the closing of title shall be an Event of Default hereunder, entitling Sponsor to the remedies set forth in Article 12 hereof.

22. Broker. Purchaser represents to Sponsor that Purchaser has not dealt with any broker in connection with this transaction other than Selling Agent and _____. Purchaser shall pay the commission of any broker with whom Purchaser may have dealt, other than Selling Agent and the aforementioned broker. Purchaser agrees that, should any claim be made against Sponsor for commissions by any broker

* Omit after Floor Plans have been filed in City Register's office.

other than Selling Agent on account of any acts or dealings of Purchaser or Purchaser's representatives, Purchaser will indemnify and hold Sponsor free and harmless from and against any and all liabilities and expenses in connection therewith, including, but not limited to, reasonable legal fees and disbursements. The provisions of this Article 22 shall survive the closing of title or the termination of this Agreement.

23. Agreement May Not Be Assigned.

23.1 This Agreement, or any interest of Purchaser herein, shall not inure to the benefit of any successors or assigns of Purchaser and may not be assigned by Purchaser, without the prior written consent of Sponsor, which consent may be given or denied by Sponsor in its sole discretion. Any purported assignment by Purchaser in violation of this Agreement shall be an event of default by Purchaser entitling Sponsor to all remedies available at law, in equity or otherwise, including, without limitation, the remedies set forth in Article 12 hereof, and shall be voidable at the option of Sponsor.

23.2 If Purchaser is a corporation, any sale, assignment, transfer, pledge, encumbrance or other disposition of any of the stock of Purchaser, or if Purchaser is a partnership, limited liability company or other entity, any sale, assignment, transfer, pledge, encumbrance or other disposition of any interest in such partnership, limited liability company or other entity shall, for purposes of this Agreement, be considered an assignment and shall be subject to the provisions, prohibitions and terms of this Article concerning assignment of this Agreement, except that a sale of less than fifty percent (50%) of the stock, or in the case of a partnership, limited liability company or other entity, less than fifty percent (50%) of the ownership interests, of Purchaser which does not result in a change in control of Purchaser shall not be considered an assignment. For purposes of the preceding sentence only, "control" shall mean the ownership of fifty-one percent (51%) or more of the interests in such entity or possession of the power to direct the management and policies of such entity and the distribution of its profits. For purposes of this Agreement, it is the intent of the part(ies) that the individuals controlling Purchaser shall be deemed to be _____.

23.3 If a Purchaser desires to assign its rights under this Agreement or to take title in the name of an affiliate of, or entity related to, or controlled by Purchaser that differs from that reflected in this Agreement, or to add, delete or substitute the name of a member of the Purchaser's family, then, if such assignment, alteration, addition, deletion or substitution is permitted by Sponsor (in Sponsor's sole discretion), Purchaser shall deliver to Selling Agent or Sponsor's counsel, four (4) signed forms of assignment of this Agreement (to be prepared by Sponsor's counsel at Purchaser's expense and in form and content acceptable to Sponsor, in its sole discretion), as well as three (3) completed and signed copies of either Form W-9 (Request for Taxpayer Identification Number and Certification) or Form W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding), as applicable, in the form required by law. Upon each assignment or other change permitted by Sponsor (it its sole discretion), the assignments and Form W-8 or Form W-9, as applicable, must be delivered to Selling Agent or Sponsor's counsel, together with a personal certified check, or an official bank or cashier's check, in the amount of $1,500 made payable to Kramer Levin Naftalis & Frankel LLP (for services rendered in connection with the assignment), not less than twenty (20) days prior to the date scheduled for the Purchaser's closing. In no event shall Purchaser or its

assignee (or any added or substituted party) have any right to adjourn or postpone the closing as a result of any such change or assignment. Sponsor is not obligated to consent to any such change or assignment and, Sponsor's refusal to consent to an assignment or change in name will not entitle Purchaser to cancel this Agreement or excuse Purchaser from any of its obligations hereunder or give rise to any claim for damages against Sponsor; and the prohibition against advertising or publicizing the availability of Purchaser's Unit as set forth in Article 21 above and in the Plan will remain in effect.

23.4 Notwithstanding the provisions of Section 23.1 above, Sponsor will not unreasonably withhold its consent to the assignment by Purchaser, on one (1) occasion only, of all of Purchaser's rights under this Agreement to a Purchaser Affiliate or to member(s) of Purchaser's Immediate Family, provided that any such assignment is made without consideration and otherwise in accordance with the provisions and procedures set forth in Section 23.3 above. For purposes of this Section 23.4 only: (i) "Purchaser Affiliate" means an entity, as of the date of the assignment and at all times thereafter through and including the Closing, controlled by or under common control with Purchaser; (ii) "Immediate Family Members" means Purchaser's spouse, domestic partner, children, grandchildren, parents, grandparents, brothers or sisters, stepchildren and stepparents; and (iii) "control" means the ownership of fifty-one percent (51%) or more of the interests in such entity and possession of the power to direct the management and policies of such entity and the distribution of its profits.

23.5 Notwithstanding any consent by Sponsor pursuant to the terms of this Article to any such change of name or assignment, in no event shall Purchaser, as assignor, be released or relieved from any obligations, promises, covenants and liabilities under or in respect of this Agreement.

24. Binding Effect. The submission of this Agreement to Purchaser does not create a binding obligation on the part of Sponsor. This Agreement shall not be binding on Purchaser or Sponsor until Purchaser has signed this Agreement and delivered the signed Agreement and the Deposit to Sponsor, and a counterpart hereof executed by Sponsor has been delivered to Purchaser. If this Agreement is not signed by Sponsor and a fully executed counterpart delivered to Purchaser or its attorneys within thirty (30) days after the date hereof, this Agreement shall be deemed to have been rejected and the Deposit shall be promptly returned to Purchaser. Upon such refund being made, neither party shall have any further rights, obligations or liabilities hereunder with respect to the other. Prior to Sponsor's countersigning and returning this Agreement to Purchaser, and at any time thereafter, Purchaser agrees upon request to provide Sponsor with written information about Purchaser's employment, financial and rental/ownership history. Such information obtained prior to countersignature may be used to determine Purchaser's qualification to purchase and own the Unit, but does not constitute a reservation or binding obligation on either the applicant or Sponsor. Sponsor has the right, without incurring any liability, to reject this Agreement without cause or explanation to Purchaser. This Agreement may not be rejected due to Purchaser's sex, sexual orientation, race, creed, color, national origin, ancestry, disability, marital status, or other ground proscribed by law.

25. Notices.

25.1 Any notice, election, demand, consent, request or other communication hereunder or under the Plan shall be in writing and either delivered in person or sent, postage prepaid, by registered or certified mail, return receipt requested or by Federal Express or other reputable overnight courier, with receipt confirmed: to Purchaser at the address given at the beginning of this Agreement; and to Sponsor, addressed to Selling Agent at: Macklowe Properties Sales LLC, 767 Fifth Avenue, 21st Floor, New York, New York 10153, with a copy sent simultaneously and in like manner to Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, New York 10036, Attention: Jonathan H. Canter, Esq. Either party may hereafter designate to the other in writing a change in the address to which notices are to be sent. Except as otherwise expressly provided herein, a notice shall be deemed given when personal delivery or delivery by overnight courier is effected or, in the case of mailing, three (3) days after the date of mailing, except that the date of actual receipt shall be deemed to be the date of the giving of any notice of change of address.

25.2 Sponsor hereby designates and empowers both Selling Agent and Sponsor's closing counsel (Kramer Levin Naftalis & Frankel LLP) as Sponsor's agents to give any notice to Purchaser under this Agreement (including, without limitation, a notice of default) in Sponsor's name, which notice so given shall have the same force and effect as if given by Sponsor itself.

26. Joint Purchasers. The term "Purchaser" shall be read as "Purchasers" if the Unit is being purchased by more than one person, in which case their obligations shall be joint and several.

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

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

29. 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.

30. Strict Compliance. Any failure by either party hereto to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions hereof, and each party, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by the other party of any and all of the provisions of this Agreement to be performed by such other party.

31. No Lien. Neither this Agreement nor any monies deposited hereunder or expended by Purchaser in connection herewith shall constitute a lien against the Unit, any other Units, or any other portion of the Building or the Land upon which it is situated.

32. Governing Law. The provisions of this Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of New York applicable to contracts made and to be performed wholly in the State of New York, without regard to principles of conflicts of law.

33. Purchaser's Representations.

33.1 Purchaser represents that Purchaser has full right and authority to execute this Agreement and perform Purchaser's obligations hereunder. If Purchaser is not a natural person, Purchaser agrees to deliver at Closing, such documents evidencing Purchaser's authority as may be required by Purchaser's title company. Purchaser further represents that the Deposit represents Purchaser's own funds and that no other party (other than Purchaser or Seller, as provided herein) has any right or claim to all or any portion of the Deposit.

33.2 Purchaser is not now, nor shall it be at any time prior to or at the closing of title, an individual, corporation, partnership, joint venture, trust, trustee, limited liability company, unincorporated organization, real estate investment trust or any other form of entity (collectively, a "Person") with whom a United States citizen, entity organized under the laws of the United States or its territories or entity having its principal place of business within the United States or any of its territories (collectively, a "U.S. Person"), is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under United States law, regulation, executive orders and lists published by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") (including those executive orders and lists published by OFAC with respect to Persons that have been designated by executive order or by the sanction regulations of OFAC as Persons with whom U.S. Persons may not transact business or must limit their interactions to types approved by OFAC or otherwise. Neither Purchaser nor any Person who owns an interest in Purchaser is now nor shall be at any time prior to or at the closing of title a Person with whom a U.S. Person, including a "financial institution" as defined in 31 U.S.C. 5312 (a)(z), as periodically amended, is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under United States law, regulation, executive orders and lists published by the OFAC or otherwise.

33.3 Purchaser has taken, and shall continue to take until the closing of title, such measures as are required by applicable law to assure that the funds used to pay to Seller the Purchase Price are derived: (i) from transactions that do not violate United States law nor, to the extent such funds originate outside the United States, do not violate the laws of the jurisdiction in which they originated; and (ii) from permissible sources under United States law and to the

extent such funds originate outside the United States, under the laws of the jurisdiction in which they originated. Purchaser is, and will at closing be, in compliance with any and all applicable provisions of the USA PATRIOT Act of 2001, Pub. L. No. 107-56, the Bank Secrecy Act of 1970, as amended, 31 U.S.C. Section 5311 et. seq., the Trading with the Enemy Act, 50 U.S.C. App. Section 1 et. seq., the International Emergency Economic Powers Act, 50 U.S.C. Section 1701 et. seq., and the sanction regulations promulgated pursuant thereto by the OFAC, as well as laws relating to prevention and detection of money laundering in 18 U.S.C. Sections 1956 and 1957.

33.4 The provisions of this Article shall survive the closing of title to the Unit or termination of this Agreement.

34. Agreement Not Contingent Upon Financing. The terms and provisions of this Agreement and Purchaser's obligations hereunder are not contingent upon Purchaser securing financing of the Purchase Price (or any portion thereof) stated in Article 3 of this Agreement, and Purchaser understands and agrees that Purchaser's failure to obtain such financing will not relieve Purchaser of Purchaser's obligations hereunder. Purchaser further understands and agrees that if Purchaser chooses to finance the purchase of the Unit through a lending institution and obtain a commitment therefrom, neither a subsequent change in the terms of such commitment, the expiration or other termination of such commitment, any change in Purchaser's financial status or condition, nor any delay in or adjournment of the Closing, shall release or relieve Purchaser of Purchaser's obligations pursuant to this Agreement.

35. Costs of Enforcing and Defending Agreement. Purchaser shall be obligated to reimburse Sponsor for any legal fees and disbursements incurred by Sponsor in defending Sponsor's rights under this Agreement or, in the event Purchaser defaults under this Agreement beyond any applicable grace period, in canceling this Agreement or otherwise enforcing Purchaser's obligations hereunder. The provisions of this Article shall survive closing of title or the termination of this Agreement.

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

37. Waiver of Diplomatic or Sovereign Immunity.

37.1 Purchaser hereby waives any and all immunity from suit or other actions or proceedings and agrees that, should Sponsor or any of its successors or assigns bring any suit, action or proceeding in New York or any other jurisdiction to enforce any obligation or liability of Purchaser arising, directly or indirectly, out of or relating to this Agreement, no immunity from such suit, action or proceeding will be claimed by or on behalf of Purchaser.

37.2 As of the execution of this Agreement, Purchaser acknowledges and agrees that all disputes arising, directly or indirectly, out of or relating to this Agreement may be dealt with and adjudicated in the state courts of New York or the federal courts sitting in New York, and hereby expressly and irrevocably submits the person of Purchaser to the jurisdiction of such courts in any suit, action or proceeding arising, directly or indirectly, out of or relating to this Agreement. So far as is permitted under the applicable law, this consent to personal jurisdiction shall be self-operative and no further instrument or action shall be necessary in order to confer jurisdiction upon the person of Purchaser in any such court.

37.3 Purchaser irrevocably waives, to the fullest extent permitted by law, and agrees not to assert, by way of motion, as a defense or otherwise in any suit, action or proceeding arising, directly or indirectly, out of relating to this Agreement, brought in the state courts in New York or the federal courts sitting in New York: (i) any objection which it may have or may hereafter have to the laying of the venue of any such suit, action or proceeding in any such court; (ii) any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum; or (iii) any claim that it is not personally subject to the jurisdiction of such courts. Purchaser agrees that final judgment from which Purchaser has not or may not appeal or further appeal in any such suit, action or proceeding brought in such a court shall be conclusive and binding upon Purchaser and, may so far as is permitted under the applicable law, be enforced in the courts of any state or any federal court and in any other courts to the jurisdiction of which Purchaser is subject, by a suit upon such judgment and that Purchaser will not assert any defense, counterclaim, or set off in any such suit upon such judgment.

37.4 Purchaser agrees to execute, deliver and file all such further instruments as may be necessary under the laws of the State of New York, in order to make effective the consent of Purchaser to jurisdiction of the state courts of New York and the federal courts sitting in New York and any other provisions of this Article 37.

37.5 Nothing in this Article 37 shall affect the right of Sponsor to bring proceedings against Purchaser in the courts of any jurisdiction or jurisdictions.

37.6 The provisions of this Article 37 shall survive the closing of title or the termination of this Agreement for the purpose of any suit, action, or proceeding arising directly or indirectly, out of or relating to this Agreement.

37.7 In the event Purchaser is a foreign government, a resident representative of a foreign government or such other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity), such Purchaser shall hereby be deemed to have designated and hereby designates C.T. Corporation System, having its offices, at the date hereof, at 111 Eighth Avenue, New York, New York 10011 as its duly authorized and lawful agent to receive process for and on behalf of Purchaser in any state or Federal suit, action or proceeding in the State of New York based on, arising out of or connected with this Agreement.

37.8 If Purchaser is a foreign mission, as such term is defined under the Foreign Missions Act, 22 U.S.C. 4305, Purchaser shall notify the United States Department of State prior to purchasing a Unit and provide a copy of such notice to Sponsor. Sponsor shall not be bound

under this Agreement unless and until the earlier to occur of: (i) a notification of approval is received from the Department of State; or (ii) sixty (60) days after Purchaser's notice is received by the Department of State.

38. Mold. Purchasers are advised that the prevention of the growth of mold in a Unit is the responsibility of each Unit Owner. Construction is not, and cannot be, designed to exclude mold spores. Whether a Unit Owner experiences mold growth depends largely on how such Unit Owner manages and maintains his/her Unit. Unit Owners will need to take actions to prevent conditions which cause the mold or mildew, and it is the responsibility of each Unit Owner to ensure that he/she has taken the necessary precautions to prevent mold from becoming a problem in such Unit Owner's Unit. Sponsor will not be liable for and Purchaser hereby waives any claim for any actual, special, incidental or consequential damages based on any legal theory whatsoever, including, but not limited to, strict liability, breach of express or implied warranty, negligence or any other legal theory with respect to the presence and/or existence of molds, mildew and/or microscopic spores unless caused by the gross negligence or willful misconduct of Sponsor. The provisions of this Article shall survive closing of title or the termination of this Agreement.

39. Entire Agreement. This Agreement, together with the Plan, supersedes any and all understandings and agreements between the parties and constitutes the entire agreement between them with respect to the subject matter hereof.

40. 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 term "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.

41. 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.

42. Successors and Assigns. Subject to the provisions of Article 23 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.

43. No Oral Changes. This Agreement, or any provision hereof, cannot be orally changed, terminated or waived. ANY CHANGES OR ADDITIONAL PROVISIONS MUST BE SET FORTH IN A RIDER ATTACHED HERETO OR IN A SEPARATE WRITTEN AGREEMENT SIGNED BY THE PARTIES AND WHICH REFERS TO THIS AGREEMENT.

44. Counterparts. This Agreement and any Rider(s) which may be annexed hereto may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same document. A facsimile signature on this Agreement (or any such Rider(s)) shall be acceptable and be deemed binding. The party

tendering such facsimile signature shall provide the other party with original counterparts of the signature page promptly after delivery of the facsimile signature page, although the failure to do so shall not invalidate the effectiveness of the facsimile signature.

45. Rule of Construction. There shall be no presumption against the drafter of this Agreement or the Plan.

46. Section 1031 Exchange. Sponsor hereby acknowledges that the acquisition of the Unit hereunder may be in connection with a tax deferred exchange under §1031 of the Internal Revenue Code and that Purchaser (except as prohibited by paragraph 24 of this Agreement) may be assigning all of its rights and obligations hereunder to a qualified intermediary as part of, and in furtherance of, such tax deferred exchange. Sponsor hereby agrees to reasonably assist and cooperate in such tax deferred exchange, provided, however, that: (i) any action taken in connection with such tax deferred exchange or requested of Sponsor shall not result in any cost, expense or liability on the part of Sponsor or increased risk to Sponsor relating to the transaction contemplated by this Agreement (and, among other things, Purchaser acknowledges that a fee may be payable to Sponsor's counsel in connection with the review of any documentation related to such tax-deferred exchange); (ii) no action or failure on the part of Purchaser (or any other party to such tax deferred exchange) or cooperation on the part of Sponsor in connection with or related to said tax deferred exchange will frustrate the purpose of this Agreement or otherwise result in a reduction of Sponsor's rights, remedies and privileges under this Agreement or increase any of Sponsor's obligations or duties under this Agreement or otherwise; and (iii) Sponsor shall not be obligated, as part of any tax deferred exchange, to convey any property (other than the Unit), acquire any property, or accept any form of payment in respect of the amounts due hereunder other than as set forth herein. Purchaser shall indemnify and shall hold Sponsor harmless from and against any and all costs, expenses, fees (including, without limitation, reasonable attorneys' fees) or liabilities incurred by Sponsor in connection with or resulting from the said tax deferred exchange, and such indemnity shall survive the closing of title or the termination of this Agreement. Notwithstanding the foregoing, Sponsor makes no representation and expresses no opinion with respect to the applicability of §1031 of the Internal Revenue Code to the purchase or acquisition of a Unit.

[NO FURTHER TEXT ON THIS PAGE; SIGNATURE PAGE FOLLOWS]

**YOU HAVE THE OPTION TO CANCEL YOUR AGREEMENT BY NOTICE TO SPONSOR UNTIL MIDNIGHT OF THE SEVENTH DAY FOLLOWING THE SIGNING OF THE AGREEMENT.**

**IF YOU DID NOT RECEIVE A PROPERTY REPORT PREPARED PURSUANT TO THE RULES AND REGULATIONS OF THE OFFICE OF INTERSTATE LAND SALES REGISTRATION PROGRAM, CONSUMER FINANCIAL PROTECTION BUREAU (CFPB), IN ADVANCE OF YOUR SIGNING THE AGREEMENT, THE AGREEMENT MAY BE CANCELLED AT YOUR OPTION FOR TWO YEARS FROM THE DATE OF SIGNING.**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth hereinabove.

**SPONSOR**:

56TH AND PARK (NY) OWNER, LLC

By:_____
Name:
Title:

**PURCHASER(s)**:

By: _____
Name:
Title:
Social Sec. Number
or Federal Tax ID:_____

**PURCHASER(s)**:

By: _____
Name:
Title:
Social Sec. Number
or Federal Tax ID:_____

Purchaser acknowledges receipt
of Offering Plan [and amendments]
on _____ __, 20___

Initials of Purchaser(s):

_____ _____

STATE OF NEW YORK )
) ss.:
COUNTY OF NEW YORK )

On the __ day of _____ in the year _____ 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 on 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 _____ 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 on behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

## SCHEDULE A

## DESCRIPTION OF THE LAND

**PERIMETER OF PRESENT LOT 33 (f/k/a LOTS 33, 44, 145), LOTS 45, 46:**

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF EAST 56TH STREET WITH THE WESTERLY SIDE OF PARK AVENUE;

RUNNING THENCE NORTHERLY ALONG THE SAID WESTERLY SIDE OF PARK AVENUE, 67 FEET 1 INCH;

THENCE WESTERLY PARALLEL WITH SAID NORTHERLY SIDE OF EAST 56TH STREET, 100 FEET;

THENCE NORTHERLY PARALLEL WITH SAID WESTERLY SIDE OF PARK AVENUE, 33 FEET 4 INCHES TO THE CENTER LINE OF THE BLOCK;

THENCE WESTERLY ALONG THE CENTER LINE OF THE BLOCK 66 FEET 9 INCHES;

THENCE NORTHERLY ON A LINE PARALLEL WITH MADISON AVENUE AND PARTLY THROUGH A PARTY WALL, OR DIVISION WALL, 100 FEET 5 INCHES TO THE SOUTHERLY LINE OF 57TH STREET;

THENCE WESTERLY ALONG THE SAID SOUTHERLY LINE OF 57TH STREET, 83 FEET 9 INCHES;

THENCE SOUTHERLY, PARALLEL WITH MADISON AVENUE, PART OF THE WAY THROUGH A PARTY WALL STANDING PARTLY ON THE LOT OF LAND HEREBY DESCRIBED AND PARTLY UPON THE LOT OF LAND ADJOINING THE SAME ON THE WEST 100 FEET 5 INCHES TO THE CENTRE OF THE BLOCK BETWEEN 56TH AND 57TH STREETS;

THENCE WESTERLY PARALLEL WITH 57TH STREET, AND ALONG SAID CENTRE LINE OF THE BLOCK, 24 FEET 6 INCHES;

THENCE SOUTHERLY PARALLEL WITH SAID WESTERLY SIDE OF PARK AVENUE, 100 FEET 5 INCHES TO THE SAID NORTHERLY SIDE OF EAST 56TH STREET;

THENCE EASTERLY ALONG SAID NORTHERLY SIDE OF EAST 56TH STREET, 275 FEET TO THE POINT OR PLACE OF BEGINNING.

**PERIMETER OF LOT 43:**

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY AND STATE OF NEW YORK AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET, DISTANT TWO HUNDRED THIRTY-THREE (233) FEET THREE (3) INCHES EASTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF SAID SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET WITH THE EASTERLY SIDE OF MADISON AVENUE; AND

RUNNING THENCE SOUTHERLY AND PARALLEL WITH MADISON AVENUE AND PART OF THE WAY THROUGH A PARTY WALL, ONE HUNDRED (100) FEET FIVE (5) INCHES TO THE CENTER LINE OF THE BLOCK;

THENCE EASTERLY ALONG SAID CENTER LINE OF THE BLOCK, SEVENTEEN (17) FEET, NINE (9) INCHES;

THENCE NORTHERLY AND AGAIN PARALLEL WITH MADISON AVENUE AND PART OF THE WAY THROUGH ANOTHER PARTY WALL, ONE HUNDRED (100) FEET FIVE (5) INCHES TO THE SOUTHERLY SIDE OF EAST FIFTY SEVENTH STREET;

THENCE WESTERLY ALONG THE SAID SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET, SEVENTEEN (17) FEET NINE (9) INCHES TO THE POINT AND PLACE OF BEGINNING.

## SCHEDULE B

## PERMITTED ENCUMBRANCES

1. Building and zoning laws and other regulations, resolutions and ordinances (including, but not limited to, any variances or use regulations) and any amendments thereto now or hereafter adopted.

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

3. Any declaration or other instrument affecting the Property which Sponsor deems necessary or appropriate to comply with any Law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the demolition, construction, alteration, repair or restoration of the Building or any portion or element thereof.

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

5. Any easement or right of use in favor of any utility company for construction, use, maintenance or repair of utility lines, wires, terminal boxes, mains, pipes, cables, conduits, poles, connections and other equipment and facilities on, under and across the Property.

6. Any easement or right of use required by Sponsor or its designee to obtain a temporary, permanent or amended Certificate of Occupancy for the Building or any part of same.

7. Any encumbrance as to which the Title Company (or the title insurance company that insures Purchaser's title to the Unit) would be willing to insure, at its regular rates and without additional premium, in a fee policy issued by it to Purchaser, that such encumbrance will not be collected out of or enforced against the Unit if it is a lien, or that such encumbrance is not a blanket lien encumbering the Common Elements.

8. Any other encumbrance, covenant, easement, agreement, or restriction against the Property other than a mortgage or other lien for the payment of money, which does not prevent the use of the Unit for its permitted purposes.

9. Revocability of licenses for vault space, if any, under the sidewalks and streets and the lien of any unpaid vault tax.

10. Encroachments of trim, copings, retaining walls, stoops, bay windows, balconies, sidewalk elevators, fences, fire escapes, cornices, foundations, footings, chutes, fuel oil lines, drainage and standpipes, and similar projections, if any, on, over or under the Property or the streets, sidewalks or premises abutting the Property, and the rights of governmental authorities to require the removal of any such projections, and variations between record lines of the Property and retaining walls and the like, if any.

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

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

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

14. Franchise taxes and New York City Business Corporation taxes of any corporation in the chain of title, provided that the Title Company would be willing in a fee policy issued by it to Purchaser, to insure that such taxes will not be collected out of the Unit.

15. Standard printed exceptions contained in the form of fee title insurance policy then issued by the Title Company (or the title insurance company insuring Purchaser's title to the Unit).

16. Any Certificate of Occupancy for the Building, so long as the same permits, or does not prohibit, use of the Unit for its stated purposes.

17. Any lease or other occupancy agreement for the Unit made by Sponsor and Purchaser.

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

19. Any state of facts which a guaranteed survey of current date or a personal inspection of the Property and the Unit would show; provided such state of facts would not prevent the use of the Unit for its stated purposes; although any encroachment of a portion of the Unit structure upon another Unit or Units or upon the Common Elements may remain undisturbed as long as the same shall stand.

20. Covenants and Restrictions in Liber 1049 Cp. 530 as repeated in Liber 1066 cp. 179 and Liber 1968 cp 460. (Affects Lots 33, 43, 44 and more, Lot 41)

21. Permanent Easements acquired by The Metropolitan Transportation Authority in Action entitled: "East Side Access Project (Deep Tunnel Easements...)" filed in the New York County Clerk's Office under Index No. 400818/03. (Affects Lot 33)

22. Zoning Lot Development Agreement dated 9/13/2006 made between 44 East 57th St. Realty Corp., Inc., as Seller and 440 Park Avenue Owner Associates LLC, as Developer, recorded on 10/25/2006 as CRFN 2006000596371. (Affects Lots 33, and 44, and more, Lot 41).

23. Zoning Lot Development Agreement dated as of 12/4/2006 between Angel Enterprises, L.L.C., as Seller and 440 Park Avenue Owner Associates LLC, as Developer, recorded on 12/12/2006 as CRFN 2006000680850. (Affects Lots 33, and more, Lot 41 and Development Rights parcel therein, Lot 42).

24. Zoning Lot Development and Easement Agreement dated as of 9/29/2007 by and between Dakotah Travel Co., LLC, as Seller, and 440 Park Avenue Owner Associates, LLC, as Developer, recorded on 10/29/2007 as CRFN 2007000542730. (Affects Lots 33, 41, 44, 46 and 145- Parcels I, II, III, IV and V).

25. Zoning Lot Development and Easement Agreement dated as of 12/23/2010 by and between 46 East 57th St. (NY), LLC, Owner and 440 Park Avenue (NY) Owner, LLC, Developer recorded 1/12/2011 as CRFN 2011000014567. (Affects Lots 33, 44, 145, 46 and more, Lot 41, Developer Land, Lots 42 and 45, Air Rights Parcels therein, and Lot 43, Owner Parcel).

26. Zoning Lot Development Agreement made by and between 440 Park Avenue (NY) Owner, LLC ("Owner") and 440 Park Avenue (NY) Owner, LLC ("Developer") dated as of 11/2/2011 recorded 11/10/2011 as CRFN 2011000394772. (Affects Lots 33, former Lot 44, former Lot 145, 46 and 43, Developer's Land, and Lot 41, Owner's Land).

27. All other easements, covenants, restrictions and matters of record.

# SCHEDULE C

## INSPECTION STATEMENT

56th and Park (NY) Owner, LLC
515 Madison Avenue, 41st Floor
New York, New York 10022

Re: Unit No._____
432 Park Condominium

Ladies and Gentlemen:

As a result of my/our final inspection, please be advised that except as otherwise noted, I/we found the following items in good condition, free of chips, mars, breaks or other defects:

**Exceptions**

| Items | Initials | if any |
|---|---|---|
| Windows, window frames | | |
| Electric fixtures & globes | | |
| Interior painted surfaces | | |
| Sinks, tubs, bowls & shower doors & trim | | |
| Kitchen cabinets & counter tops | | |
| Vanity tops & base | | |
| Medicine cabinets, doors & mirror | | |
| Hardware | | |
| Flooring | | |
| Appliances | | |

I/we understand that to prevent pilferage, certain items such as medicine cabinet doors, shower heads, toilet seats, kitchen cabinets, vanity knobs and mechanical chimes will be installed just prior to my/our date of moving. I/we agree and I/we will sign off each item requiring adjustment or repairs as it is completed.

_____
Purchaser's Signature

_____
Purchaser's Signature

_____
Sponsor's Representative

**RIDER TO PURCHASE AGREEMENT**

**RE: STORAGE LICENSE/WINE CELLAR LICENSE**

This Rider is made as of _____, _____ between Sponsor and Purchaser.

Re: Residential Unit ___ ("Unit")
432 Park Condominium
432 Park Avenue
New York, New York 10016

1. LICENSE

(a) Sponsor agrees to sell and grant, and Purchaser agrees to purchase the right to use [Storage Closet #___] [Wine Cellar #___] for a purchase price of $_____. The license to use the [Storage Closet] [Wine Cellar] (the "License") shall be prepared by Sponsor substantially in the form set forth in Part II of the Plan.

(b) Upon execution of this Rider, Purchaser has delivered a check to Sponsor (subject to collection) in the amount of $_____ representing the downpayment due in connection with the purchase of the License (the "License Deposit").

(c) Upon issuance of the License, Purchaser shall pay to Sponsor the balance of the purchase price allocable to the License in the amount of $_____.

(d) Upon issuance of the License, Purchaser shall pay to Sponsor's Counsel the sum of $500 to reimburse Sponsor for a portion of its attorney processing fees in connection with the issuance of each License.

(e) Purchaser shall be responsible for the payment of transfer taxes or other taxes, if any, that are payable in connection with the issuance of the License and shall indemnify Sponsor and the Licensor under such License in connection therewith. Such indemnity shall survive closing.

2. TEMPORARY CERTIFICATE OF OCCUPANCY

Purchaser may be required to consummate its purchase of use rights with respect to the License even though a Temporary Certificate of Occupancy covering the [Storage Closet] [Wine Cellar] has not been issued, and access may not be available for the area of the Building designated for such use.

3. DAMAGE TO THE LICENSED AREA

If there is a fire or other casualty to the area of the Building where the Storage Closets and Wine Cellars are located and Sponsor does not elect to repair or restore such area following such fire or casualty, then the Purchase Agreement shall be deemed modified to provide for the closing of title with respect to the Unit only. In such event, any deposit theretofore paid hereunder in respect of the License shall be refunded to Purchaser.

4. CROSS DEFAULT

A default by Purchaser under this Rider shall constitute a default under the Purchase Agreement for the Unit and any other default by Purchaser under the Purchase Agreement for the Unit shall constitute a default under this Rider entitling Sponsor to those default remedies as more fully described in the Purchase Agreement and the Plan. Notwithstanding an earlier closing of title with respect to the Unit, the provisions of the Purchase Agreement with respect to the delivery of the License shall survive. If for any reason the closing of title with respect to the Unit does not occur, there shall be no issuance of the License to Purchaser and this Rider shall have no further force or effect except that to the extent Purchaser is entitled to have its Deposit refunded, then Purchaser shall also be refunded the License Deposit.

5. DEFINITIONS

All capitalized terms used in this rider not defined herein shall have the same meanings ascribed to them in the Purchase Agreement to which this Rider is annexed or in the Plan.

6. CONFLICTS

In the event of any inconsistency between the provisions of this Rider and those contained in the Purchase Agreement to which this Rider is annexed, the provisions of this Rider shall govern and be binding.

7. FULL FORCE & EFFECT

Except as set forth in this Rider, all of the terms and conditions of the Purchase Agreement remain unchanged and in full force and effect.

PURCHASER(S)

_____
(signature)

_____
(signature)

SPONSOR:

56TH AND PARK (NY) OWNER, LLC

By:_____
Name:
Title:

**EXHIBIT 1A**

FORM W-9 (REQUEST FOR TAXPAYER IDENTIFICATION NUMBER)

Form **W-9**
(Rev. October 2007)
Department of the Treasury
Internal Revenue Service

# Request for Taxpayer Identification Number and Certification

**Give form to the requester. Do not send to the IRS.**

Print or type See Specific Instructions on page 2.

Name (as shown on your income tax return)

Business name, if different from above

Check appropriate box: ☐ Individual/Sole proprietor ☐ Corporation ☐ Partnership
☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ .....
☐ Other (see instructions) ▶

☐ Exempt payee

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

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

**Social security number**
: :

**or**

**Employer identification number**
:

## Part II Certification

Under penalties of perjury, I certify that:

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

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

**Sign Here** | **Signature of U.S. person** ▶ | **Date** ▶

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

## Purpose of Form

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

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

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

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.

2. The treaty article addressing the income.

3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

***Example.*** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

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

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

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

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,

2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

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

Also see *Special rules for partnerships* on page 1.

## Penalties

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

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

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

# Specific Instructions

## Name

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

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

**Sole proprietor.** Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

**Limited liability company (LLC).** Check the "Limited liability company" box only and enter the appropriate code for the tax classification ("D" for disregarded entity, "C" for corporation, "P" for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

For an LLC classified as a partnership or a corporation, enter the LLC's name on the "Name" line and any business, trade, or DBA name on the "Business name" line.

**Other entities.** Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

**Note.** You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

## Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),

2. The United States or any of its agencies or instrumentalities,

3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,

4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or

5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

7. A foreign central bank of issue,

8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,

9. A futures commission merchant registered with the Commodity Futures Trading Commission,

10. A real estate investment trust,

11. An entity registered at all times during the tax year under the Investment Company Act of 1940,

12. A common trust fund operated by a bank under section 584(a),

13. A financial institution,

14. A middleman known in the investment community as a nominee or custodian, or

15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

| IF the payment is for . . . | THEN the payment is exempt for . . . |
|---|---|
| Interest and dividend payments | All exempt payees except for 9 |
| Broker transactions | Exempt payees 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker |
| Barter exchange transactions and patronage dividends | Exempt payees 1 through 5 |
| Payments over $600 required to be reported and direct sales over $5,000[1] | Generally, exempt payees 1 through 7[2] |

[1] See Form 1099-MISC, Miscellaneous Income, and its instructions.

[2] However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

## Part I. Taxpayer Identification Number (TIN)

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

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at *www.ssa.gov*. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting *www.irs.gov* or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

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

**Caution:** *A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.*

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see *Exempt Payee* on page 2.

**Signature requirements.** Complete the certification as indicated in 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

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

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

| For this type of account: | Give name and SSN of: |
|---|---|
| 1. Individual | The individual |
| 2. Two or more individuals (joint account) | The actual owner of the account or, if combined funds, the first individual on the account [1] |
| 3. Custodian account of a minor (Uniform Gift to Minors Act) | The minor [2] |
| 4. a. The usual revocable savings trust (grantor is also trustee) | The grantor-trustee [1] |
| b. So-called trust account that is not a legal or valid trust under state law | The actual owner [1] |
| 5. Sole proprietorship or disregarded entity owned by an individual | The owner [3] |
| **For this type of account:** | **Give name and EIN of:** |
| 6. Disregarded entity not owned by an individual | The owner |
| 7. A valid trust, estate, or pension trust | Legal entity [4] |
| 8. Corporate or LLC electing corporate status on Form 8832 | The corporation |
| 9. Association, club, religious, charitable, educational, or other tax-exempt organization | The organization |
| 10. Partnership or multi-member LLC | The partnership |
| 11. A broker or registered nominee | The broker or nominee |
| 12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity |

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

[2] Circle the minor's name and furnish the minor's SSN.

[3] You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

[4] List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

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

## Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov*. You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: *spam@uce.gov* or contact them at *www.consumer.gov/idtheft* or 1-877-IDTHEFT(438-4338).

Visit the IRS website at *www.irs.gov* to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

**EXHIBIT 1B**

FORM W-8BEN (CERTIFICATE OF FOREIGN STATUS)

Form **W-8BEN**
(Rev. February 2006)
Department of the Treasury
Internal Revenue Service

# Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

▶ Section references are to the Internal Revenue Code. ▶ See separate instructions.
▶ Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

| Do not use this form for: | Instead, use Form: |
|---|---|
| • A U.S. citizen or other U.S. person, including a resident alien individual | W-9 |
| • A person claiming that income is effectively connected with the conduct of a trade or business in the United States | W-8ECI |
| • A foreign partnership, a foreign simple trust, or a foreign grantor trust (see instructions for exceptions) | W-8ECI or W-8IMY |
| • A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession that received effectively connected income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (see instructions) | W-8ECI or W-8EXP |

**Note:** *These entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim they are a foreign person exempt from backup withholding.*

| | |
|---|---|
| • A person acting as an intermediary | W-8IMY |

**Note:** *See instructions for additional exceptions.*

## Part I Identification of Beneficial Owner (See instructions.)

1 Name of individual or organization that is the beneficial owner

2 Country of incorporation or organization

3 Type of beneficial owner: ☐ Individual ☐ Corporation ☐ Disregarded entity ☐ Partnership ☐ Simple trust ☐ Grantor trust ☐ Complex trust ☐ Estate ☐ Government ☐ International organization ☐ Central bank of issue ☐ Tax-exempt organization ☐ Private foundation

4 Permanent residence address (street, apt. or suite no., or rural route). **Do not use a P.O. box or in-care-of address.**

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

5 Mailing address (if different from above)

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

6 U.S. taxpayer identification number, if required (see instructions) ☐ SSN or ITIN ☐ EIN

7 Foreign tax identifying number, if any (optional)

8 Reference number(s) (see instructions)

## Part II Claim of Tax Treaty Benefits (if applicable)

9 **I certify that (check all that apply):**

a ☐ The beneficial owner is a resident of _____ within the meaning of the income tax treaty between the United States and that country.

b ☐ If required, the U.S. taxpayer identification number is stated on line 6 (see instructions).

c ☐ The beneficial owner is not an individual, derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits (see instructions).

d ☐ The beneficial owner is not an individual, is claiming treaty benefits for dividends received from a foreign corporation or interest from a U.S. trade or business of a foreign corporation, and meets qualified resident status (see instructions).

e ☐ The beneficial owner is related to the person obligated to pay the income within the meaning of section 267(b) or 707(b), and will file Form 8833 if the amount subject to withholding received during a calendar year exceeds, in the aggregate, $500,000.

10 **Special rates and conditions** (if applicable—see instructions): The beneficial owner is claiming the provisions of Article _____ of the treaty identified on line 9a above to claim a _____% rate of withholding on (specify type of income): _____

Explain the reasons the beneficial owner meets the terms of the treaty article: _____

## Part III Notional Principal Contracts

11 ☐ I have provided or will provide a statement that identifies those notional principal contracts from which the income is **not** effectively connected with the conduct of a trade or business in the United States. I agree to update this statement as required.

## Part IV Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

1 I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates,

2 The beneficial owner is not a U.S. person,

3 The income to which this form relates is (a) not effectively connected with the conduct of a trade or business in the United States, (b) effectively connected but is not subject to tax under an income tax treaty, or (c) the partner's share of a partnership's effectively connected income, **and**

4 For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

**Sign Here** ▶ _____ _____ _____
Signature of beneficial owner (or individual authorized to sign for beneficial owner) | Date (MM-DD-YYYY) | Capacity in which acting

**EXHIBIT 2**

FORM OF RESIDENTIAL UNIT OWNER POWER OF ATTORNEY

**RESIDENTIAL UNIT OWNER**
**POWER OF ATTORNEY**

_____

to

**THE RESIDENTIAL BOARD OF**
**432 PARK CONDOMINIUM**

and

**THE CONDOMINIUM BOARD OF**
**432 PARK CONDOMINIUM**

and

**56TH AND PARK (NY) OWNER, LLC**

**432 PARK CONDOMIMIUM**
432 Park Avenue
New York, New York 10016
Residential Unit No. _____

| | |
|---|---|
| County: | New York |
| Block: | 1292 |
| Lot: | ____ |

Record and Return to:

_____
_____
_____
_____

**RESIDENTIAL UNIT OWNER**
**POWER OF ATTORNEY**

All terms used in this Residential Unit Owner Power of Attorney that are used in that certain Declaration, dated as of _____, 20__, by 56th and Park (NY) Owner, LLC and 46 East 57th St. (NY), LLC (together, the "**Declarant**"), pursuant to Article 9-B of the Real Property Law of the State of New York, establishing condominium ownership of the premises known as 432 Park Condominium, 432 Park Avenue, New York, New York 10016 (hereinafter called the "**Condominium**"), which Declaration was recorded in the New York County office of the City Register's Office, Land Records Division, NYC Department of Finance (hereinafter called the "**Register's Office**") on _____, 20__, as CRFN _____ (as the same may have been amended, hereinafter called the "**Declaration**"), shall have the same meanings in this Residential Unit Owner's Power of Attorney as in the Declaration.

The undersigned: _____, the owner of the Residential Unit (hereinafter called the "**Unit**") known as Unit No. _____ at the Condominium, said Unit(s) being so designated and described in the Declaration and also designated as Tax Lot __ in Block 1292 of the Borough of Manhattan on the Tax Map of the Real Property Assessment Bureau of the City of New York and on the Floor Plans of the Condominium certified by _____ of SLCE Architects, LLP on _____, 20__, and filed with the Real Property Assessment Bureau of the City of New York on _____, 20__, as Condominium Plan No. _____ and also filed in the Register's Office on _____, 20__, as CRFN _____, [does/do] hereby irrevocably nominate, constitute and appoint the persons who may from time to time constitute:

A. the board of managers of the Residential Section of the Condominium (the "**Residential Board**"), jointly true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as members of the Residential Board, or in the name of their designee (corporate or otherwise), but subject in all respects to the provisions of the Declaration, Condominium By-Laws and Residential By-Laws (collectively, the "**Condominium Documents**"), then in effect, to:

(i) acquire in the name of the Residential Board or its designee, corporate or otherwise, on behalf of all Residential Unit Owners, title to any Residential Unit, together with its appurtenant Common Interest:

(a) in connection with the enforcement of the Residential Board's lien for unpaid Residential Common Charges;

(b) whose owner desires to surrender the same pursuant to Section 6.2.2 of the Residential By-Laws;

(c) that becomes the subject of a foreclosure or other similar sale (including, without limitation, Residential Units with respect to which liens for real estate taxes are being sold by the City of New York); or

(d) that is intended to be used as the residence by the resident manager of the Residential Section;

on such terms, including, without limitation, price as said attorneys-in-fact shall deem proper;

(ii) acquire or lease in the name of the Residential Board or its designee, corporate or otherwise, on behalf of all Residential Unit Owners, any Residential Unit, together with its appurtenant Common Interest, from any Residential Unit Owner desiring to sell, convey, transfer, assign or lease the same, on such terms and conditions as said attorneys-in-fact shall deem proper;

(iii) convey, sell, lease, mortgage, or otherwise deal with (but not to vote the Common Interest appurtenant to) any Residential Unit so acquired or to sublease any Residential Unit so leased by them, without the necessity of any authorization by the Residential Unit Owners, on such terms as said attorneys-in-fact may determine, granting to said attorneys-in-fact the power to do all things in and to said Residential Unit which the undersigned could do if personally present;

(iv) prepare, execute and administer Storage Licenses and Wine Cellar Licenses and assignments and assumptions thereof; and

(v) execute, acknowledge, deliver and (if determined to be necessary or desirable by said attorneys-in-fact) cause to be recorded in the City Register's Office:

(a) any declaration or other instrument affecting the Residential Section and/or the Condominium that the Residential 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 (including, without limitation Chapter 3 of Title 25 of the New York City Administrative Code) applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Residential Section or the Condominium; or

(b) following due authorization by any affected Residential Unit Owner(s) to the extent required in the Condominium Documents, any consent, covenant, restriction, easement or declaration, or amendment thereto, affecting the Condominium, the Residential Section or any of the Common Elements, in each case that the Residential Board deems necessary or appropriate.

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

This Residential Unit Owner Power of Attorney shall be irrevocable; and

B. the board of managers of the Condominium (the "**Condominium Board**"), jointly true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as members of the Condominium Board, or in

the name of their designee (corporate or otherwise), but subject in all respects to the provisions of the Condominium Documents, then in effect, to:

(i) purchase or otherwise acquire in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, title to any Unit, together with its appurtenant Common Interest:

(a) in connection with the enforcement of the Condominium Board's lien for unpaid General Common Charges; or

(b) that becomes the subject of a foreclosure or other similar sale;

on such terms, including, without limitation, price as said attorneys-in-fact shall deem proper;

(ii) convey, sell, lease, mortgage, or otherwise deal with (but not to vote the Common Interest appurtenant to) any Unit so acquired or to sublease any Unit so leased by them, without the necessity of any 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 and to said Unit which the undersigned could do if personally present; and

(iii) execute, acknowledge, deliver and (if determined to be necessary or desirable by said attorneys-in-fact) cause to be recorded in the City Register's Office:

(a) any declaration or other instrument affecting the Condominium that the Condominium Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution, or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority (including, without limitation Chapter 3 of Title 25 of the New York City Administrative Code) applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Condominium; or

(b) following due authorization by any affected Unit Owner(s) or the Residential Board, in each case to the extent required in the Condominium Documents, any consent, covenant, restriction, easement or declaration, or amendment thereto, affecting the Condominium, the Residential Section or any of the Common Elements, in each case that the Condominium Board deems necessary or appropriate.

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

This Residential Unit Owner's Power of Attorney shall be irrevocable; and

C. 56th and Park (NY) Owner, LLC (in its capacity as a Declarant under the Declaration and as sponsor of the condominium offering plan for the Condominium, the "**Sponsor**"), true and lawful attorney-in-fact for the undersigned, coupled with an interest, with power of substitution in the name of its designee (corporate or otherwise), but subject in all

respects to the provisions of the Condominium Documents, then in effect, to execute an amendment to any of the Condominium Documents or acquire any permits, applications or documents required to undertake, perform or complete work to the Unsold Units or Common Elements by Sponsor or obtain an amended certificate of occupancy therefor or for the Building or any portion thereof, or any of said documents when such amendment:

(i) shall be required to reflect any changes in Unsold Units and/or the reapportionment of the Common Interests of the aforesaid Units resulting therefrom made by Sponsor in accordance with the Declaration; or

(ii) shall be required by: (1) a Permitted Mortgagee designated by Sponsor to make a mortgage loan secured by a mortgage on any Unit, (2) any governmental agency having regulatory jurisdiction over the Condominium, or (3) any title insurance company selected by Sponsor to insure title to any Unit;

provided, however, that any amendment made pursuant to the terms of subdivision (i) or (ii) of this paragraph shall not: (1) change the Common Interest of the undersigned's Residential Unit, (2) require a material or physical modification to the undersigned's Residential Unit, or (3) adversely affect the priority or validity of the lien of any purchase money mortgage held by a Permitted Mortgagee covering the undersigned's Residential Unit unless the undersigned (in the event described in subdivision (1) or (2) of this paragraph) or the holder of such mortgage (in the event described in subdivision (3) of this paragraph) shall consent thereto by joining in the execution of such amendment.

This Residential Unit Owner Power of Attorney shall be irrevocable.

**IN WITNESS WHEREOF**, the undersigned (has)/(have) executed this Residential Unit Owner Power of Attorney as of the ____ day of _____, 20__.

_____

_____

STATE OF _____ )
) ss.:
COUNTY OF _____ )

On the __ day of _____ in the year _____ 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 on behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of _____, County of _____ and State of _____.

_____
Notary Public

STATE OF _____ )
) ss.:
COUNTY OF _____ )

On the __ day of _____ in the year _____ 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 on behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of _____, County of _____ and State of _____.

_____
Notary Public

**EXHIBIT 3**

FORM OF OFFICE UNIT OWNER POWER OF ATTORNEY

# OFFICE UNIT OWNER
# POWER OF ATTORNEY

to

**THE COMMERCIAL BOARD OF**
**432 PARK CONDOMINIUM**

and

**THE CONDOMINIUM BOARD OF**
**432 PARK CONDOMINIUM**

and

**56TH AND PARK (NY) OWNER, LLC**

**432 PARK CONDOMIMIUM**
432 Park Avenue
New York, New York 10016
Office Unit No. _____

| | |
|---|---|
| County: | New York |
| Block: | 1292 |
| Lot: | ____ |

Record and Return to:

**OFFICE UNIT OWNER**
**POWER OF ATTORNEY**

All terms used in this Office Unit Owner Power of Attorney that are used in that certain Declaration, dated as of , 20__, by 56th and Park (NY) Owner, LLC and 46 East 57th St. (NY), LLC (together, the "**Declarant**"), pursuant to Article 9-B of the Real Property Law of the State of New York, establishing condominium ownership of the premises known as 432 Park Condominium, 432 Park Avenue, New York, New York 10016 (hereinafter called the "**Condominium**"), which Declaration was recorded in the New York County office of the City Register's Office, Land Records Division, NYC Department of Finance (hereinafter called the "**Register's Office**") on _____, 20__, as CRFN _____ (as the same may have been amended, hereinafter called the "**Declaration**"), shall have the same meanings in this Office Unit Owner's Power of Attorney as in the Declaration.

The undersigned: _____, the owner of the Office Unit (hereinafter called the "**Unit**") known as Unit No. _____ at the Condominium, said Unit(s) being so designated and described in the Declaration and also designated as Tax Lot __ in Block 1292 of the Borough of Manhattan on the Tax Map of the Real Property Assessment Bureau of the City of New York and on the Floor Plans of the Condominium certified by _____ of SLCE Architects, LLP on _____, 20__, and filed with the Real Property Assessment Bureau of the City of New York on _____, 20__, as Condominium Plan No. _____ and also filed in the Register's Office on _____, 20__, as CRFN _____, [does/do] hereby irrevocably nominate, constitute and appoint the persons who may from time to time constitute:

A. the board of managers of the Commercial Section of the Condominium (the "**Commercial Board**"), jointly true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as members of the Commercial Board, or in the name of their designee (corporate or otherwise), but subject in all respects to the provisions of the Declaration, Condominium By-Laws and Commercial By-Laws (collectively, the "**Condominium Documents**"), then in effect, to:

(i) acquire in the name of the Commercial Board or its designee, corporate or otherwise, on behalf of all Commercial Unit Owners, title to any Commercial Unit, together with its appurtenant Common Interest:

(a) in connection with the enforcement of the Commercial Board's lien for unpaid Commercial Common Charges;

(b) whose owner desires to surrender the same pursuant to Section 6.2.2 of the Commercial By-Laws; or

(c) that becomes the subject of a foreclosure or other similar sale;

on such terms, including, without limitation, price as said attorneys-in-fact shall deem proper;

(ii) acquire or lease in the name of the Commercial Board or its designee, corporate or otherwise, on behalf of all Commercial Unit Owners, any Commercial Unit, together with its appurtenant Common Interest, from any Commercial Unit Owner desiring to sell, convey, transfer, assign or lease the same, on such terms and conditions as said attorneys-in-fact shall deem proper;

(iii) convey, sell, lease, mortgage, or otherwise deal with (but not to vote the Common Interest appurtenant to) any Commercial Unit so acquired or to sublease any Commercial Unit so leased by them, without the necessity of any authorization by the Commercial 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 and to said Commercial Unit which the undersigned could do if personally present; and

(iv) execute, acknowledge, deliver and (if determined to be necessary or desirable by said attorneys-in-fact) cause to be recorded in the City Register's Office:

(a) any declaration or other instrument affecting the Commercial Section and/or the Condominium that the Commercial 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 (including, without limitation Chapter 3 of Title 25 of the New York City Administrative Code) applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Commercial Section or the Condominium; or

(b) following due authorization by any affected Commercial Unit Owner(s) to the extent required in the Condominium Documents, any consent, covenant, restriction, easement or declaration, or amendment thereto, affecting the Condominium, the Commercial Section or any of the Common Elements, in each case that the Commercial Board deems necessary or appropriate.

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

This Office Unit Owner Power of Attorney shall be irrevocable; and

B. the board of managers of the Condominium (the "**Condominium Board**"), jointly true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, in their own names, as members of the Condominium Board, or in the name of their designee (corporate or otherwise), but subject in all respects to the provisions of the Condominium Documents, then in effect, to:

(i) purchase or otherwise acquire in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, title to any Unit, together with its appurtenant Common Interest:

(a) in connection with the enforcement of the Condominium Board's lien for unpaid General Common Charges; or

(b) that becomes the subject of a foreclosure or other similar sale;

on such terms, including, without limitation, price as said attorneys-in-fact shall deem proper;

(ii) convey, sell, lease, mortgage, or otherwise deal with (but not to vote the Common Interest appurtenant to) any Unit so acquired or to sublease any Unit so leased by them, without the necessity of any 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 and to said Unit which the undersigned could do if personally present; and

(iii) execute, acknowledge, deliver and (if determined to be necessary or desirable by said attorneys-in-fact) cause to be recorded in the City Register's Office:

(a) any declaration or other instrument affecting the Condominium that the Condominium Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution, or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority (including, without limitation Chapter 3 of Title 25 of the New York City Administrative Code) applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Condominium; or

(b) following due authorization by any affected Unit Owner(s) or the Commercial Board, in each case to the extent required in the Condominium Documents, any consent, covenant, restriction, easement or declaration, or amendment thereto, affecting the Condominium, the Commercial Section or any of the Common Elements, in each case that the Condominium Board deems necessary or appropriate.

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

This Office Unit Owner's Power of Attorney shall be irrevocable; and

C. 56th and Park (NY) Owner, LLC (in its capacity as a Declarant under the Declaration and as sponsor of the condominium offering plan for the Condominium, the "**Sponsor**"), true and lawful attorney-in-fact for the undersigned, coupled with an interest, with power of substitution in the name of its designee (corporate or otherwise), but subject in all respects to the provisions of the Condominium Documents, then in effect, to execute an amendment to any of the Condominium Documents or acquire any permits, applications or documents required to undertake, perform or complete work to the Unsold Units or Common Elements by Sponsor or obtain an amended certificate of occupancy therefor or for the Building or any portion thereof, or any of said documents when such amendment:

(i) shall be required to reflect any changes in Unsold Units and/or the reapportionment of the Common Interests of the aforesaid Units resulting therefrom made by Sponsor in accordance with the Declaration; or

(ii) shall be required by: (1) a Permitted Mortgagee designated by Sponsor to make a mortgage loan secured by a mortgage on any Unit, (2) any governmental agency having regulatory jurisdiction over the Condominium, or (3) any title insurance company selected by Sponsor to insure title to any Unit;

provided, however, that any amendment made pursuant to the terms of subdivision (i) or (ii) of this paragraph shall not: (1) change the Common Interest of the undersigned's Office Unit, (2) require a material or physical modification to the undersigned's Office Unit, or (3) adversely affect the priority or validity of the lien of any purchase money mortgage held by a Permitted Mortgagee covering the undersigned's Office Unit unless the undersigned (in the event described in subdivision (1) or (2) of this paragraph) or the holder of such mortgage (in the event described in subdivision (3) of this paragraph) shall consent thereto by joining in the execution of such amendment.

This Office Unit Owner Power of Attorney shall be irrevocable.

**IN WITNESS WHEREOF**, the undersigned (has)/(have) executed this Office Unit Owner Power of Attorney as of the day of , 20__.

STATE OF _____ )
) ss.:
COUNTY OF _____ )

On the __ day of _____ in the year _____ 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 on behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of _____, County of _____ and State of _____.

_____
Notary Public

STATE OF _____ )
) ss.:
COUNTY OF _____ )

On the __ day of _____ in the year _____ 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 on behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of _____, County of _____ and State of _____.

_____
Notary Public

**EXHIBIT 4**

FORM OF RESIDENTIAL UNIT DEED

# RESIDENTIAL UNIT DEED

**56th and Park (NY) Owner, LLC**

TO

**432 Park Condominium**
432 Park Avenue
New York, New York 10016
Unit _____

County: New York
Block: 1292
Lot: _____

Record and Return to:

## RESIDENTIAL UNIT DEED

**THIS INDENTURE** is made the ___ day of _____, 20__, by and between **56th and Park (NY) Owner, LLC**, a Delaware limited liability company having an address at 515 Madison Avenue, 41st Floor, New York, New York 10022 (hereinafter called "**Grantor**"), and

_____

_____

having an address at _____ (hereinafter called "**Grantee**").

**W I T N E S S E T H:**

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

The Residential Unit (hereinafter called the "**Unit**") in the building (hereinafter called the "**Building**") known as 432 Park Condominium and by the street address 432 Park Avenue, New York, New York 10016, Borough of Manhattan, City, County and State of New York, said Unit being designated and described as Residential Unit ____ in that certain declaration, dated as of _____, 20__ , made by 56th and Park (NY) Owner, LLC and 46 East 57th St. (NY), LLC (in such capacity, collectively "**Declarant**") pursuant to Article 9-B of the Real Property Law of the State of New York (hereinafter called the "**Condominium Act**") establishing condominium ownership of the Building and the land (hereinafter called the "**Land**") upon which the Building is situate (which Land is more particularly described in Schedule A annexed hereto and by this reference made a part hereof), which declaration was recorded in the New York County office of the City Register's Office, Land Records Division, NYC Department of Finance (the **"City Register's Office"**) on _____, 20__, as CRFN _____ (which declaration, and any amendments thereto, are hereinafter collectively called the "**Declaration**"). The Unit is also designated as Tax Lot ___ in Block 1292 of the Borough of Manhattan on the Tax Map of the Tax Map Unit, Land Records Division, NYC Department of Finance and on the Floor Plans of the Building certified by _____ on _____, 20__, and filed with the Tax Map Unit, Land Records Division, NYC Department of Finance on _____, 20__, as Condominium Plan No. ___ and also filed in the City Register's Office on _____, 20__, CRFN _____;

together with an undivided ___ % interest in the Common Elements (as such term is defined in the Declaration) of 432 Park Condominium;

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

together with, and subject to, all of the rights, obligations, easements, restrictions and other provisions set forth in the Declaration, the Condominium By-Laws and the Residential By-Laws of 432 Park Condominium, as each of the same may be amended from time to time (said

Condominium By-Laws and any amendments thereto are hereinafter collectively called the "**Condominium By-Laws**", and said Residential By-Laws and any amendments thereto are hereinafter collectively called the "**Residential By-Laws**"; the Condominium By-Laws and the Residential By-Laws are collectively referred to as the "**By-Laws**"), including, without limitation, the restrictions and other provisions with respect to the permitted uses of the Unit; all of which shall constitute covenants running with the Land and shall bind any person having at any time any interest or estate in the Unit, as though recited and stipulated at length herein; subject also to such other liens, agreements, covenants, easements, restrictions, consents, other matters of record as pertain to the Unit, to the Land and/or to the Building (which Land and Building are hereinafter collectively called the "**Property**").

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

If any provision of the Declaration, or the By-Laws is invalid under, or would cause the Declaration or the By-Laws to be insufficient to submit the Property to, the provisions of the Condominium Act, or if any provision that is necessary to cause the Declaration or the By-Laws to be sufficient to submit the Property to the provisions of the Condominium Act is missing from the Declaration or the By-Laws, or if the Declaration or the By-Laws are insufficient to submit the Property to the provisions of the Condominium Act, the applicable provisions of Article 18 of the Declaration shall control.

Except as otherwise specifically permitted by the Residential Board or provided in the Declaration or the By-Laws, the Residential Unit is intended for residential use only.

Grantor covenants that the Unit is free and clear of monetary liens and that Grantor has not done or suffered anything whereby the Unit has been encumbered in any way whatever, in each case except as set forth in the Offering Plan and the Unit Purchase Agreement (each as defined in the Condominium By-Laws), and the Declaration, the Condominium By-Laws and the Residential By-Laws. This covenant is for the personal benefit of Grantee only and cannot be assigned to, exercised by, or inure to the benefit of any other person or entity, including, without limitation, any insurer of Grantee's title or successor to Grantee's interest.

In the event of a claimed breach of any covenant of Grantor contained in the preceding paragraph, Grantee shall first seek recovery against Grantee's title insurer before proceeding against Grantor for any breach of such covenants, it being agreed that the liability of Grantor shall be limited to the extent only that any loss or damage shall not be covered by such title insurance. In the event that Grantee shall elect not to purchase title insurance, then the liability of Grantor shall be limited to the extent only that any loss or damage would not have been covered by the title insurance that was available to Grantee as of the date of this conveyance. The terms of any marked-up title binder issued by any title insurer that is a member of the New York State Land Title Association, Inc. in connection with any unit in the Building shall be conclusive evidence against Grantee of the title insurance coverage that was available to Grantee as of the date of this conveyance.

Grantor, in compliance with Section 13 of the Lien Law of the State of New York, covenants that Grantor will receive the consideration for this conveyance, and will hold the right

to receive such consideration, as a trust fund for the purpose of paying the cost of the improvements at the Property required to be made by Grantor and will apply the same first to the payment of the cost of such improvements before using any part of the same for any other purposes.

Grantee hereby accepts and ratifies the provisions of the Declaration, the Condominium By-Laws and the Residential By-Laws (and any Rules and Regulations adopted under the Condominium By-Laws and Residential By-Laws) and agrees to comply with all the terms and provisions thereof, including, without limitation, all the terms and provisions with respect to the permitted uses of the Unit.

This conveyance is made in the regular course of business actually conducted by Grantor. The Unit is not subject to a credit line mortgage.

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

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.]

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

56TH AND PARK (NY) OWNER, LLC,
a Delaware limited liability company

By:_____
Name:
Title:

PURCHASER:

_____
(Purchaser's Signature)

STATE OF NEW YORK )
) ss.:
COUNTY OF NEW YORK )

On the __ day of _____ in the year _____ 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 on 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 _____ 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 on behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

## SCHEDULE A

## DESCRIPTION OF THE LAND

**PERIMETER OF PRESENT LOT 33 (f/k/a LOTS 33, 44, 145), LOTS 45, 46:**

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF EAST 56TH STREET WITH THE WESTERLY SIDE OF PARK AVENUE;

RUNNING THENCE NORTHERLY ALONG THE SAID WESTERLY SIDE OF PARK AVENUE, 67 FEET 1 INCH;

THENCE WESTERLY PARALLEL WITH SAID NORTHERLY SIDE OF EAST 56TH STREET, 100 FEET;

THENCE NORTHERLY PARALLEL WITH SAID WESTERLY SIDE OF PARK AVENUE, 33 FEET 4 INCHES TO THE CENTER LINE OF THE BLOCK;

THENCE WESTERLY ALONG THE CENTER LINE OF THE BLOCK 66 FEET 9 INCHES;

THENCE NORTHERLY ON A LINE PARALLEL WITH MADISON AVENUE AND PARTLY THROUGH A PARTY WALL, OR DIVISION WALL, 100 FEET 5 INCHES TO THE SOUTHERLY LINE OF 57TH STREET;

THENCE WESTERLY ALONG THE SAID SOUTHERLY LINE OF 57TH STREET, 83 FEET 9 INCHES;

THENCE SOUTHERLY, PARALLEL WITH MADISON AVENUE, PART OF THE WAY THROUGH A PARTY WALL STANDING PARTLY ON THE LOT OF LAND HEREBY DESCRIBED AND PARTLY UPON THE LOT OF LAND ADJOINING THE SAME ON THE WEST 100 FEET 5 INCHES TO THE CENTRE OF THE BLOCK BETWEEN 56TH AND 57TH STREETS;

THENCE WESTERLY PARALLEL WITH 57TH STREET, AND ALONG SAID CENTRE LINE OF THE BLOCK, 24 FEET 6 INCHES;

THENCE SOUTHERLY PARALLEL WITH SAID WESTERLY SIDE OF PARK AVENUE, 100 FEET 5 INCHES TO THE SAID NORTHERLY SIDE OF EAST 56TH STREET;

THENCE EASTERLY ALONG SAID NORTHERLY SIDE OF EAST 56TH STREET, 275 FEET TO THE POINT OR PLACE OF BEGINNING.

**PERIMETER OF LOT 43:**

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY AND STATE OF NEW YORK AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET, DISTANT TWO HUNDRED THIRTY-THREE (233) FEET THREE (3) INCHES EASTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF SAID SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET WITH THE EASTERLY SIDE OF MADISON AVENUE; AND

RUNNING THENCE SOUTHERLY AND PARALLEL WITH MADISON AVENUE AND PART OF THE WAY THROUGH A PARTY WALL, ONE HUNDRED (100) FEET FIVE (5) INCHES TO THE CENTER LINE OF THE BLOCK;

THENCE EASTERLY ALONG SAID CENTER LINE OF THE BLOCK, SEVENTEEN (17) FEET, NINE (9) INCHES;

THENCE NORTHERLY AND AGAIN PARALLEL WITH MADISON AVENUE AND PART OF THE WAY THROUGH ANOTHER PARTY WALL, ONE HUNDRED (100) FEET FIVE (5) INCHES TO THE SOUTHERLY SIDE OF EAST FIFTY SEVENTH STREET;

THENCE WESTERLY ALONG THE SAID SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET, SEVENTEEN (17) FEET NINE (9) INCHES TO THE POINT AND PLACE OF BEGINNING.

# SCHEDULE B

## PERMITTED ENCUMBRANCES

1. Building and zoning laws and other regulations, resolutions and ordinances (including, but not limited to, any variances or use regulations) and any amendments thereto now or hereafter adopted.

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

3. Any declaration or other instrument affecting the Property which Sponsor deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the demolition, construction, alteration, repair or restoration of the Building or any portion or element thereof.

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

5. Any easement or right of use in favor of any utility company for construction, use, maintenance or repair of utility lines, wires, terminal boxes, mains, pipes, cables, conduits, poles, connections and other equipment and facilities on, under and across the Property.

6. Any easement or right of use required by Sponsor or its designee to obtain a temporary, permanent or amended Certificate of Occupancy for the Building or any part of same.

7. Any encumbrance as to which First American Title Insurance Company, or such other or additional company/ies designated by Grantor (or the title insurance company that insures Purchaser's title to the Unit) (the "**Title Company**") would be willing to insure, at its regular rates and without additional premium, in a fee policy issued by it to Purchaser, that such encumbrance will not be collected out of or enforced against the Unit if it is a lien, or that such encumbrance is not a blanket lien encumbering the Common Elements.

8. Any other encumbrance, covenant, easement, agreement, or restriction against the Property other than a mortgage or other lien for the payment of money, which does not prevent the use of the Unit for its permitted purposes.

9. Revocability of licenses for vault space, if any, under the sidewalks and streets and the lien of any unpaid vault tax.

10. Encroachments of trim, copings, retaining walls, stoops, bay windows, balconies, sidewalk elevators, fences, fire escapes, cornices, foundations, footings, chutes, fuel oil lines, drainage and standpipes, and similar projections, if any, on, over or under the Property or the streets, sidewalks or premises abutting the Property, and the rights of governmental authorities to require the removal of any such projections, and variations between record lines of the Property and retaining walls and the like, if any.

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

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

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

14. Franchise taxes and New York City Business Corporation taxes of any corporation in the chain of title, provided that the Title Company would be willing in a fee policy issued by it to Purchaser, to insure that such taxes will not be collected out of the Unit.

15. Standard printed exceptions contained in the form of fee title insurance policy then issued by the Title Company (or the title insurance company insuring Purchaser's title to the Unit).

16. Any Certificate of Occupancy for the Building, so long as the same permits, or does not prohibit, use of the Unit for its stated purposes.

17. Any lease or other occupancy agreement for the Unit made by Sponsor and Purchaser.

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

19. Any state of facts which a guaranteed survey of current date or a personal inspection of the Property and the Unit would show; provided such state of facts would not prevent the use of the Unit for its stated purposes; although any encroachment of a portion of the Unit structure upon another Unit or Units or upon the Common Elements may remain undisturbed as long as the same shall stand.

20. Covenants and Restrictions in Liber 1049 Cp. 530 as repeated in Liber 1066 cp. 179 and Liber 1968 cp 460. (Affects Lots 33, 43, 44 and more, Lot 41)

21. Permanent Easements acquired by The Metropolitan Transportation Authority in Action entitled: "East Side Access Project (Deep Tunnel Easements...)" filed in the New York County Clerk's Office under Index No. 400818/03. (Affects Lot 33)

22. Zoning Lot Development Agreement dated 9/13/2006 made between 44 East 57th St. Realty Corp., Inc., as Seller and 440 Park Avenue Owner Associates LLC, as Developer, recorded on 10/25/2006 as CRFN 2006000596371. (Affects Lots 33, and 44, and more, Lot 41).

23. Zoning Lot Development Agreement dated as of 12/4/2006 between Angel Enterprises, L.L.C., as Seller and 440 Park Avenue Owner Associates LLC, as Developer, recorded on 12/12/2006 as CRFN 2006000680850. (Affects Lots 33, and more, Lot 41 and Development Rights parcel therein, Lot 42).

24. Zoning Lot Development and Easement Agreement dated as of 9/29/2007 by and between Dakotah Travel Co., LLC, as Seller, and 440 Park Avenue Owner Associates, LLC, as Developer, recorded on 10/29/2007 as CRFN 2007000542730. (Affects Lots 33, 41, 44, 46 and 145- Parcels I, II, III, IV and V).

25. Zoning Lot Development and Easement Agreement dated as of 12/23/2010 by and between 46 East 57th St. (NY), LLC, Owner and 440 Park Avenue (NY) Owner, LLC, Developer recorded 1/12/2011 as CRFN 2011000014567. (Affects Lots 33, 44, 145, 46 and more, Lot 41, Developer Land, Lots 42 and 45, Air Rights Parcels therein, and Lot 43, Owner Parcel).

26. Zoning Lot Development Agreement made by and between 440 Park Avenue (NY) Owner, LLC ("Owner") and 440 Park Avenue (NY) Owner, LLC ("Developer") dated as of 11/2/2011 recorded 11/10/2011 as CRFN 2011000394772. (Affects Lots 33, former Lot 44, former Lot 145, 46 and 43, Developer's Land, and Lot 41, Owner's Land).

27. All other easements, covenants, restrictions and matters of record.

**EXHIBIT 5**

FORM OF OFFICE UNIT DEED

**OFFICE UNIT DEED**

**56th and Park (NY) Owner, LLC**

TO

_____

**432 Park Condominium**
432 Park Avenue
New York, New York 10016
Unit _____

County: New York
Block: 1292
Lot: _____

Record and Return to:
_____
_____
_____
_____

## OFFICE UNIT DEED

**THIS INDENTURE** is made the ___ day of _____, 20__, by and between **56th and Park (NY) Owner, LLC**, a Delaware limited liability company having an address at 515 Madison Avenue, 41st Floor, New York, New York 10022 (hereinafter called "**Grantor**"), and

_____

_____

having an address at _____ (hereinafter called "**Grantee**").

**W I T N E S S E T H:**

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

The Office Unit (hereinafter called the "**Unit**") in the building (hereinafter called the "**Building**") known as 432 Park Condominium and by the street address 432 Park Avenue, New York, New York 10016, Borough of Manhattan, City, County and State of New York, said Unit being designated and described as Office Unit ____ in that certain declaration, dated as of _____, 20__ , made by 56th and Park (NY) Owner, LLC and 46 East 57th St. (NY), LLC (in such capacity, collectively "**Declarant**") pursuant to Article 9-B of the Real Property Law of the State of New York (hereinafter called the "**Condominium Act**") establishing condominium ownership of the Building and the land (hereinafter called the "**Land**") upon which the Building is situate (which Land is more particularly described in Schedule A annexed hereto and by this reference made a part hereof), which declaration was recorded in the New York County office of the City Register's Office, Land Records Division, NYC Department of Finance (the "**City Register's Office**") on _____, 20__, as CRFN _____ (which declaration, and any amendments thereto, are hereinafter collectively called the "**Declaration**"). The Unit is also designated as Tax Lot ___ in Block 1292 of the Borough of Manhattan on the Tax Map of the Tax Map Unit, Land Records Division, NYC Department of Finance and on the Floor Plans of the Building certified by _____ on _____, 20__, and filed with the Tax Map Unit, Land Records Division, NYC Department of Finance on _____, 20__, as Condominium Plan No. ___ and also filed in the City Register's Office on _____, 20__, CRFN _____;

together with an undivided ___ % interest in the Common Elements (as such term is defined in the Declaration) of 432 Park Condominium;

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

together with, and subject to, all of the rights, obligations, easements, restrictions and other provisions set forth in the Declaration, the Condominium By-Laws and the Commercial By-Laws of 432 Park Condominium, as each of the same may be amended from time to time

(said Condominium By-Laws and any amendments thereto are hereinafter collectively called the "**Condominium By-Laws**", and said Commercial By-Laws and any amendments thereto are hereinafter collectively called the "**Commercial By-Laws**"; the Condominium By-Laws and the Commercial By-Laws are collectively referred to as the "**By-Laws**"), including, without limitation, the restrictions and other provisions with respect to the permitted uses of the Unit; all of which shall constitute covenants running with the Land and shall bind any person having at any time any interest or estate in the Unit, as though recited and stipulated at length herein; subject also to such other liens, agreements, covenants, easements, restrictions, consents, other matters of record as pertain to the Unit, to the Land and/or to the Building (which Land and Building are hereinafter collectively called the "**Property**").

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

If any provision of the Declaration, or the By-Laws is invalid under, or would cause the Declaration or the By-Laws to be insufficient to submit the Property to, the provisions of the Condominium Act, or if any provision that is necessary to cause the Declaration or the By-Laws to be sufficient to submit the Property to the provisions of the Condominium Act is missing from the Declaration or the By-Laws, or if the Declaration or the By-Laws are insufficient to submit the Property to the provisions of the Condominium Act, the applicable provisions of Article 18 of the Declaration shall control.

Except as otherwise specifically provided in the Declaration or the By-Laws, the Commercial Unit is intended for commercial office use only.

Grantor covenants that the Unit is free and clear of monetary liens and that Grantor has not done or suffered anything whereby the Unit has been encumbered in any way whatever, in each case except as set forth in Schedule B annexed hereto and by this reference made a part hereof and the Unit Purchase Agreement (as defined in the Condominium By-Laws), and the Declaration, the Condominium By-Laws and the Commercial By-Laws. This covenant is for the personal benefit of Grantee only and cannot be assigned to, exercised by, or inure to the benefit of any other person or entity, including, without limitation, any insurer of Grantee's title or successor to Grantee's interest.

In the event of a claimed breach of any covenant of Grantor contained in the preceding paragraph, Grantee shall first seek recovery against Grantee's title insurer before proceeding against Grantor for any breach of such covenants, it being agreed that the liability of Grantor shall be limited to the extent only that any loss or damage shall not be covered by such title insurance. In the event that Grantee shall elect not to purchase title insurance, then the liability of Grantor shall be limited to the extent only that any loss or damage would not have been covered by the title insurance that was available to Grantee as of the date of this conveyance. The terms of any marked-up title binder issued by any title insurer that is a member of the New York State Land Title Association, Inc. in connection with any unit in the Building shall be conclusive evidence against Grantee of the title insurance coverage that was available to Grantee as of the date of this conveyance.

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

Grantee hereby accepts and ratifies the provisions of the Declaration, the Condominium By-Laws and the Commercial By-Laws (and any Rules and Regulations adopted under the Condominium By-Laws and Commercial By-Laws) and agrees to comply with all the terms and provisions thereof, including, without limitation, all the terms and provisions with respect to the permitted uses of the Unit.

This conveyance is made in the regular course of business actually conducted by Grantor. The Unit is not subject to a credit line mortgage.

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

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.]

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

56TH AND PARK (NY) OWNER, LLC,
a Delaware limited liability company

By:_____
Name:
Title:

PURCHASER:

_____
(Purchaser's Signature)

STATE OF NEW YORK )
) ss.:
COUNTY OF NEW YORK )

On the __ day of _____ in the year _____ 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 on 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 _____ 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 on behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

## SCHEDULE A

## DESCRIPTION OF THE LAND

**PERIMETER OF PRESENT LOT 33 (f/k/a LOTS 33, 44, 145), LOTS 45, 46:**

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF EAST 56TH STREET WITH THE WESTERLY SIDE OF PARK AVENUE;

RUNNING THENCE NORTHERLY ALONG THE SAID WESTERLY SIDE OF PARK AVENUE, 67 FEET 1 INCH;

THENCE WESTERLY PARALLEL WITH SAID NORTHERLY SIDE OF EAST 56TH STREET, 100 FEET;

THENCE NORTHERLY PARALLEL WITH SAID WESTERLY SIDE OF PARK AVENUE, 33 FEET 4 INCHES TO THE CENTER LINE OF THE BLOCK;

THENCE WESTERLY ALONG THE CENTER LINE OF THE BLOCK 66 FEET 9 INCHES;

THENCE NORTHERLY ON A LINE PARALLEL WITH MADISON AVENUE AND PARTLY THROUGH A PARTY WALL, OR DIVISION WALL, 100 FEET 5 INCHES TO THE SOUTHERLY LINE OF 57TH STREET;

THENCE WESTERLY ALONG THE SAID SOUTHERLY LINE OF 57TH STREET, 83 FEET 9 INCHES;

THENCE SOUTHERLY, PARALLEL WITH MADISON AVENUE, PART OF THE WAY THROUGH A PARTY WALL STANDING PARTLY ON THE LOT OF LAND HEREBY DESCRIBED AND PARTLY UPON THE LOT OF LAND ADJOINING THE SAME ON THE WEST 100 FEET 5 INCHES TO THE CENTRE OF THE BLOCK BETWEEN 56TH AND 57TH STREETS;

THENCE WESTERLY PARALLEL WITH 57TH STREET, AND ALONG SAID CENTRE LINE OF THE BLOCK, 24 FEET 6 INCHES;

THENCE SOUTHERLY PARALLEL WITH SAID WESTERLY SIDE OF PARK AVENUE, 100 FEET 5 INCHES TO THE SAID NORTHERLY SIDE OF EAST 56TH STREET;

THENCE EASTERLY ALONG SAID NORTHERLY SIDE OF EAST 56TH STREET, 275 FEET TO THE POINT OR PLACE OF BEGINNING.

**PERIMETER OF LOT 43:**

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY AND STATE OF NEW YORK AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET, DISTANT TWO HUNDRED THIRTY-THREE (233) FEET THREE (3) INCHES EASTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF SAID SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET WITH THE EASTERLY SIDE OF MADISON AVENUE; AND

RUNNING THENCE SOUTHERLY AND PARALLEL WITH MADISON AVENUE AND PART OF THE WAY THROUGH A PARTY WALL, ONE HUNDRED (100) FEET FIVE (5) INCHES TO THE CENTER LINE OF THE BLOCK;

THENCE EASTERLY ALONG SAID CENTER LINE OF THE BLOCK, SEVENTEEN (17) FEET, NINE (9) INCHES;

THENCE NORTHERLY AND AGAIN PARALLEL WITH MADISON AVENUE AND PART OF THE WAY THROUGH ANOTHER PARTY WALL, ONE HUNDRED (100) FEET FIVE (5) INCHES TO THE SOUTHERLY SIDE OF EAST FIFTY SEVENTH STREET;

THENCE WESTERLY ALONG THE SAID SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET, SEVENTEEN (17) FEET NINE (9) INCHES TO THE POINT AND PLACE OF BEGINNING.

## SCHEDULE B

## PERMITTED ENCUMBRANCES

1. Building and zoning laws and other regulations, resolutions and ordinances (including, but not limited to, any variances or use regulations) and any amendments thereto now or hereafter adopted.

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

3. Any declaration or other instrument affecting the Property which Sponsor deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the demolition, construction, alteration, repair or restoration of the Building or any portion or element thereof.

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

5. Any easement or right of use in favor of any utility company for construction, use, maintenance or repair of utility lines, wires, terminal boxes, mains, pipes, cables, conduits, poles, connections and other equipment and facilities on, under and across the Property.

6. Any easement or right of use required by Sponsor or its designee to obtain a temporary, permanent or amended Certificate of Occupancy for the Building or any part of same.

7. Any encumbrance as to which First American Title Insurance Company, or such other or additional company/ies designated by Grantor (or the title insurance company that insures Purchaser's title to the Unit) (the "**Title Company**") would be willing to insure, at its regular rates and without additional premium, in a fee policy issued by it to Purchaser, that such encumbrance will not be collected out of or enforced against the Unit if it is a lien, or that such encumbrance is not a blanket lien encumbering the Common Elements.

8. Any other encumbrance, covenant, easement, agreement, or restriction against the Property other than a mortgage or other lien for the payment of money, which does not prevent the use of the Unit for its permitted purposes.

9. Revocability of licenses for vault space, if any, under the sidewalks and streets and the lien of any unpaid vault tax.

10. Encroachments of trim, copings, retaining walls, stoops, bay windows, balconies, sidewalk elevators, fences, fire escapes, cornices, foundations, footings, chutes, fuel oil lines, drainage and standpipes, and similar projections, if any, on, over or under the Property or the streets, sidewalks or premises abutting the Property, and the rights of governmental authorities to require the removal of any such projections, and variations between record lines of the Property and retaining walls and the like, if any.

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

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

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

14. Franchise taxes and New York City Business Corporation taxes of any corporation in the chain of title, provided that the Title Company would be willing in a fee policy issued by it to Purchaser, to insure that such taxes will not be collected out of the Unit.

15. Standard printed exceptions contained in the form of fee title insurance policy then issued by the Title Company (or the title insurance company insuring Purchaser's title to the Unit).

16. Any Certificate of Occupancy for the Building, so long as the same permits, or does not prohibit, use of the Unit for its stated purposes.

17. Any lease or other occupancy agreement for the Unit made by Sponsor and Purchaser.

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

19. Any state of facts which a guaranteed survey of current date or a personal inspection of the Property and the Unit would show; provided such state of facts would not prevent the use of the Unit for its stated purposes; although any encroachment of a portion of the Unit structure upon another Unit or Units or upon the Common Elements may remain undisturbed as long as the same shall stand.

20. Covenants and Restrictions in Liber 1049 Cp. 530 as repeated in Liber 1066 cp. 179 and Liber 1968 cp 460. (Affects Lots 33, 43, 44 and more, Lot 41)

21. Permanent Easements acquired by The Metropolitan Transportation Authority in Action entitled: "East Side Access Project (Deep Tunnel Easements...)" filed in the New York County Clerk's Office under Index No. 400818/03. (Affects Lot 33)

22. Zoning Lot Development Agreement dated 9/13/2006 made between 44 East 57th St. Realty Corp., Inc., as Seller and 440 Park Avenue Owner Associates LLC, as Developer, recorded on 10/25/2006 as CRFN 2006000596371. (Affects Lots 33, and 44, and more, Lot 41).

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27. All other easements, covenants, restrictions and matters of record.

**EXHIBIT 6**

DESCRIPTION OF PROPERTY AND SPECIFICATIONS

# DESCRIPTION OF PROPERTY AND SPECIFICATIONS
# 432 PARK AVENUE
# New York, New York
**06-19-12**

## A. LOCATION AND USE OF PROPERTY

1. ADDRESS: 432 PARK AVENUE
New York, New York

2. BLOCK NO.: 1292

LOTS NO.: 33, 43, 45 & 46 and the air rights from lots 41 & 42

3. ZONING DISTRICT: C5-2.5 & C5-3

4. PERMISSIBLE USES: Use Groups 1-6 and 9-11 in district C5-2.5 and C5-3 as per New York Zoning Resolution, which permits Residential, Community Facility and Commercial uses. The proposed uses will comply with all zoning and use requirements.

## B. STATUS OF CONSTRUCTION

1. YEAR BUILT:

The project is new construction. The construction started in September of 2011 and based on current construction schedule, it is anticipated that it will be substantially completed in or about July of 2015, 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 I-B (Non-Combustible) and will conform to all applicable regulations of the Building Code of the City of New York ("Building Code"). Class I-B construction includes all buildings and spaces in which all major structural elements have a two-hour fire resistance rating.

3. CERTIFICATE OF OCCUPANCY:

Prior to the first closing, the Sponsor will obtain a Temporary Certificate of Occupancy for those Residential Units which will be closed from the Department of Buildings of the City of New York ("Department of Buildings").
After completion of construction the Sponsor will apply for a Certificate of Occupancy for the building from the Department of Buildings.
There will be one final certificate of Occupancy for all uses and buildings.

4. ALTERATION PERMIT NUMBER:

The plans were filed under number NB # 120628776 with the Department of Buildings, in compliance with all applicable regulations for new buildings. The project was not self- certified.

5. OTHERS:

There is an existing recorded lot restriction at the west side of the property adjacent to 575 Madison. The restriction provides for a 7 ½ FT of air and ventilation space adjacent to 575 Madison beginning at about 54 FT above grade approximately at the bottom of the existing 6th floor windows of 575 Madison. The new building will comply with this restriction.

C. **SITE**

1. SIZE:

In accordance with the Survey prepared by Manhattan Surveying, PC Licensed Land Surveyors, 225 Broadway New York, New York, the lot of the new development site has a frontage of 101'-6" along East 57th Street, 67'-1" along Park Avenue and 275'-0" on East 56th Street. The area of the lot is approximately 34,470 SF.

2. NUMBERS & BUILDING USE:

All floor plans, apartment drawings, and other references to floors in this report will utilize the marketing numbering of floors in lieu of an actual construction floor number. See W. UNIT INFORMATION

There will be two separate buildings at the site:

- An 84 story tower located at the center of the site that will contain Residential Units, Office Units, Retail Units, a Garage Unit and the Club Unit (The "Tower"). The Tower base will extend to 57th Street and be occupied by portions of the Retail Units.
- A 3- story building located at the corner of Park Avenue and 56th Street will contain a Retail Unit (The " Park Avenue Pavilion")

The First Floor of the Tower will be occupied as follows:
Facing 56th Street there will be a Main Lobby that will open into the Residential Lobby as well as to the Commercial Lobby serving the Health Club and the Office Units. The portion of the Land between the Main Lobby and East 56th Street will be occupied by a private courtyard (the "Courtyard"), which will feature a semi-circular driveway leading from East 56th Street to the Main Lobby and the entry point to the Garage Unit and loading dock area. The portion of the Land to the east of the Courtyard and to the west of the Park Avenue Pavilion will be occupied by a private garden (the "Garden"), which will feature landscaped areas. The building service entrance, the entrances to the Garage and the Loading Dock are also located at the First Floor facing 56th Street.

Facing 57th Street there will be retail space.

The south section of the 12th floor and floors 14th and 16th of the Tower will be occupied by the Health Club.
The north section of the 12th floor of the Tower will house a Restaurant, a Kitchen and a Terrace for the use of the residential occupants of the building and their guests only. The Terrace will be qualified as the building's residential recreation space in compliance with NYC Zoning Resolutions and no admission or membership fees will be charged for its use.

Floors 18th, 19th & 20th of the Tower will be occupied by office spaces.

Floors 28th and 29th, 34th to 45th, 48th to 59th, 62nd to 73rd, 77th to 88th and 91st to 95th of the Tower will be occupied by Residential Units.

Floors 30th and 31st, 46th and 47th, 60th and 61st, 74th and 75th, 89th and 90th of the Tower will be occupied by mechanical rooms and open terraces. There will additional mechanical spaces in floors 2nd, 18th and 20th and other minor mechanical rooms in the non-residential floors of the Tower.

Floors 96th to 101th of the Tower will house Mechanical Rooms, the Elevators Machine Rooms, the window washing equipment and the mass dampers.

There will be a Cellar and a Sub-Cellar 2 occupying the entire development site, extending under the area occupied by the Tower, the Park Avenue Pavilion and the Garden. There will also be a partial level, Sub- Cellar 1 in the Northern part of the site between the Cellar and the Sub-Cellar 2

The Cellar will contain Retail Units to be used in conjunction with the Retail Units in 57th Street and/ or Park Avenue Pavilion and Utility Rooms.

The Sub-Cellar 2 will contain Parking accessory to residential and commercial occupants and Loading Berths for use by the commercial occupants as well as Resident's Storage Closets, Laundry Room, Employee's Locker Rooms and Utility Rooms.

The Sub- Cellar 1 will contain additional Resident's Storage Closets, a Wine Cellar and the Bicycle Storage.

3. STREETS OWNED AND MAINTAINED BY THE PROJECT:

The property fronts on East 57th Street on the North, East 56th Street on the South and Park Avenue on the East. The streets are paved with asphalt and are owned and maintained by the City of New York. No street is owned by the project.

4. DRIVES, SIDEWALKS AND RAMPS:

The sidewalks adjacent to the property will be replaced with new concrete sidewalks running full width from the property line along to the street and pitched to drainage at the curb. The new concrete sidewalk pavement will be free of tripping hazard and ponding. There will be grilles for ConEdison electrical vaults at the 56th Street sidewalk.

| | | |
|---|---|---|
| (i) | Paving: | The streets are paved with asphalt and are owned and maintained by the City of New York. |
| (ii) | Curbing: | All curbs will be new, and shall be steel.<br>There will be curb cuts for the drop-off and for the Parking entrance at 56th Street. |
| (iii) | Drainage: | The streets are presently pitched to existing cast iron catch basins and drain into New York City storm water drainage system. |
| (iv) | Street Lighting: | The street lighting shall be provided, operated and maintained by the City of New York. |

(v) Status: All items above that will be provided by the building sponsor will be in conformity with local fire and building codes. The sidewalk, curb cuts, ramps and aprons will be ADA compliant.

The condominium will be responsible for maintaining the sidewalks in accordance with the Authority having jurisdiction.

D. **UTILITIES**

1. ELECTRICITY: Electricity will be provided by ConEdison, a regulated company. The total electricity consumed for the Buildings will be master metered. Each Residential Unit, including the electricity required to power the fan coil units, will be sub-metered using an electronic computerized metering system for each unit's charges. The electricity consumed for the common building support elements and spaces will be borne by the Unit Owners as a General Common Expense. The Retail Units will be direct metered to ConEdison or sub-metered utilizing the electronic computerized metering system.

2. GAS: Gas will be provided by ConEdison Company. Gas for the Residential Units will be collectively metered. The cost of the gas consumed in the Residential Section (including all gas used for cooking and fireplaces) will be borne by the Residential Unit Owners as a common expense. Gas for the commercial tenants will be separately metered by ConEdison.

3. WATER & SEWER: Water and Sewer service will be provided by the City of New York. Any water consumed in the Commercial Units will be separately sub metered, and the cost (including the attendant sewer charges) will be borne by the commercial unit owners. The charges for water and sewer service provided to the balance of the building will be levied on the basis of metered usage and the cost of the same will be borne by the Residential Unit owners as a common expense as noted in the First Year's Budget. Water makeup to the cooling towers will be separately metered and subtracted from the overall building water usage for purposes of calculating the sewer charge (which is calculated based upon the overall building water usage).

4. TELEPHONE: "Local" telephone service will be provided by Verizon and/or another service provider. Every Unit Owner will be required to pay their associated telephone charges and initial charges for activating individual outlets in the Unit; except for the kitchen outlet in each Residential Unit that will be tied to the building's intercom system through the Concierge.

Similarly, the charges with respect to the telephones in the Commercial Units will be separately paid for by the Commercial Unit Owners. The telephone charges with respect to the public areas of the building (such as the concierge's desk, maintenance offices, etc.) will be borne by all Unit Owners as a Common Expense and apportioned for each Unit as provided in the First Year's Budget.

5. CABLE TELEVISION: Cable Television service will be available for all Residential Units from Time Warner Cable (or alternate cable TV company.) All charges for cable television service (including installation and subscription charges) will be paid by each Unit Owner, who subscribes directly to the cable TV company.

6. STEAM: Steam will be provided by ConEdison from East 56th Street. One (1) meter will be provided. A Pressure Reducing Valve station will provide steam to the heat exchangers on the mechanical floors and all other steam requirements for the Tower and the Park Avenue Pavilion.

## E. SUB-SOIL CONDITIONS

1. FOUNDATIONS:

The building will be founded on reinforced concrete spread footing and mat foundations bearing on 40 to 60 ton per SF bedrock. Rock anchors will be used in select locations to control tensile loads. The lowest basement floor will be a slab on grade. Perimeter reinforced concrete walls are extended to bedrock below the slab on grade which is intended to mitigate the ingress of ground water within the plot. The slab on grade is placed over a vapor barrier that is laid on top of a gravel and sand bed. A drainage system shall be placed within the gravel bed and directed to a sump system to remove nominal quantities of groundwater that pass through the bedrock. The underground levels will be confined by conventional concrete walls. Foundation walls shall be provided with a waterproofing membrane, and construction joints shall have waterstops to inhibit water infiltration. In order to negate additional ad-freezing stresses at foundation walls, all foundation work will be maintained at 50 degrees for 72 hours. Walls will be blanketed for at least 72 hours following pouring the concrete

## F. LANDSCAPE AND ENCLOSURES

1. GRASS COVER: There will be limited amount of grass cover in certain areas of the Garden at 56th Street.

2. PLANTING AREAS: There will be a landscaped Garden at the First Floor on the South side of the property surrounding the drop off.
There will be a landscaped terrace at floor 12th facing 57th Street.

3. TREES: There will be trees in the landscaped Garden at the ground level on the South side of the property.
Trees will be planted as required by Zoning Resolutions that indicates that one tree shall be provided every 25' of street frontage of the zoning lot. Where not feasible, because of conflicts with utilities or garage entrances, trees will be planted in alternate locations recommended by the Parks Department.

4. FENCING: No fencing will be provided.

5. GATES: No site gates will be provided.

6. GARDEN WALLS: There will be new site walls surrounding the First Floor Courtyard on the north side and next to the loading dock. The site walls will be faced in stone.

7. RETAINING WALLS: There will be no retaining walls other than the foundation walls.

## G. BUILDING HEIGHT

| | | |
|---|---|---|
| 1. | TOTAL HEIGHT: | The approximate total height of the Tower from the lobby finished floor elevation to the top of the main roof enclosure is 1,396.70'. The height of the Park Avenue Pavilion is 85' |
| 2. | CRAWL SPACES | There will be no crawl spaces. |
| 3. | No of CELLARS | There will be one Cellar, one full Sub-Cellar 2 and a partial Sub-Cellar 1 level.<br>The Cellar floor-to-floor height will be approximately 23'.<br>The Sub- Cellar 2 floor-to-floor height will be approximately 22' and 10' at the Sub-Cellar 1 area. The Sub- Cellar 1 will have an approximate floor-to-floor height of 11'. |
| 4. | No of FLOORS | There will be 84 construction stories above grade.<br>The floor-to-floor heights of the Residential Units will be 15'-6" except the unit at marketing floor 95th that is 31' floor-to-floor. Also units A and B at floors 34th, 36th, 38th, 40th , 42nd and 44th will have a floor to floor height of 31'.<br>Actual clear heights will be lower due to the thickness of slab, beams, finish floor and ceiling construction and installations of mechanical, electrical and plumbing systems, and will vary from room to room. |
| 5. | EQUIPMENT ROOMS | There will be Mechanical Rooms at the Cellar and Sub-Cellar 2, Floors 2nd, 21st, 26th, 31st, 32nd, 46th, 47th, 60th, 61st, 74th, 75th, 89th, 90th and 96th to 101st. There will be a mass damper at the top of the building. There will be additional mechanical floors contained within the retail floors as well as the office floors and the top floor of the building in Park Avenue, |
| 6. | PARAPETS | Height from top of roof finish to top of parapet or handrail*s* at mechanical floors will be a minimum of 3'-6" above finished roof. |

## H. STRUCTURAL SYSTEMS

The structural design of the foundations and superstructure will be in accordance with the New York City Building Code, including all regulations for wind and seismic loads.

Wind and seismic lateral loads are resisted by concrete shear walls, a perimeter column/beam tube system, and slab frames across the width of the building and parallel to the length. Outrigger braces or walls are provided intermittently throughout the height of the Tower to provide additional lateral bracing.

All Tower levels above ground are flat plate reinforced concrete construction supported by reinforced concrete columns and shear walls.

Ground floor and retail spaces beyond the Tower footprint at 57th Street and at the Park Avenue Pavilion shall be primarily steel framed with composite concrete over metal deck slabs.

Supplemental damping systems are located at the top of the Tower to mitigate the lateral movement and reduce it to levels acceptable in the industry.

1. EXTERIOR OF BUILDINGS

(i) Tower Walls:

The walls are made of dense cast-in-place concrete, with 2" semi-rigid continuous insulation with a vapor-retarding wrapping the concrete interior columns and perimeter beams, at the room side, with a metal stud framed gypsum board finish.
The aluminum windows have a large fixed light, comprised of an insulating glass unit with a high performance Low-E coating, held in a thermally broken aluminum frame, sealed to the perimeter concrete opening. The aluminum wall system will be custom manufactured by ENCLOS Inc or comparable equal.
The average assembly U-value for the opaque wall is 0.143 BTU/hr*°F*ft$^2$. (Roughly equivalent to an R-7) The window assembly U-Value is 0.40 BTU/hr*°F*ft$^2$.

All exterior wall assemblies, roofs and terraces shall have insulation values in compliance with the New York State Energy Code and fire resistance ratings in compliance with the New York City Building Code. The high strength concrete's density and the properly sealed windows will prevent water penetration into the building.

Retail Units: The Retail Units at 57$^{th}$ Street and the Park Avenue Pavilion will have aluminum curtainwall and glass storefront. Other decorative materials may be used on the exterior of the building

Local Law 11/ 1998 is applicable. Following construction, exterior building façade will have to be inspected by a licensed professional engineer or architect every 5 years during standard reporting periods established by the City of New York.

(ii) Windows

At the residential floors, the windows system will consist of a glazed area inserted in an extruded aluminum frame. The windows will have high performance finishes and will be glazed with factory assembled insulated glass units that will provide for the proper sound insulation of the building. Windows will be thermally broken. Windows will have a five-year warranty on labor and materials and a ten-year warranty for the paint of the windows.

Glass panels will be either insulated clear or fritted glass or insulated glass at shadow boxes. The factory assembled insulated glass units (IGU) will have a low-e coating and two layers of laminated and one layer of fully tempered glass.
All window sills will be metal or other. All operable windows will have a childproof stop limiting the opening of the windows to a maximum of 4". The ventilation occurs through opaque vents, parts of which are made of a synthetic polymer material that will be located in the lower part of the fixed glazed panel behind fixed louvers.

Special windows:
The windows at the West façade in the north half of the Tower are located within 8' of the property line. None of these windows will provide legal light and air for the surrounding rooms for the purpose of permissible occupancy of those rooms and the windows located below 118'-5" or 60' above the adjacent building roof (4th floor) will be provided with tempered glass and will be protected with sprinklers. If in the future the adjacent buildings within 60' are extended in height, the protection of the windows with tempered glass and sprinklers should be extended

accordingly and they may be required to be closed with a solid and rated enclosure or replaced with one hour rated windows. The cost of the required changes will be paid by the owner of the affected unit. A restrictive declaration will be recorded for these windows.
The windows at the East façade of the Tower are located at the tax lot line between lots 42 and 43. An agreement has been signed with the owner of lot 42 that provides a perpetual easement for light and air over its property and a limitation not to build higher than its present height. Windows at this tax lot line will be protected with sprinklers and will have safety glass to a height of 60' above the roof of lot 42 (5th floor)
The windows of the Club Unit and Office Units will have similar characteristics and restrictions as the residential windows

The Retail Units in 57th Street and Park Avenue Pavilion will be provided with a curtainwall system.

All exterior metals, including fasteners shall be corrosion resistant.

2. PARAPETS AND COPINGS

The concrete structure and the window modules will extend above the main roof level of the building creating an enclosure for the mechanical equipment. No separate parapets will be provided at the top of the building.

3. CHIMNEYS

The building has two refuse chutes with rated doors opening at residential floors.
There is no boiler flue.
The generator flue will be located at the top of the Park Avenue Pavilion
There will be chimneys for gas fireplaces located at 91st to 95th floor apartments.
Fireplaces will not be wood burning.

4. BALCONIES AND TERRACES

There will be no balconies in the building
There will be not -accessible terraces at the mechanical floors
There will be a terrace accessible to all the building residents at the 12th floor as part of the building amenities.

(i) Deck Finish:
The amenities terrace on the 12th floor will have pavers or wood deck over a roofing system.
A storm drainage system will be provided for 12th floor with flow control drains and will be sized on base of 12th floor terrace area plus 50% of the vertical wall runoff of Tower, per 2008 NYC Building Code.

The mechanical floor terraces will have a protected roofing system.
The doors to the terraces will be hollow metal.

(ii) Balustrade:
There will be no balustrade

(iii) Railings:
The amenities terrace on the 12th floor will have a glass and metal railing, part of the curtainwall system.

All horizontal railings at accessible terraces will be protected not to be used as ladders by children.
The mechanical floor terraces will have glass and metal railings

(iv) Coping:
All coping will be painted aluminum or stainless steel with non- corrosive hardware.

(v) Soffits:
The amenities terrace on the 12th floor will be open to the sky, no soffits or ceilings will be provided.
The mechanical terraces will have an exterior-use gypsum board ceiling.

(vi) Doors
The doors to the amenities on the 12th floor terrace will be part of the curtain wall system.
The doors to the mechanical floor terraces will be hollow metal.

5. EXTERIOR ENTRANCE

(i) Exterior Doors and Frames:

a. Main Entrance to Main Lobby: The main entrance will have two revolving doors and accessory swing doors with metal trim and tempered glass. The main entrance to the building will comply with ADA and all other applicable requirements.

b. Retail Entrance: The main entrances at the Retail Units will be metal and glass revolving or swing doors.

(ii) Vestibule Doors and Frames:
There will be no vestibules at the Main Lobby.

(iii) Exterior Stairs:
There will be no exterior stairs.

(iv) Railings:
There will be no railings at exterior entrances

(v) Mail boxes:
Individual residential mailboxes will be provided next to the Residential Lobby at the First Floor level.

(vi) Lighting:
Recessed at the canopy ceiling or wall mounted fixtures.

(vii) Intercom:
No intercom system will be provided from site entrance to individual Residential Units. The concierge will have direct communication to all residences. There will be an intercom between the Service Entrance and the Concierge Desk.

6. SERVICE ENTRANCE

(i) Exterior Doors and Frames:

a. Service Entrance The service entrance and egress stair exit will be aluminum and glass with corrosion resistant fasteners. Adequate light, in compliance with Code will be provided.

b. Garage Entrance: Cars and trucks will be lowered to the Garage and Loading Docks area at the Sub-Cellar 2 via two enclosed car elevators.

(ii) Gates:
There will be no gates related to the service entrance.

(iii) Exterior Stairs:
There will be no exterior stairs.

(iv) Railings:
There will be no railings at service entrance.

**7.** ROOF AND ROOF STRUCTURE

(i) Roof types for all areas

a. Material:
The roofing systems will be an insulated roof membrane assembly (IRMA) comprised of fluid applied waterproofing installed below board insulation with pavers or gravel ballast over.

b. Insulation:
There will be 4" of rigid insulation or equivalent with a R value of 20 in compliance with the New York State Energy Code.

c. Surface Finish:
Pavers or gravel

d. Guarantee:
The roofing system shall have a ten-year manufacturers' guarantee.

e. Flashing Material:
There will be metal cap flashing and fabric base flashing.

(ii) Drains:

a. Location, material and type
Cast iron drains will be provided at all roof areas, which will discharge through internal leaders into the building storm drain system.

b. Gutters and Leaders
No gutters and leaders will be provided.

(iii) Skylights:

a. No skylights will be provided

(v) Bulkheads

a. Stairs
Will be enclosed in concrete and concrete block walls with aluminum panels.

b. Elevator
The elevator bypass will be part of roof bulkhead; it will be enclosed in concrete and concrete block walls with aluminum panels.

c. Others:
Mechanical equipment rooms will be part of roof bulkhead.
Window Washing Equipment will be located at the bulkhead.

All rooftop mechanical equipment, that so requires, shall be mounted on vibration isolation comprised of neoprene and springs as required to control vibration and structure-borne noise transmission to the apartments below. In addition, the structural slab separating the equipment will be at least 10-inches thick normal weight concrete.

(vi) Metal Work at Roof Levels

a. Exterior Metal Stairs
There will be no exterior metal stairs

b. Vertical ladders
Steel vertical ladders will be provided at roof levels within the mechanical bulkhead.

c. Railings
Railings will be glass and metal

d. Hatches to the roof
There will be no hatches to the roof.

e. All exterior metals, including fasteners shall be corrosion resistant

f. All metal dunnage will be provided with a primer and two coats of paint.

8. FIRE ESCAPES

There will be no fire escapes

9. YARDS AND COURTS

The Courtyard is in the South side of the property at the First Floor with direct access from 56th Street.
The Courtyard will be for private use of the residents of the building.
The easternmost section of the Courtyard will be a landscaped Garden and will provide access to the different areas of the complex.
The section of the Courtyard located south of the Tower will be a car drop off and open area that will provide main access to the Main Lobby.
An open service area that allows access for the Garage and Loading Dock will be located on the westernmost section of the lot.

(i) Paving:
Sections of the Courtyard and of the Garden will have pavers over a roofing system. There will be built-in planters.

(ii) Drainage:

Cast iron drains will be provided at the Courtyard and Garden areas and in the planters, they will discharge through internal leaders into the building storm drain system.

(iii) Stairs:
Steps or ramps will be provided to absorb the minor differences in elevation in the site.

(iv) Railings:
Stainless steel railing will be provided at all stairs, ramps and areas with different elevations.

(v) Fencing:
No fencing will be provided.

(vi) Walls:
New site walls will be provided adjacent to neighboring buildings.

10. INTERIOR STAIRS

(i) Number of stairs of each type.
Enclosure. There are 2 (two) scissors exit stairs which extend from the roof bulkhead down to the 26th floor servicing all the residential floors.
The scissors stairs separates into two independent stairs from floors 26th down to the ground level. The two independent stairs provide egress to the Health Club, the Office Units and the Retail Units. One of the stairs exits through the lobby, the other one through a passageway to the Garden and street.
The scissors stairs doors open directly into the private service corridor of apartments 48th to 59th C, 62nd to 73rd A and B, 77th to 84th B, 85th to 88th A and 91st to 95th A. These doors will be locked from the stair side and will be equipped with an automatic fail-safe system that would allow the door to open in the event of activation of any automatic fire detection system or when any elevator recall is activated. Doors with hold openers at the end of the corridors will close at the same time limiting the access to the rest of the apartment. A telephone communication system connected to a constantly attended station will be provided.

There will be independent stairs for the Retail Units at 57th Street and for the Park Avenue Pavilion.
There will be four stairs providing egress from the Cellar and Sub-Cellars.

(ii) Enclosure:
All stairs will be enclosed in two hour rated construction, either Gypsum board partitions or concrete block. All entrance doors to stairs will be 1 ½ hour rated.

(iii) Stair Construction:
The main tower stairs and the cellar stairs will be steel construction.

(iv) Stringers:
Steel

(v) Treads:
Steel plate or concrete fill with photo luminescent signage where required

(vi) Risers:
Painted steel

(vii) Guardrails:
Steel guardrails will be provided.
Steel pipe handrails will be provided.

11. INTERIOR DOORS AND FRAMES

(i) Unit entrance and interior doors and frames:
The Residential Units entrances doors shall be solid core wood fireproof self closing doors and will meet all Building Code requirements including noise transmission requirements. The frames will be hollow metal. The Residential Units interior doors shall be solid core wood doors with wood frames.

(ii) Corridor Doors and Frames:
All corridor doors shall be wood fireproof self closing with hollow metal frames and will meet the Building Code requirements, except that corridor doors at Mechanical and Bulkhead floors will be fireproof self closing hollow metal doors and frames.

(iii) Stair Doors and Frames:
All stair doors and frames shall be wood fireproof self closing with hollow metal frames and will meet the Building Code requirements.

(iv) Roof Doors, Basement Doors and Frames:
These doors and frames shall be hollow-metal and will meet the Building Code requirement

12. ELEVATORS

(i) Number of Passenger and Service Elevators
There shall be:

a. Two (2) Passenger Elevators ( PE-1 and PE-2)
Servicing Lobby, the Club Unit floors, the Office Units floors and all the Residential Units floors up the 84th floor.

b. Two (2) Passenger Elevators (PE-3 and PE-4)
Servicing Lobby, the Club Unit floors, the Office Units floors and all the Residential Units floors up the 95th floor.

c. One (1) Service Elevator (SE-1)
Servicing the Sub-Cellar 2, Sub- Cellar 1, Cellar, First Floor, Club Unit floors, Office Units floors, Residential Units Floors up to the 95$^{th}$ floor and Mechanical Floors

d. One (1) Passenger/ Service Elevator (ASE-1)
Servicing the Club Unit floors and Offices Units floors, Sub-Cellar 2, Sub-Cellar 1, Cellar, First Floor, 12$^{TH}$ floor, 14$^{th}$ floor and 16$^{th}$ floor ( Club) and 23$^{rd}$ to 25$^{th}$ ( Office floors)

e. One (1) Car Elevator (CL-1)
Servicing First Floor down to Sub-Cellar 2

f. One (1) Truck Elevator (TL-1)
Servicing First Floor down to Sub-Cellar 2

g. One (1) Passenger / Service Elevator (RPE-1)
Servicing the Park Avenue Pavilion.

h. One (1) Passenger / Service Elevator (RSE-2)
Servicing the Retail Units of the building at 57th Street.

i. One( 1) Service Elevator ( SE-2
Servicing the Service Entrance down to Sub-Cellar 2, Sub Cellar 1 and Cellar.

(ii) Manufacturer and Capacity:
Elevators will be either Fujitec Elevator Company/Custom, Otis Elevator Company/Custom, Schindler Elevator Company/Custom, ThyssenKrupp Elevator Company/Custom, Kone Elevator Company/Custom, or approved equal.

(iii) Elevator Capacity:

| | | |
|---|---|---|
| 1. Passenger | PE-1 | 3,000 lbs. |
| 2. Passenger | PE-2 | 3,000 lbs |
| 3. Passenger | PE-3 | 3,000 lbs |
| 4. Passenger | PE- 4 | 3,000 lbs |
| 5. Service | SE-1 | 3,500 lbs. |
| 6. Club Elevator | ASE-1 | 4,500 lbs. |
| 7. Car Elevator | CL-1 | 17,500 lbs. |
| 8. Truck Elevator | TL-1 | 60,000 lbs. |
| 9. Retail Elevator | RPE-1 | 3,500 lbs. |
| 10. Retail Elevator | RSE-2 | 3,000 lbs. |
| 11. Service Elevator | SE-2 | 3,000 lbs. |

(iv ) Operation type:
PE-1 & PE-2 and PE-3 & PE-4
DUPLEX ETA GROUP CONTROL

RPE-1, RSE-2, SE-1, S-2, ASE-1, CL-1, TL-1
SIMPLEX SELECTIVE COLLECTIVE CONTROL

(v) Type of controls:
PE-1, PE-2, PE-3, PE-4 and SE-1
Gearless Variable Voltage Variable Frequency (VVVF) control.

RPE-1, RSE-2
Geared Variable Voltage Variable Frequency (VVVF) control.

CL-1, TL-1
Hydraulic AC drives

(vi) Floors Served
See item 1

(vii) Elevators type:
All elevators will be Gearless Traction Type except the car elevator and the truck elevator that will be direct acting hydraulic.

(viii) Doors:

| | |
|---|---|
| PE-1/PE-4 | one speed center open doors |
| SE-1 | one speed center open doors (front & back) |
| ASE-1 | one speed center open door |
| CL-1 and TL-1 | vertical biparting door |
| RPE-1 , S-2 and RSE-2 | one speed left side opening |

(ix) Location of Machine Room:

| | |
|---|---|
| PE-1 and PE-2 | Roof bulkhead |
| PE-3 and PE-4 | Mechanical Room at 89th Floor |
| SE-1 | Roof bulkhead |
| ASE-1 | Mechanical Room at 27th Floor |
| CL-1 and TL-1 | Near lowest landing |
| RPE-1, SE-2 and RSE-2 | Above elevators |

13. ELEVATORS CABS

(i) Kind:
Residential

(ii) Floor material:
Stone or carpet at the passenger elevators.
Rubber at service elevators

(iii) Walls:
Wood panels, stone or metal at the Passenger Elevators
Metal Panels at the Service Elevators.

(iv) Ceiling:
The ceiling will be wood and plaster

(v) Lighting:
Recessed ceiling lighting

(vi) Alarm and Safety System
Cabs will have emergency lighting.
Fire Recall will be integrated with the building fire alarm system.

## I. AUXILIARY FACILITIES

1. LAUNDRY ROOM

(i) Location and number of rooms:
There will be one Laundry Room located in the Sub- Cellar 2 to be used by the Residential Unit Owners.

(ii) Clothes washers, number and type:
There will be two heavy duty coin operated clothes washers

(iii) Clothes dryers, numbers and type:

There will be three heavy duty, coin operated gas dryers

(iv) Room ventilation:
The laundry room will be mechanically exhausted and will be provided with air conditioning.

(v) Dryer ventilation:
The dryers will be mechanically exhausted to the exterior.

2. REFUSE DISPOSAL

(I) Incinerators:
There will be no incinerators.

(II) Compactors:
Two Refuse Chutes will be located off the public corridor on the Service Elevator lobby on the Residential Floors, except that at Apartment C at floors 48th to 59th; apartments A and B at floors 62nd to 73rd and 77th to 84th and the one apartments per floor at floors 85th to 88th and 91st to 95th the chutes will be located within the Residential Unit. The chutes will lead to a compactor located at the 26th floor.

(III) Approvals:
The compactor equipment and installation will be approved by all required authorities.

(IV) Initial Storage Location:
Compacted bags will be stored at the refrigerated compactor room. The recyclable products will be stored at the recycling room located at Sub-Cellar.

(V) Pick-up schedule
The bags from residential compactor room will be brought by building personnel to the curb at 56th Street and picked up by the New York City Department of Sanitation.

## J. PLUMBING AND DRAINAGE

1. WATER SUPPLY:

A 6-inch domestic water service with a double check valve backflow preventer and water meter will be provided from the public water main to three (3) House Pumps each rated at 200 GPM one is locked. Domestic water will be supplied to the Cellar level from 57th Street. All main shut off valves are located on Cellar level.
A backflow preventer will be provided at this location. Pumps will supply the 12 water tanks that will serve both Domestic Water Supply and Fire Reserve. The capacity of the tanks ranges between 11,250 gallons and 15,000 gallons. The Building will be supplied by 13 zones of cold water, hot water and hot water circulation. Domestic hot water will be provided via steam fired domestic water heaters. Material of water pipes will be Type "L" copper. All domestic hot and cold water pipes will be insulated throughout with 1" fiberglass insulation with insulation jackets.

EQUIPMENT SCHEDULE:

| Equipment | Designation | Location | Service | Manufacturer | Model No. |
|---|---|---|---|---|---|
| Water tanks fill in pump | P-1 | SC Level | (3) Pumps, 200gpm ea, 75hp ea, 90820ft head, 480v, 3p | Peerless | |
| Water tanks fill in pump | P-2 | 60th Floor | (3) Pumps, 200gpm ea, 60hp ea, 75700ft head, 480v, 3p | Peerless | |

2. FIRE PROTECTION SYSTEMS

(I) Two Fire Services:
One 8-inch fire service will enter the building from 56th and one 8-inch fire service will enter the building from 57th Street and will be provided with 8-inch double detector check valve backflow devices. The fire services will supply a 1,000 GPM Automatic Fire Pump located at Sub Cellar-2 level.

(ii ) Standpipes:
The building will have six fire zones each zone will have primary supply via automatic fire pump and secondary supply from the gravity tank of zone above. The top zone will have primary and secondary automatic fire pumps each pump will have fire reserve tanks with the minimum duration of 30 minutes for each pump. All pumps will be 750 GPM except pump for low zone located on the cellar level which will be 1,000 GPM.

A 2½ inch hose valve with cap and chain will be located at the fire standpipe at each floor above the Lobby Level.
All piping is Schedule 10 or 40 steel piping with rolled or cut grooved or threaded joints.

(iii) Hose Rack, Hoses and Nozzles:
A lobby hose cabinet and locked key box will be located at the First Floor. The lobby fire hose cabinet consists of 375 Feet of 1½"fire hose.

(iv) Sprinkler System:
Automatic wet sprinklers will be supplied from combined FSP/sprinkler riser for entire Building.
Piping is Schedule 10 or 40 steel piping with grooved or threaded joints.
Building is completely sprinklered utilizing sidewall, recessed and pendant type heads.

(v) Siamese Connections:
One 6"x3"x3" siamese combined fire sprinkler and standpipe connections will be provided at each street.

3. DOMESTIC WATER SYSTEM

Domestic water pressure will be maintained by a combination of Constant Pressure Booster pumps, gravity feed from water tanks in order to provide a minimum of 35 psi at all fixtures. Maximum pressure will be limited to 85psi through the use of pressure regulating devices.

4. SANITARY SEWAGE SYSTEM

(i) Sewage Piping:
Sanitary sewage will be conveyed by gravity via vented soil and waste branches, stacks and house drains to combined house sewer.
Drainage and vent piping will be no-hub cast iron piping with stainless steel couplings and rubber gaskets.

(ii) Sewage ejector Pumps:
Two duplex sewage ejectors are provided at the Sub Cellar-2 level to collect and dispose of sanitary waste originating below street level. Drainage collected at parking areas will first flow through a sand/oil interceptor.

(iii) Sewage Disposal:
One 15 inch combined sewer connected to street municipal sewer at 56th Street and one 15 inch combined sewer connected to street municipal sewer at 57th Street.

5. PERMITS REQUIRED

(i) All permits will be obtained by the plumbing contractor.

6. STORM DRAINAGE SYSTEM

(i) Gravity storm drainage from Courtyard and Garden drains will be conveyed to 10,000 gallons storm water detention tank located on Cellar level and then to 15" combined sewer connected to street municipal sewer on 56th Street. Gravity storm drainage from the Tower roof flow control drains will be conveyed to the 15" combined sewer on 57th Street.

(ii) Roof and Terrace Flow Control Drains
Roof and terrace drains will be located on the roof and terraces.

(iii) Piping:
Cast iron piping with hub and spigot fittings and push-on joints.

(iv) Sump Pumps:
Three duplex sump pumps are provided at the Sub Cellar-2 level to collect and dispose of groundwater as well as areas not able to be conveyed to the city sewers through gravity. All elevator pits are also provided with simplex oil minder sump pumps.

(v) Storm water disposal:
The building storm water drainage system will be connected to the two 15" combined sewers main exiting at 56th street and 57th street.

## K. HEATING

1. DOMESTIC WATER HEATING:

Domestic hot water will be provided by steam fired storage type hot water heaters. The heaters will be located at the 2nd floor and bulkhead Mechanical Room. Each domestic water zone will be provided with duplex domestic water heaters. No instant hot water devices will be provided.

2. SPACE HEATING:

Space heating will be provided by two steam/hot water shell and tube exchangers each located on the Sub-Cellar, 30th and 31st, floor mechanical room. Steam shall be provided by ConEdison from East 46th street. One (1) meter will be provided. A PRV station will be provided to reduce the steam from high pressure to low pressure for all uses.

Hot water will be provided to dwelling units through 4-Pipe Fan Coil Units. The electric cost associated with operating fan coil for heating will be payable by each owner to the Utility Company and does not constitute part of the common charges. The Perimeter Heating System is designed to meet the New York City and State Energy Code. Heating capacities of fan coil units shall be as shown on the schedule below.

The fan-coil units will be provided in various sizes as indicated on the plans. The total capacities in each of the various units are as follows:

| # of Apartments | Apt Type | Total Heating per apt BTU | Total Cooling per apt BTU |
|---|---|---|---|
| 4 per floor | A | 35,250 | 38,250 |
| | B | 35,000 | 31,400 |
| | C | 30,250 | 33,100 |
| | D | 30,000 | 35,385 |
| 2 per floor | A | 65,100 | 61,100 |
| | B | 66,600 | 68,300 |
| 3 per floor | A | 65,100 | 61,100 |
| | B | 30,250 | 33,100 |
| | C | 30,000 | 35,385 |
| 1 per floor | A | 120,400 | 125,900 |

Equipment location and manufacturer schedule:

| Equipment | Designation | Location | Service | Manufactur | Model No. |
|---|---|---|---|---|---|
| Fans | EF-SC-1 | Sub Cellar 2 | Garage Exhaust | Greenheck | QEI |
| | EF-SC-2 | Sub Cellar 2 | Residential Recycling Exhaust | Greenheck | BSQ |
| | EF-SC-3 | Sub Cellar 2 | Electrical Room Ventilation | Greenheck | QEI |
| | EF-SC-4 | Sub Cellar 2 | Electrical Room Ventilation | Greenheck | QEI |
| | EF-SC-5 | Sub Cellar 2 | Fuel Oil Room | Greenheck | BSQ |
| | EF-SC-6 | Sub Cellar 2 | MER Ventilation Exhaust | Greenheck | BSQ |
| | EF-SC-7 | Sub Cellar 2 | Electrical Room Ventilation | Greenheck | BSQ |
| | SF-SC-1 | Sub Cellar 2 | Garage Supply | Greenheck | QEI |
| | SF-SC-2 | Sub Cellar 2 | Residential Recycling Supply | Greenheck | BSQ |
| | SF-SC-3 | Sub Cellar 2 | Electrical Room Ventilation | Greenheck | QEI |
| | SF-SC-4 | Sub Cellar 2 | Electrical Room Ventilation | Greenheck | QEI |
| | SF-SC-5 | Sub Cellar 2 | MER Ventilation Supply | Greenheck | BSQ |
| | RF-SC-1 | Sub Cellar 2 | SC BOH Return | Greenheck | QEI |

| | | | | |
|---|---|---|---|---|
| SX-SC-1 | Sub Cellar 2 | SC Smoke Exhaust | Greenheck | QEI |
| TX-SC-1 | Sub Cellar 2 | Toilet Exhaust | Greenheck | BSQ |
| SP-SC-1 | Sub Cellar 2 | Stair Pressurization | Greenheck | QEI |
| SP-SC-2 | Sub Cellar 2 | Stair Pressurization | Greenheck | QEI |
| EF-C-1 | Cellar | Network Component Vent | Greenheck | QEI |
| EF-C-2 | Cellar | Steam Room | Greenheck | QEI |
| SX-C-1 | Cellar | Cellar Smoke Exhaust | Greenheck | QEI |
| SX-2-1 | 2ND Floor | Smoke Exhaust | Greenheck | AFSW |
| RF-2-1 | 2ND Floor | 1st Floor Lobby Return | Greenheck | QEI |
| RF-2-2 | 2ND Floor | 2ND Floor Retail | Greenheck | AFSW |
| RF-2-3 | 2ND Floor | 1ST Floor Retail | Greenheck | AFSW |
| TX-5-1 | 5TH Floor | Toilet Exhaust | Greenheck | BSQ |
| RF-4-1 | 12TH Floor | Club Unit- Lounge Return | Greenheck | AFSW |
| RF-21-1 | 21ST Floor | Club Unit– Conference | Greenheck | QEI |
| RF-21-2 | 21ST Floor | Club Unit– Exercise Club | Greenheck | QEI |
| RF-21-3 | 21ST Floor | Amenity – Dining | Greenheck | AFSW |
| RF-23-1 | 23RD Floor | 24TH Floor Office | Greenheck | QEI |
| RF-23-2 | 23RD Floor | 25TH Floor Office | Greenheck | AFSW |
| RF-23-3 | 23RD Floor | Club Unit– SPA | Greenheck | AFSW |
| RF-26-1 | 27TH Floor | Elevator Mach Rm. | Greenheck | AFSW |
| EF-26-1 | 27TH Floor | Compactor Room Ventilation | Greenheck | BSQ |
| SP-26-1 | 27TH Floor | Stair Pressurization | Greenheck | AFSW |
| SP-26-1 | 27TH Floor | Stair Pressurization | Greenheck | AFSW |
| SF-31-1 | 30th Floor | MER Ventilation Supply | Greenheck | BSQ |
| EF-31-1 | 30th Floor | Electrical Room Ventilation | Greenheck | QEI |
| EF-31-2 | 30th Floor | MER Ventilation Exhaust | Greenheck | BSQ |
| KX-31-1 | 30th Floor | Kitchen Exhaust | Greenheck | QEI |
| SF-32-1 | 31ST Floor | MER Ventilation Supply | Greenheck | BSQ |
| DEX-32-1 | 31ST Floor | Dryer Exhaust | Greenheck | BSQ |
| TX-32-1 | 31ST Floor | Toilet Exhaust | Trane | AF |
| EF-32-1 | 31ST Floor | Electrical Room Ventilation | Greenheck | BSQ |
| EF-32-2 | 31ST Floor | MER Ventilation Exhaust | Greenheck | BSQ |
| SF-46-1 | 46TH Floor | MER Ventilation Supply | Greenheck | BSQ |
| EF-46-1 | 46TH Floor | Electrical Room Ventilation | Greenheck | QEI |
| EF-46-2 | 46TH Floor | MER Ventilation Exhaust | Greenheck | BSQ |
| EF-46-3 | 46TH Floor | Trash Room Ventilation | Greenheck | BSQ |
| KX-46-1 | 46TH Floor | Kitchen Exhaust | Greenheck | QEI |
| SF-47-1 | 47TH Floor | MER Ventilation Supply | Greenheck | BSQ |
| EF-47-1 | 47TH Floor | Electrical Room Ventilation | Greenheck | BSQ |
| EF-47-2 | 47TH Floor | MER Ventilation Exhaust | Greenheck | BSQ |
| DEX-47-1 | 47TH Floor | Dryer Exhaust | Greenheck | QEI |
| TX-47-1 | 47TH Floor | Toilet Exhaust | Trane | AF |
| SP-47-1 | 47TH Floor | Stair Pressurization | Greenheck | QEI |
| SP-47-2 | 47TH Floor | Stair Pressurization | Greenheck | QEI |
| SF-60-1 | 60TH Floor | MER Ventilation Supply | Greenheck | BSQ |
| EF-60-1 | 60TH Floor | Electrical Room Ventilation | Greenheck | QEI |
| EF-60-2 | 60TH Floor | MER Ventilation Exhaust | Greenheck | BSQ |
| EF-60-3 | 60TH Floor | Trash Room Ventilation | Greenheck | BSQ |
| KX-60-1 | 60TH Floor | Kitchen Exhaust | Greenheck | QEI |

| | | | | | |
|---|---|---|---|---|---|
| | SF-61-1 | 61ST Floor | MER Ventilation Supply | Greenheck | BSQ |
| | SP-61-1 | 61ST Floor | Stair Pressurization | Greenheck | QEI |
| | SP-61-2 | 61ST Floor | Stair Pressurization | Greenheck | QEI |
| | DEX-61-1 | 61ST Floor | Dryer Exhaust | Greenheck | BSQ |
| | TX-61-1 | 61ST Floor | Toilet Exhaust | Trane | AF |
| | EF-61-1 | 61ST Floor | Electrical Room Ventilation | Greenheck | BSQ |
| | EF-61-2 | 61ST Floor | MER Ventilation Exhaust | Greenheck | BSQ |
| | SF-74-1 | 74TH Floor | MER Ventilation Supply | Greenheck | BSQ |
| | EF-74-1 | 74TH Floor | Electrical Room Ventilation | Greenheck | QEI |
| | EF-74-2 | 74TH Floor | MER Ventilation Exhaust | Greenheck | BSQ |
| | EF-74-3 | 74TH Floor | Trash Room Ventilation | Greenheck | BSQ |
| | KX-74-1 | 74TH Floor | Kitchen Exhaust | Greenheck | QEI |
| | SF-75-1 | 75TH Floor | MER Ventilation Supply | Greenheck | BSQ |
| | EF-75-1 | 75TH Floor | Electrical Room Ventilation | Greenheck | BSQ |
| | EF-75-2 | 75TH Floor | MER Ventilation Exhaust | Greenheck | BSQ |
| | DEX-75-1 | 75TH Floor | Dryer Exhaust | Greenheck | BSQ |
| | TX-75-1 | 75TH Floor | Toilet Exhaust | Trane | AF |
| | SF-89-1 | 89TH Floor | MER Ventilation Supply | Greenheck | BSQ |
| | EF-89-1 | 89TH Floor | Electrical Room Ventilation | Greenheck | QEI |
| | EF-89-2 | 89TH Floor | MER Ventilation Exhaust | Greenheck | BSQ |
| | EF-89-3 | 89TH Floor | Trash Room Ventilation | Greenheck | BSQ |
| | KX-89-1 | 89TH Floor | Kitchen Exhaust | Greenheck | QEI |
| | SF-90-1 | 90TH Floor | MER Ventilation Supply | Greenheck | BSQ |
| | SP-90-1 | 90TH Floor | Stair Pressurization | Greenheck | QEI |
| | SP-90-2 | 90TH Floor | Stair Pressurization | Greenheck | QEI |
| | DEX-90-1 | 90TH Floor | Dryer Exhaust | Greenheck | BSQ |
| | TX-90-1 | 90TH Floor | Toilet Exhaust | Trane | FC |
| | EF-90-1 | 90TH Floor | Electrical Room Ventilation | Greenheck | BSQ |
| | EF-90-2 | 90TH Floor | MER Ventilation Exhaust | Greenheck | BSQ |
| | EF-96-1 | 96TH Floor | Electrical Room Ventilation | Greenheck | AFSW |
| | EF-96-2 | 96TH Floor | Electrical Room Ventilation | Greenheck | AFSW |
| | EF-96-3 | 96TH Floor | MER Ventilation Supply | Greenheck | QEI |
| | SF-96-1 | 96TH Floor | Electrical Room Ventilation | Greenheck | AFSW |
| | SF-96-2 | 96TH Floor | Electrical Room Ventilation | Greenheck | AFSW |
| | SF-96-3 | 96TH Floor | MER Ventilation Supply | Greenheck | QEI |
| | EF-97-1 | 97TH Floor | MER Ventilation Exhaust | Greenheck | QEI |

| | | | | | |
|---|---|---|---|---|---|
| AHU | AHU-SC-1 | Sub Cellar 2 | SC MER Supply | Trane | M-Series |
| | AHU-2-1 | 2ND Floor | 1st Floor Lobby Supply | Trane | M-Series |
| | AHU-4-1 | 12TH Floor | Club Unit- Lounge | Trane | M-Series |
| | AHU-21-1 | 14th Floor | Club Unit– Conference | Trane | M-Series |
| | AHU-21-2 | 14th Floor | Club Unit – Exercise Club | Trane | M-Series |
| | AHU-21-3 | 12th Floor | Amenity – Dining | Trane | M-Series |
| | AHU-21-4 | 12th Floor | Amenity – Kitchen | Trane | M-Series |
| | AHU-23-1 | 19th Floor | 18TH Floor Office | Trane | M-Series |
| | AHU-23-2 | 19thFloor | 20TH Floor Office | Trane | M-Series |
| | AHU-23-3 | 16th Floor | Club Unit– SPA | Trane | M-Series |

| | | | | | |
|---|---|---|---|---|---|
| | AHU-23-4 | 16th Floor | Club Unit - Pool | Trane | M-Series |
| | AHU-26-1 | 27TH Floor | Elevator Mach Rm. | Trane | M-Series |
| | AHU-26-2 | 19th Floor | 19TH Floor Office | Trane | M-Series |
| | AHU-32-1 | 32ND Floor | Condo OA supply | Trane | M-Series |
| | AHU-46-1 | 46TH Floor | Condo corridor supply | Trane | M-Series |
| | AHU-47-1 | 47TH Floor | Condo OA supply | Trane | M-Series |
| | AHU-61-1 | 61ST Floor | Condo OA supply | Trane | M-Series |
| | AHU-75-1 | 75TH Floor | Condo OA supply | Trane | M-Series |
| | AHU-90-1 | 90TH Floor | Condo OA supply | Trane | M-Series |
| | | | | | |
| AC | AC-2-1 | 2ND Floor | 2ND Floor Retail | Trane | SCWF-Series |
| | AC-2-2 | 2ND Floor | 1ST Floor Retail | Trane | SCWF-Series |
| | AC-4-1 | 4TH Floor | 4TH Floor Retail | Trane | SCWF-Series |
| | | | | | |
| HV | HV-3-1 | 3RD Floor | MER Ventilation | Trane | M-Series |
| | HV-21-1 | 15th Floor | Kitchen Make-Up | Trane | M-Series |
| | HV-26-1 | 26TH Floor | MER Ventilation | Trane | M-Series |
| | HV-96-1 | 96TH Floor | MER Ventilation | Trane | M-Series |

Public areas, lobbies, health club, residential corridors and entrances will be served by Air Handling Units with hot water heating coils. Perimeter area will be supplied with VAV boxes and reheat coils.

The Residential Restaurant at the 12th floor shall be heated via Air Handling equipment with steam coils. The steam shall be sub metered separately from the rest of the building.

Public stair bulkhead and other miscellaneous common areas requiring heat during the winter season are heated with electric resistant type heaters.

Garage Unit will be provided with heat via reheat coils for heat loss due to transmission through the wall and garage entrance.

3. PIPING, INSULATION

Schedule 40 steel and/or copper tubing with standard weight fittings will be used. Hot water, chilled water and steam piping is insulated.

Ductwork to be provided with insulation as required. The insulation shall be glass fiber with 0.75 pcf (12 kg/cm2) with FSK face, FSK-faced fibrous glass duct wrap insulation having a k-value of .28 Btu•in/(h•ft$^2$•°F).

Operation and Maintenance manual shall be provided to the condominium management including operating personnel training as required on specifications.

Air and water balancing report shall be provided at the completion of the construction.

## L. GAS SUPPLY

1. TYPE:

Low pressure gas service will enter the building at 56th street. The gas will supply apartment cooking ranges, fireplaces, and Residential Restaurant kitchen cooking.

2. METERS:

One meter located on the cellar floor will be provided for resident cooking and fireplaces. The commercial kitchen, located on the 12th floor, will be provided with a separate meter located on the cellar.

3. PIPING MATERIALS:

Black steel Schedule 40 pipe with malleable fittings.

## M. AIR CONDITIONING

1. TYPE OF SYSTEM:

Four (4) Pipe Fan Coil. The Fan Coil Units shall be manufactured by International Environmental (or equal) 110 volts, 1 Ph, 60Hz, as follows:

a. Vertical Closet Units shall be INTERNATIONAL Model VEY.
b. Horizontal Hideaway Ceiling Units shall be INTERNATIONAL Model HPY

2. COOLING PLANT SYSTEM:

(i) Apartment low rise and Amenity spaces (level Sub Cellar– 59) cooling system consists of:

Two (2) one (1) cell (one as stand by), 1150 Ton open cooling tower located at the roof of the Park Avenue Pavilion. Tower shall be provided with plume abatement and ultra low noise fans. The Cooling Tower shall be manufactured by Marley (or equal) Cooling Tower is capable of handling complete building cooling loads under conditions of New York State Energy Code.

Two (2) (one as stand by), 1150 Ton centrifugal chillers located on the roof of the Park Avenue Pavilion. The chillers shall be manufactured by York (or equal). The chillers are capable of handling complete building cooling loads under conditions of New York State Energy Code

Four (4) vertical in line centrifugal pumps located at 4TH floor Retail MER are provided; two (2) Primary Chilled one (1) standby each at 1970 GPM, two (2) Condenser Water one (1) Standby each at 2300 GPM.

Two (2) (one as stand by) plate and frame heat exchanger for secondary chilled water located at the 32ND floor, and related two (2) (one as stand by) vertical in line centrifugal pumps located at the 31ST floor MER. Plate and frame heat exchanger main use for system pressure break.

Cooling plant system is based on peak "bulk" cooling load for the residential areas of the Building in accordance with ASHRAE Guide recommendations.

(ii) Apartment hi rise cooling system consists of:

Two (2) one (1) cell (one as stand by), 1150 Ton open cooling tower located at the 82nd floor roof. Tower shall be standard type. The Cooling Tower shall be manufactured by Marley (or equal) Cooling Tower is capable of handling complete building cooling loads under conditions of NYS Energy Code.

Two (2) (one as stand by), 1150 Ton centrifugal chillers located on the 97$^{TH}$ floor MER. The chillers shall be manufactured by York (or equal). The chillers are capable of handling complete building cooling loads under conditions of NYS Energy Code

Four (4) vertical in line centrifugal pumps located at 97$^{th}$ floor MER are provided; two (2) Primary Chilled one (1) standby each at 1970 GPM, two (2) Condenser Water one (1) Standby each at 2300 GPM.

Two (2) (one as stand by) plate and frame heat exchanger for secondary chilled water located at 58$^{th}$ floor, and related two (2) (one as stand by) vertical in line centrifugal pumps located at 57th floor MER. Plate and frame heat exchanger main use for system pressure break.

Cooling plant system is based on peak "bulk" cooling load for the residential areas of the Building in accordance with ASHRAE Guide recommendations.

(iii) Retail spaces cooling system consist of:

One (1) one (1) cell 400 Ton open cooling tower located at the roof of the Park Avenue Pavilion. Tower shall be provided with plume abatement and ultra low noise fans. The Cooling Tower shall be manufactured by Marley (or equal) Cooling Tower is capable of handling complete building cooling loads under conditions of NYS Energy Code.

(iv) Individual units:
Individual units are designed to meet all requirements of NY State Energy Code.

HVAC units will provide Air Conditioning for the main entrance lobby, elevator machine rooms, telephone rooms, etc with chilled water coils.

Residential Units will be provided with four-pipe fan coil units of capacities shown on plans. Numbers of units of each type are shown on plans, EER ratings meet requirements of The New York State Energy Code dated 2008. Fan Coil units are sized for the calculated individual peak cooling requirements. Each fan coil unit will be thermostatically controlled.

Cooling and heating of corridor ventilation air will be provided by chilled water cooled air conditioning units with steam.

## N. VENTILATION

1. RESIDENTIAL KITCHENS

Residential kitchens will be ventilated with a general exhaust ventilation system rated by manufacturer as exhausting 150 cubic feet of air per minute from each kitchen. Kitchens

with range hoods shall be connected to a separate kitchen system rated by manufacturer as exhausting 1000 cubic feet of air per minute from each kitchen.

2. RESIDENTIAL RESTAURANT KITCHEN:

The Residential Restaurant Kitchen will be ventilated with an exhaust ventilation system.

3. RESIDENTIAL BATHROOMS:

Residential bathrooms will be ventilated with an exhaust ventilation system exhausting 100 cubic feet of air per minute from master bathrooms and 50 cubic feet of air per minute from secondary bathrooms and powder rooms.

4. NON-RESIDENTIAL BATHROOMS:

Interior non-residential bathrooms located at First Floor, Cellar and Sub-Cellar will be ventilated with an exhaust ventilation system rated by the manufacturer as exhausting 50 cubic feet of air per minute for each water closet.

5. LOCKER ROOMS:

Locker rooms will be ventilated with exhaust ventilation capable of exhausting 75 cubic feet of air per minute per room.

6. PUBLIC CORRIDORS:

Interior corridors are provided with heating and air-conditioned supply air at 0.5 cubic feet of air per square foot. This is in accordance with code requirements.

7. RESIDENTIAL UNITS LAUNDRY:

Individual washer/dryers are provided in Residential Units. Dryers will be exhausted to a common exhaust riser. The dryer capacity is approximately 200CFM.

8. CENTRAL LAUNDRY ROOM:

Individual commercial quality washer/dryers are provided to serve a central laundry for the use of Residential Unit owners located in the building sub-cellar level. The dryers will be ventilated with an exhaust ventilation system exhausting 600 cubic feet of air per minute.

9. TRASH ROOM:

Trash rooms will be ventilated with an exhaust ventilation system rated by manufacturer at 100 cubic feet of air per minute per room.

10. GAS METER ROOM:

Gas meter room will be vented to the outside.

11. RESIDENTIAL FRESH / MAKE-UP AIR:

The amount of makeup air per Residential Unit shall be 70% of the total amount of air being exhausted per Residential Unit.

12. ACOUSTICAL CRITERIA:

| | |
|---|---|
| Apartment: | NC-35 |
| Lobby | NC-40 |
| Retail | NC-35 |
| Conference Room | NC-30 |
| Dining | NC-35 |

## O. ELECTRICAL SYSTEM

1. SERVICE:

(i) Service from Consolidated Edison shall be provided to the Cellar level switchboard rooms. The electrical service will be sized as per Building Electrical Load and in accordance with 2008 National Electrical Code with New York City Amendments. Service will be rated 265/460, 3-Phase, 4-Wire and switchboards will distribute power to the tower via step-up transformers. Mechanical floors spaced periodically in the tower will house substations to transform the 5 kV power down to 120/208 utilization voltage for distribution to the tenants. The lower floors of the building will be served with 265/460 Volt power from the Cellar level switchboards and transformed to 120/208 Volt locally where required.

(ii) There will be six (6) service switches from each of the (2) incoming services as follows:

a. Service Switch #1-1, 4000 amps serving SG-1 switchboard.
b. Service Switch #1-2, 800 amps serving Retail Tenants in the retail building.
c. Service Switch #1-3, 600 amps serving Automatic Fire Pump.
d. Service Switch #1-4, 600 amps serving Automatic Fire Pump.
e. Service Switch #1-5, 600 amps serving Automatic Fire Pump.
f. Service Switch #1-6, 1200 amps serving Automatic Fire Pump.
g. Service Switch #2-1, 4000 amps serving SG-2 switchboard.
h. Service Switch #2-2, 1600 amps serving Retail Tenants in the main tower.
i. Service Switch #2-3, 600 amps serving Automatic Fire Pump.
j. Service Switch #2-4, 600 amps serving Automatic Fire Pump.
k Service Switch #2-5, 800 amps serving Automatic Fire Pump.
l. Service Switch #2-6, 30 amps serving the fire alarm system

(iii) (2) Two Residential Unit distribution centers are provided for each 12 floors of residential occupancy.

(iv) Residential Unit distribution centers located on mechanical floors throughout the tower will provide electronically sub metered, single phase, 208 Volt feeders to the individual apartments. Where single apartments occupy an entire floor, these apartments shall be provided with 3 phase, 208 Volt power. Residential Unit feeders and electrical panel boards will vary in size based on unit square footage, load and length of feeder (to compensate for voltage drop). The National Electrical Code (2008) with New York City Amendments will be used to size the electrical equipment and feeders and will take into account all normal Residential Unit loads as well as specific appliances provided in the Residential Unit such as washing machines, clothes dryers, dishwashers, microwaves, etc.

a. It is expected that the various Residential Unit panel boards will range in capacity from 100 Amp to 200 Amp at 120/208 Volt single phase, 60 Hz power. Larger Residential Units will be provided with 120/208 Volt 3 phase, 4 wire 200 Amp service.

| # of Apartments | Calculated Demand Load per Apartment | Panel Capacity in Amperes | Main Circuit Breaker Size in Amperes |
|---|---|---|---|
| | | | |
| 4 per floor | 182 Amps @ 208 Volt 1 Ph | 225 | 225 |
| 2 per floor | 207 Amps @ 208 Volt 1 Ph | 300 | 250 |
| 1 per floor | 143 Amps @ 208 Volt **3 Ph** | 225 | 200 |

b. Switched ceiling outlets for lighting fixtures will be provided in bathrooms, foyers, large closets and kitchens. Three way switches will be provided in certain interior apartment corridors. Fixtures will be incandescent or fluorescent type in foyers, baths and kitchens.

c. Switched receptacles will be provided in rooms other than those mentioned in "b" above to accommodate portable lamps and other types of plug-in lighting.

d. Convenience Outlets will be provided per section 210, Part III of the 2008 NEC with New York City Amendments. Ground fault receptacles will be provided in all bathrooms, kitchens, and Residential Unit terraces. All outlets, other than those that are GFCI protected, shall be connected to arc fault circuit breakers. Appliance receptacles will be provided in kitchens, dining rooms and other rooms where appliance locations have been identified.

e. Tamper proof switches will be provided in child play areas.

f. Water resistant receptacles will be provided for all exterior uses.

(vi ) Club Unit will also be electronically sub-metered. Electric charges for Club Unit will be evenly billed to the residents on a monthly basis.

## P. TELEPHONE, INTERCOM AND SECURITY SYSTEMS

Telephone services will enter the Building from East 56th Street and be fed to a telephone service entrance room located in the Cellar level. It will then be distributed throughout the Building through risers and sleeves. Each Residential Unit will receive telephone service to a closet within the unit.

The Building is to be provided with an intercom system linking the service entry areas with the concierge's desk.

Closed circuit television cameras will monitor selected entrances with viewing monitors at the concierge's desk.

The cameras will be designed to cover the immediate area within view of the cameras and will not necessarily cover all of the area involved.

Wiring will be installed in each Residential Unit to enable the Unit Owner to obtain telephone and cable television service at the Unit Owner's expense. In each Residential Unit outlets for cable TV and telephone will be provided in the living room, bedroom and kitchen.

The Building will not be equipped with a master television antenna system.

## Q. PUBLIC AREA LIGHTING

Lighting will be furnished to the public areas of the Building through fluorescent and/or incandescent fixtures. Typical light fixtures will be manufacturers comparable to Lightolier, Iris, Bartco or Lucifer.

## R. GARAGE

1. LOCATION OF GARAGE

Garage will be located at Sub-Cellar 2
It will be accessed via a car elevator. A truck elevator for the Loading Dock will double as back-up garage elevator for emergencies and vice versa.
The Loading Dock and the Garage will the share maneuvering area next to the elevators.

2. NUMBER OF SPACES

The Garage Unit is presently zoned for accessory Parking for **46** passenger vehicles, 29 of which are allocated to the residential occupants of the building and the other 17 spaces will be for the employees of the commercial spaces.
Two of the parking spaces will be provided with the clearance required for vans for people with disabilities. These spaces will be designated with the international symbols of accessibility signs prominently posted.

3. SURFACES

The floor will be concrete with the required waterproofing protection. No striping or special parking signage will be provided because this will be a valet attended parking. Exit signs will be provided in compliance with NYC Building Code.

4. PARKING

The garage will be valet attended. The valet shall take control of and later return the vehicles at the First Floor drop off area. This area will comply with all requirements for people with disabilities.

5. GARAGE VENTILATION

The garage will be mechanically ventilated to the exterior.

6. GARAGE FIRE PROTECTION

A dry sprinkler system will be provided.

7. DRAINAGE

Floor drains will be provided.
Car washing areas will not be provided.

**S. SWIMMING POOL**

No swimming pools will be provided as part of the Residential Condominium.
There will be an interior swimming pool at the Health Club at 16th floor.
The approximate dimensions of the pool will be 73'-0" long by 12'-0" wide with a water depth of 4'-0". The pool will be constructed in stainless steel with ceramic tile interior finish.
The pool mechanical system will use a commercial sand filter and a 5 HP pump rated at 130GPM at 65 TDH. A heat exchanger will be used to heat the pool with the heat source provided by the building mechanical system.

**T. TENNIS COURTS, PLAYGROUNDS and RECREATION FACILITIES**

1. TENNIS COURTS

No tennis courts will be provided.

2. PLAYGROUNDS

No playgrounds will be provided.

3. OTHER RECREATIONAL FACILITIES

a. Residential Dining Room and Terrace
A residential Dining Room and Terrace for the exclusive use of the residents of the building will be located at the 12th floor. The restaurant will have a maximum capacity for 74 people and will be able to be divided into private dining rooms. The restaurant kitchen will provide room service to the apartments.

b. Health Club
The residents of the building will have access to the facilities of a club located at floors 12th, 14th and 16th.
It will be a Spa Fitness Center facility. The Fitness Center will be fitted with cardio vascular and resistance machines. There will be a Pool, Sauna, Steam Room and Massage Room and locker rooms with toilets and showers for men and women.

The Fitness Center will be part of the Club Unit and the costs and expenses to operate and maintain the facility will be billed to the Club Unit Owner.

4. STORAGE

a. Resident's Storage Closet
There will be 13 Residents Storage Closets located at Sub-Cellar 2 and 45 Residents Storage Closets at the Sub Cellar 1. The Resident Storage will be licensed to the building Residents pursuant to licenses being offered by Sponsor. The costs and expenses to operate and maintain the facility will be paid directly by the licensees.

b. Wine Cellars
There will be 18 Wine Cellars located at Sub-Cellar 1 in a single room serviced by two (2) HVAC units (one (1) on-line and one (1) stand-by) that will set both temperature and humidity and are controlled by one (1) thermostat. The Wine Cellars will be built out by a to-be determined independent company engaged by Sponsor. The temperature range for the room containing the Wine Cellars shall be determined by the Residential Board in consultation with such company. The Residential Board shall have the authority to modify such temperature ranges in its sole discretion. The current design for the climate of the room in which the Wine Cellars are located is 52-57 degrees Fahrenheit

with a relative humidity of sixty percent (60%) to seventy percent (70%). All wine and other beverages stored in a Wine Cellar shall be at the licensee's sole risk. Neither Sponsor, the Condominium Board, the Residential Board, the Architect nor the Managing Agents shall be liable for any spoilage caused by the failure of the HVAC or any other causes whatsoever.

c. Bicycle Storage
There will be a room at the Sub-Cellar containing space to store 81 bicycles in compliance with NYC Zoning Resolutions, 74 of which are allocated to the residential occupants of the building and the other 7 spaces will be for the employees of the commercial spaces.
The bicycle storage will be free of charge for the building residents. Usage rights to be as allocated in the Offering Plan.

**U. PERMITS AND CERTIFICATES**

The Sponsor will obtain all required permits and approvals from the New York City Department of Buildings, the Fire Department, the Department of Transportation, the Elevators Division, the Boiler Division, the Department of Environmental Protection and any other applicable Agency. As of this date none of these permits have been obtained with the exception of permit # 120628776-01-FO issued on 09/16/2011 by NYC Department of Buildings for New Building- Foundation / Earthwork.

**V VIOLATIONS**

See open violation list attached as Exhibit A

**W. UNIT INFORMATION**

1. RESIDENTIAL UNIT INFORMATION

There will be 147 Residential Units

a. RESIDENTIAL UNITS, WITH TYPE AND NUMBER OF ROOMS

| FLOOR | UNIT | TYPE | DESCRIPTION |
|---|---|---|---|
| 28th & 29th | A | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 28th & 29th | B | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 28th & 29th | C | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |

| | | | |
|---|---|---|---|
| 28th & 29th | D | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 28th & 29th | E | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 28th & 29th | F | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 28th & 29th | G | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 28th & 29th | H | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 28th & 29th | J | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 28th & 29th | K | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 28th | L | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 29th | L | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 28th | M | 2 BEDROOMS SUPER-INTENDENT'S APT | Living Room/ Dining Room, 2 Bedrooms, 2 Bathrooms, Kitchen, W/D Closet, Foyer. |
| 29th | M | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 29th | N | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 29th | P | 0 BEDROOM | Living/ Dining Room/ Sleeping Area, 1 Bathroom, Kitchenette |
| 34th, 36th, 38th, 40th, 42nd, 44th | A | 2 BEDROOMS | Living Room/ Dining Room, 2 Bedrooms, 2 Bathrooms, Powder Room, Kitchen, W/D Closet, Foyer. |

| | | | |
|---|---|---|---|
| 34th, 36th, 38th, 40th, 42nd, 44th | B | 2 BEDROOMS | Living Room/ Dining Room, 2 Bedrooms, 2 Bathrooms, Powder Room, Kitchen, W/D Closet, Foyer. |
| 34th to 45th | C | 2 BEDROOMS | Living Room/ Dining Room, 2 Bedrooms, 2 Bathrooms, Powder Room, Kitchen, W/D Closet, Foyer. |
| 34th to 45th | D | 1 BEDROOM | Living Room/ Dining Room, 1 Bedroom, 1 Bathroom, Powder Room, Kitchen, W/D Closet, Foyer. |
| 48th to 59th | A | 2 BEDROOMS | Living Room/ Dining Room, 2 Bedrooms, 2 Bathrooms, Powder Room, Kitchen, W/D Closet, Foyer. |
| 48th to 59th | B | 3 BEDROOMS | Living Room/ Dining Room, 3 Bedrooms, 3 Bathrooms, Kitchen, W/D Closet, Foyer. |
| 48th to 59th | C | 2 BEDROOMS | Living Room/Dining Room, 2 Bedrooms, 3 Bathrooms, Powder Room, Kitchen, W/D Closet, Foyer. |
| 62nd to 73rd | A | 3 BEDROOMS | Living Room/Dining Room, 3 Bedrooms, 4 Bathrooms, Kitchen, W/D Closet, Foyer. |
| 62nd to 73rd | B | 3 BEDROOMS | Living Room/Dining Room, 3 Bedrooms, 3 Bathrooms, Powder Room, Kitchen, W/D Closet, Foyer. |
| 77th to 84th | A | 3 BEDROOMS | Living Room/Dining Room, 3 Bedrooms, 3 Bathrooms, , Kitchen, W/D Closet, Foyer. |
| 77th to 84th | B | 4 BEDROOMS | Living Room/Dining Room, 4 Bedrooms, 5 Bathrooms, 2 Powder Rooms, Kitchen, W/D Closet, Foyer. |
| 85th to 88th | A | 5 BEDROOMS | Living Room/Dining Room, 5 Bedrooms, 7 Bathrooms, 1 Powder Room, Kitchen, W/D Closet, Foyer |
| 91st to 95th | A | 6 BEDROOMS + LIBRARY | Living Room/Dining Room, 6 Bedrooms, 7 Bathrooms, 2 Powder Room, Kitchen, W/D Closet, Foyer. |

For the purposes of Marketing, the floor number thirteen and other floors have been excluded, while Construction necessitates a realistic numbering of floors that includes all numbers. Therefore, two different methods of numbering floors exist, and are shown below:

| Construction Floors (Actual) | Marketing |
|---|---|
| 1 | 1 |
| 2 | 2 |
| 3 | 3 |
| 4 | 4 |
| 5 | 5 |
| 6 | 12 |
| 7 | 14 |
| 8 | 15 |
| 9 | 16 |
| 10 | 18 |
| 11 | 19 |
| 12 | 20 |
| 13 | 27 |
| 14 | 28 |
| 15 | 29 |
| 16 | 30 |
| 17 | 31 |
| 18 | 34 |
| 19 | 35 |
| 20 | 36 |
| 21 | 37 |
| 22 | 38 |
| 23 | 39 |
| 24 | 40 |
| 25 | 41 |
| 26 | 42 |
| 27 | 43 |
| 28 | 44 |
| 29 | 45 |
| 30 | 46 |
| 31 | 47 |
| 32 | 48 |
| 33 | 49 |
| 34 | 50 |
| 35 | 51 |
| 36 | 52 |
| 37 | 53 |
| 38 | 54 |
| 39 | 55 |
| 40 | 56 |
| 41 | 57 |
| 42 | 58 |
| 43 | 59 |
| 44 | 60 |
| 45 | 61 |
| 46 | 62 |
| 47 | 63 |
| 48 | 64 |
| 49 | 65 |
| 50 | 66 |

51 .....67
52 .....68
53 .....69
54 .....70
55 .....71
56 .....72
57 .....73
58 .....74
59 .....75
60 .....77
61 .....78
62 .....79
63 .....80
64 .....81
65 .....82
66 .....83
67 .....84
68 .....85
69 .....86
70 .....87
71 .....88
72 .....89
73 .....90
74 .....91
75 .....92
76 .....93
77 .....94
78 .....95
79 .....96
80 .....97
81 .....98
82 .....99
83 .....100
84 .....101

Please note that all floor plans, apartment drawings, and other references to floors in this report will utilize the marketing numbering of floors.

b. FINISH SCHEDULE FOR TYPICAL APARTMENTS

| SPACE | FLOOR | BASE | WALL | CEILING |
|---|---|---|---|---|
| Foyer | Wood Floor * | WD | GWB Painted *** | GWB Painted |
| Living Room | Wood Floor * | WD | GWB Painted *** | GWB Painted |
| Dining Room | Wood Floor * | WD | GWB Painted *** | GWB Painted |
| Bedrooms | Wood Floor * | WD | GWB Painted *** | GWB Painted |
| Kitchen | Wood Floor * | WD | GWB Painted *** | GWB Painted |
| Bathrooms | Marble or Ceramic Tile** | Marble or Ceramic Tile ** | Marble or Ceramic Tile or Paint** | GWB Painted |

| | | | | |
|---|---|---|---|---|
| Closets | Wood Floor* | WD | GWB Painted *** | GWB Painted |
| Washer/dryer closet | CT | CT | GWB Painted *** | GWB Painted |

*Standing water will cause cupping, swelling, and subsequent gapping. Relative humidity should be between 35% and 65% to avoid excessive shrinkage, cracking, swelling or cupping.

*The wood floor will be maple 3/8" thick on two layers of 3/8" plywood at all Residential Units except at the apartments on floors 29TH and 30th that will be provided with glued down engineered wood floors. The Sponsor reserves the right to make substitutions to wood floor selection.

** Maintenance and cleaning of all stone by Residential Unit Owners should be done in accordance with the recommendations of the Marble Institute of America

*** Walls will receive a prime and two finished coats of paint

c. **BATHROOM FIXTURES**

Subject to Sponsor's right to make substitutions as set forth in the Offering Plan, the Residential Units will be equipped with the following fixtures:

| MASTER BATHROOM | | | | |
|---|---|---|---|---|
| | WC | DURAVIT | CARO | 015609 |
| | LAVATORY | KOHLER | | K-2210 |
| | LAVATORY FAUCETS | DORNBRACHT | | 20723780 |
| | TUB | BETTE STARLET | | BI.VAS 20 EXT 345 |
| | TUB FAUCETS | DORNBRACHT | | MEM 36708785 |
| | SHOWER | DORNBRATCH | | MEM 36416780 |
| | | | | |

| SECONDARY BATHROOM | | | | |
|---|---|---|---|---|
| | WC | DURAVIT | HAPPY D | 0103010000 |
| | LAVATORY | VILLEROY & BOCH | | 61474601 |
| | LAV. FAUCETS | DORNBRACHT | TARA | 35.547.970.90 |
| | TUB | HOESCH | CAPRI | BI.VAS 20 EXT 345 |
| | TUB/SHOWER FAUCETS | DORNBRACHT | TARA | 36.905.89.06 |

| POWDER ROOM | | | | |
|---|---|---|---|---|
| | WC | DURAVIT | CARO | 015609 |
| | LAVATORY | CUSTOM | | |
| | LAV. FAUCETS | DORNBRACHT | TARA | 33.502.625.06 |
| | | | | |

d. **KITCHEN APPLIANCES**

Subject to Sponsor's right to make substitutions as set forth in the Offering Plan, the Residential Units will be equipped with the following appliances:

| KITCHENS | APPLIANCE | MANUFACTURER | DESCRIPTION | UNIT |
|---|---|---|---|---|
| | REFRIGERATOR | SUB-ZERO | | 700 TCI, 736 TCI |
| | DISHWASHER | MIELE | | G2470SCVI<br>G818SCVI |
| | GAS COOKTOP | MIELE | | KM39IG |
| | OVEN | MIELE | | H4881B |
| | SPEED OVEN | MIELE | | H4080BM |
| | HOOD | MIELE | | DA3190<br>DA3160<br>DA3180 |
| | GARBAGE DISPOSAL | KITCHEN AID | | KBDS250X |
| | WASHER/ DRYER | MIELE | | W48040 or<br>W3033 T9800<br>T8013C or<br>WM3431 HW |
| | SINK | FRANKE | REGATTA | RGX-160 |
| | FAUCETS | WATERMARK | | 24-7.L4 L4 MOD |

**e. DIMENSIONS OF THE UNITS**

The approximate area of each Residential Unit and of each Office will consist of the area measured horizontally from the exterior side of the exterior wall (columns, mechanical, pipes, shafts, shaftways, chases, chaseways and conduits are not deducted from measurement of each Unit) to the centerline of the partitions or concrete walls separating one Unit from another Unit or separating one Unit from the corridor, stairs, elevators and other mechanical equipment spaces or any Common Elements not within a Unit or to the exterior side of the opposite exterior wall. Each Unit consists of the area measured vertically from the top of the floor (located under the finished flooring and sub-flooring materials) to the underside of the ceiling.

Each Storage Closet and Wine Cellar will consist of the area measured horizontally from the innermost face of the foundation wall to the centerline of the partitions separating one unit from another unit or one unit from the common elements. Columns, mechanical pipes and shafts are not deducted for the purpose of floor area measurements.

Each Storage Closet and each Wine Cellar will consist of a volume measured vertically from the top of the concrete floor to the underside of the storage enclosure except that any common elements located within any unit shall be considered as part of that unit.

The interior room dimensions shown on the Floor Plans for the bedrooms, living rooms, dining rooms, kitchens and other rooms of the Residential Units as well as the Offices and the rooms of the Health Club as shown in Exhibit 7 in Part II of the Plan are only approximate and are measured horizontally from the interior face of the sheetrock on the wall on one side of the room to the interior side face of the sheetrock on the opposite wall or to the interior face of glass. Space occupied by finishes and window surround is not taken into consideration in such stated dimensions and will reduce the usable square footage of such rooms.

The interior room dimensions shown on the Floor Plans for the bathrooms of the Residential Units as shown in Exhibit 7 in Part II of the Plan are only approximate and are measured horizontally from the interior bathroom-side face of the sheetrock on the wall on one side of the bathroom to the interior bathroom-side face of the sheetrock on the opposite wall. Space occupied by the fixtures and finishes installed on the bathroom walls and floors is not taken into consideration in such stated dimensions and will reduce the usable square footage of such rooms.

The dimensions shown on the Floor Plans for the closets in the Residential Units as shown in Exhibit 7 in Part II of the Plan are only approximate and are measured horizontally from the interior closet-side face of the sheetrock on the wall on one side of the closet to the interior closet-side face of the sheetrock on the opposite wall (or closet door, as the case may be). Such dimensions may vary based on actual construction conditions as the precise layout of each closet is anticipated to be modified during the construction process to accommodate the placement of mechanical equipment and structural elements within the walls adjacent to the closets. No such variation shall give rise to any right of rescission, reduction in price or other credit or concession to Purchasers.

All dimensions are approximate and subject to normal construction variances and tolerances. Dimensions are maximum overall within a room or space, subtracting cutouts.

The Sponsor reserves the right to make changes due to unforeseen conditions, in accordance with the Offering Plan.

Except in certain areas with dropped ceilings and soffits, the finished floor-to-ceiling heights of the residential levels are approximately 12'-0'

Finished floor to ceiling heights at bathrooms, kitchens, halls and public corridors at the Residential Units floors are approximately 10'-0"

## X FINISH SCHEDULE OF SPACES OTHER THAN UNITS

1. FINISH SCHEDULE FOR FIRST FLOOR

| SPACE | FLOOR | BASE | WALL | CEILING |
|---|---|---|---|---|
| LOBBY | Stone | Stone | GWB Painted | GWB Painted |
| RETAIL | Concrete | - | CMU | Concrete |
| SERVICE ENTRANCE | Concrete | - | CMU | Concrete |
| SERVICE CORRIDOR | CT | CT | CMU or GWB Painted | AT |

**2.** FINISH SCHEDULE FOR COMMON SPACES

| SPACE | FLOOR | BASE | WALL | CEILING |
|---|---|---|---|---|
| STAIRS | DE | P | CMU or GWB Painted | GWB Painted |
| PUBLIC CORRIDOR | CPT | WD | CMU or GWB Painted | GWB Painted or AT |
| SERVICE LOBBY | CT | CT | CMU or GWB Painted | GWB Painted or AT |

3. FINISH SCHEDULE FOR AUXILIARY SPACES

| SPACE | FLOOR | BASE | WALL | CEILING |
|---|---|---|---|---|
| RESIDENTIAL DINING ROOM | CPT | WD | CMU or GWB Painted | GWB Painted or AT |
| LAUNDRY ROOM | CT | CT | CMU or GWB Painted | AT |
| STORAGE | DE | P | CMU or GWB Painted | P Concrete |
| BIKE STORAGE | DE | P | CMU or GWB Painted | P Concrete |

**ABBREVIATIONS FOR FINISHES**

| | |
|---|---|
| AT | ACOUSTICAL TILE |
| CMU | CONCRETE MASONRY UNIT |
| CT | CERAMIC TILE |
| CPT | CARPET |
| CONC | CONCRETE |
| DP | DUSTPROOFING AND HARDENER |
| DE | DECK ENAMEL |
| GT | GRANITE TILE |
| GWB | GYPSUM WALLBOARD |
| HC | HUNG CEILING |
| K | KADEX |
| L | LIMESTONE |
| LWP | LIQUID WATERPROOFING |
| MT | MARBLE TILE |
| MP | METAL PAN |
| P | PAINT |
| POR | PORCELIN |
| QT | QUARRY TILE |
| SP | SPRAY PAINT |
| ST | STUCCO |
| T | TILE |
| TCP | TEXTURED CEILING PAINT |
| TER | TERRAZO |

| | |
|---|---|
| V | VINYL |
| VCT | VINYL COMPOSITION TILE |
| VWC | VINYL WALL COVERING |
| GWB | GYPSUM WALL BOARD |
| WRWB | WATER RESISTANT GYPSUM |
| WD | WOOD |

**Y. SAFETY AND WARNING DEVICES**

FIRE ALARM AND SMOKE DETECTING DEVICES

1. Fire Alarm:

   The building will be provided with a fire standpipe, sprinkler, smoke detection, and telephone and signaling systems. These systems will comply with the requirements of New York City Building Code.

2. Apartment Smoke and Carbon:

   Each apartment is provided with a hard-wired local
   Monoxide Detection System: smoke and carbon monoxide detection device located in the vicinity of the bedrooms as per NYC Building Code. The detector will be wired to a 120-volt local power supply and will be self-contained with its own sounding device.

3. Fireline Telephone System:

   The building will be provided with a MEA approved voice communication system. System will meet the requirements of NYC Building Code. (Technical Policy and Procedure Notice #3/03)

REGISTERED ARCHITECT GLORIA B. GLAS 022024 STATE OF NEW YORK

Gloria B. Glas, AIA

Sign before me this 3rd day

of July 2012

Elaine M. Brown

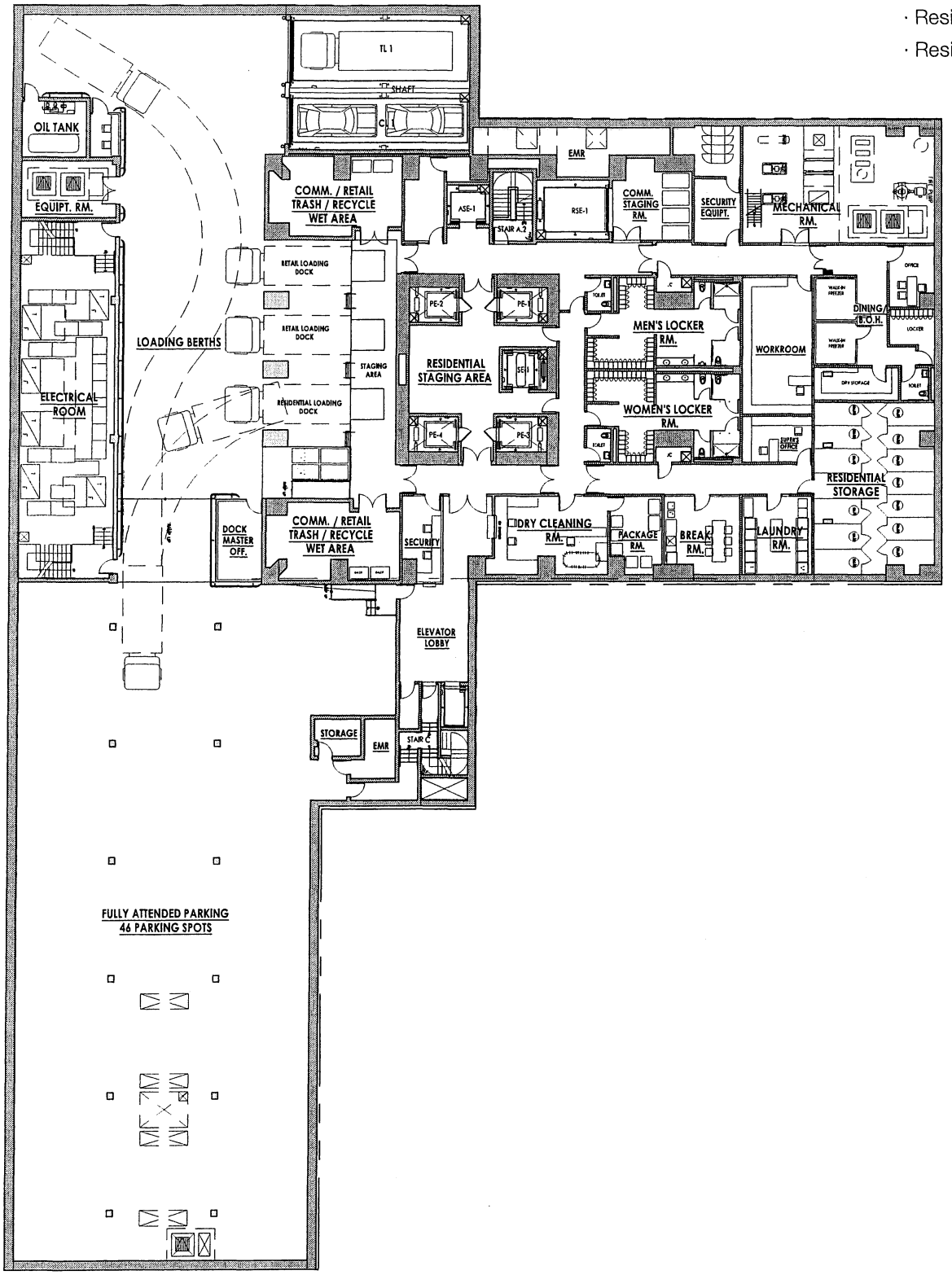
NOTARY PUBLIC

ELAINE M. BROWN
Notary Public, State of New York
No. 01BR6109247
Qualified in New York County
Commission Expires April 26, 2016

# 432PARKAVENUE

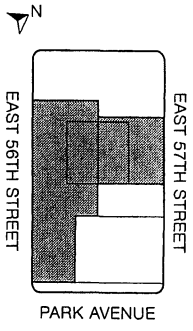
## Sub–Cellar 2

- Fully Attended Parking
- Residential Loading Berth
- Commercial Loading Berth
- Residential Storage Facility
- Residential Laundry




0 8' 16' 24'

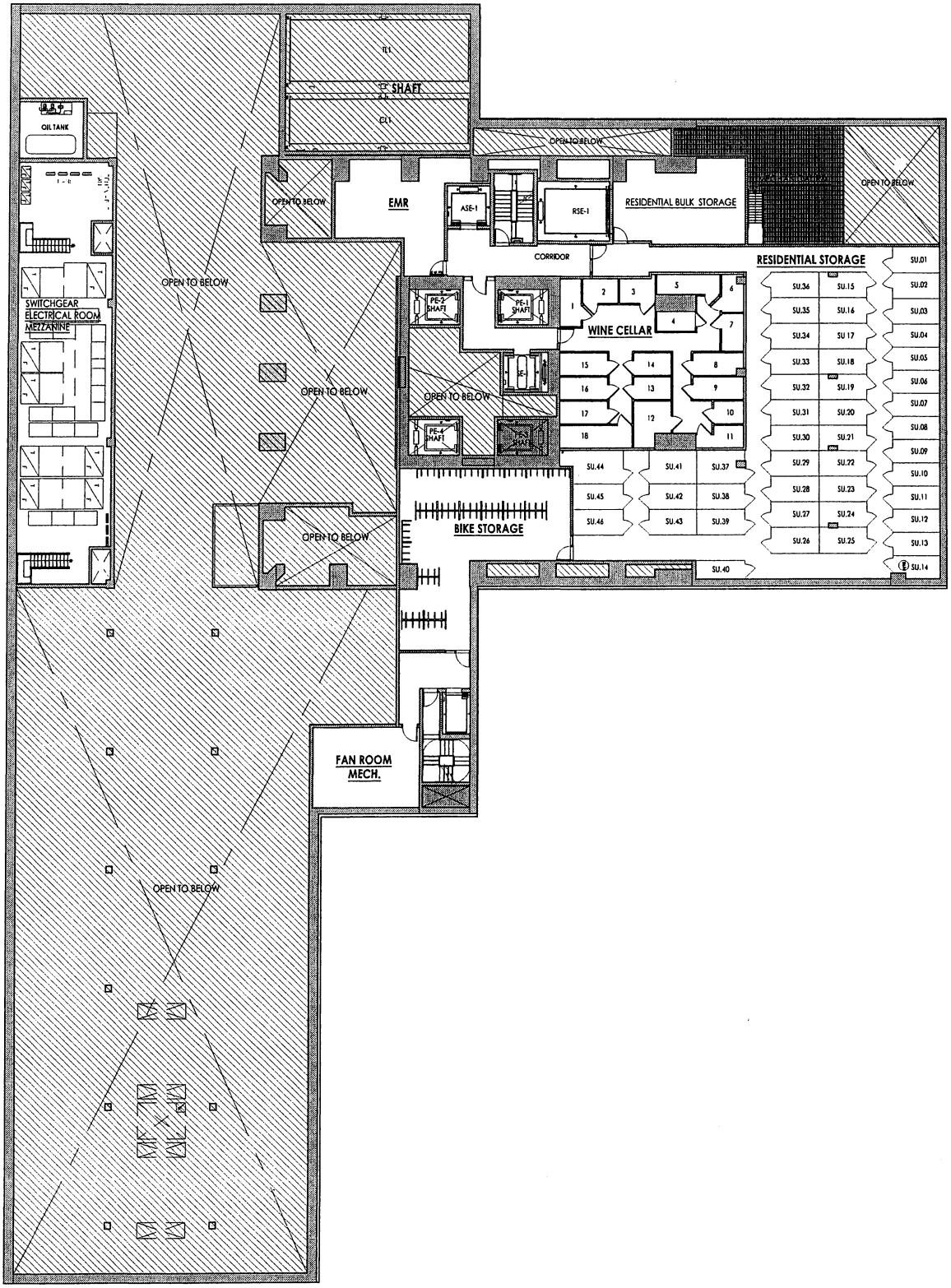
NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.



# 432PARKAVENUE

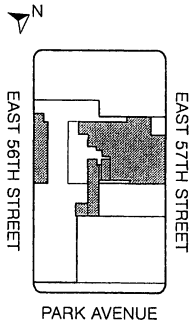
## Sub–Cellar 1

- Residential Storage Facility
- Residential Bicycle Storage
- Wine Cellar




0 8' 16' 24'

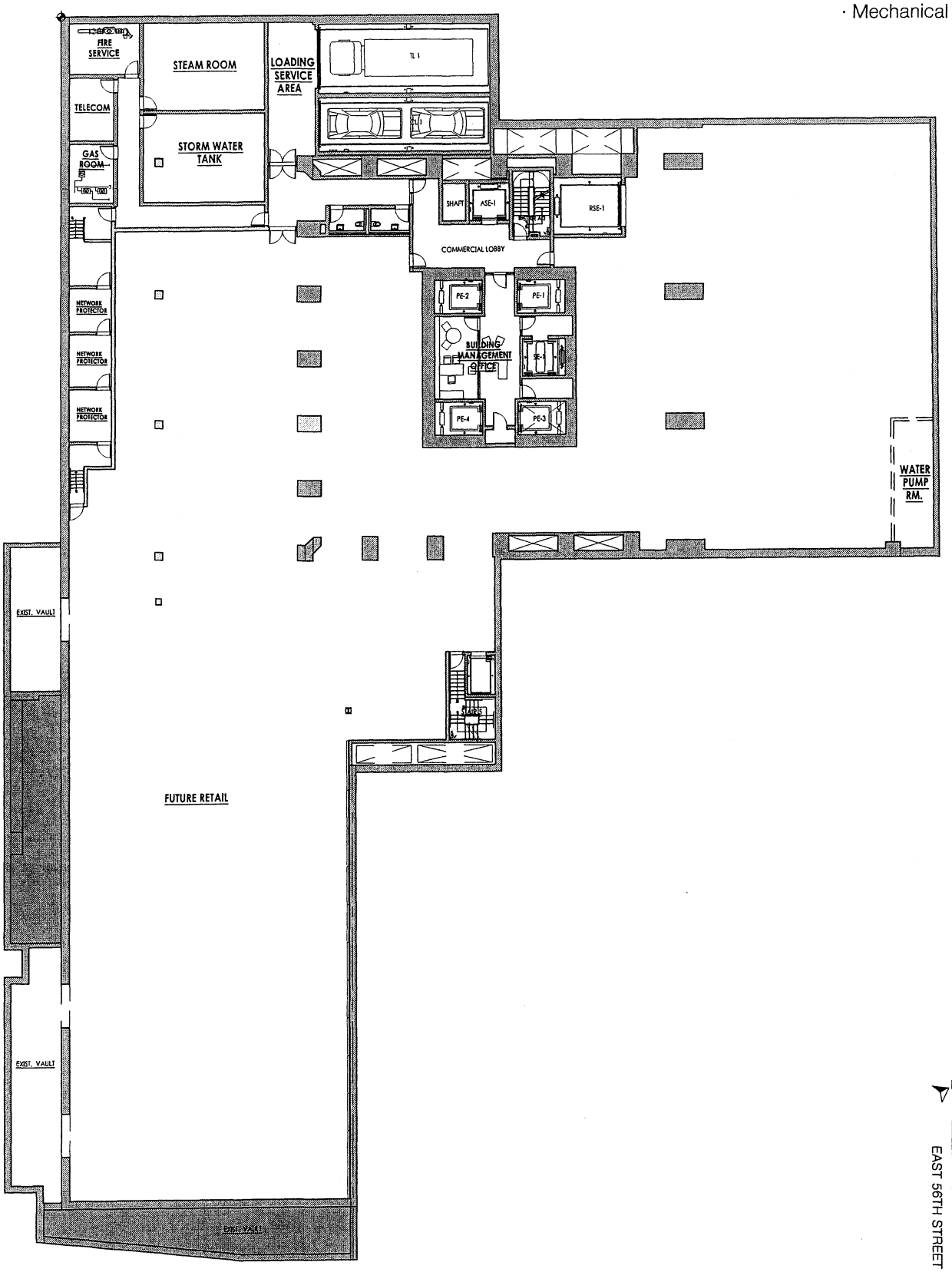
NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

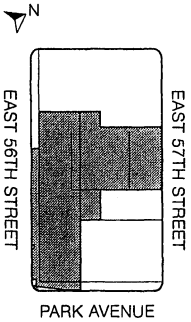


# 432PARKAVENUE

## Cellar

- Retail
- Mechanical Rooms



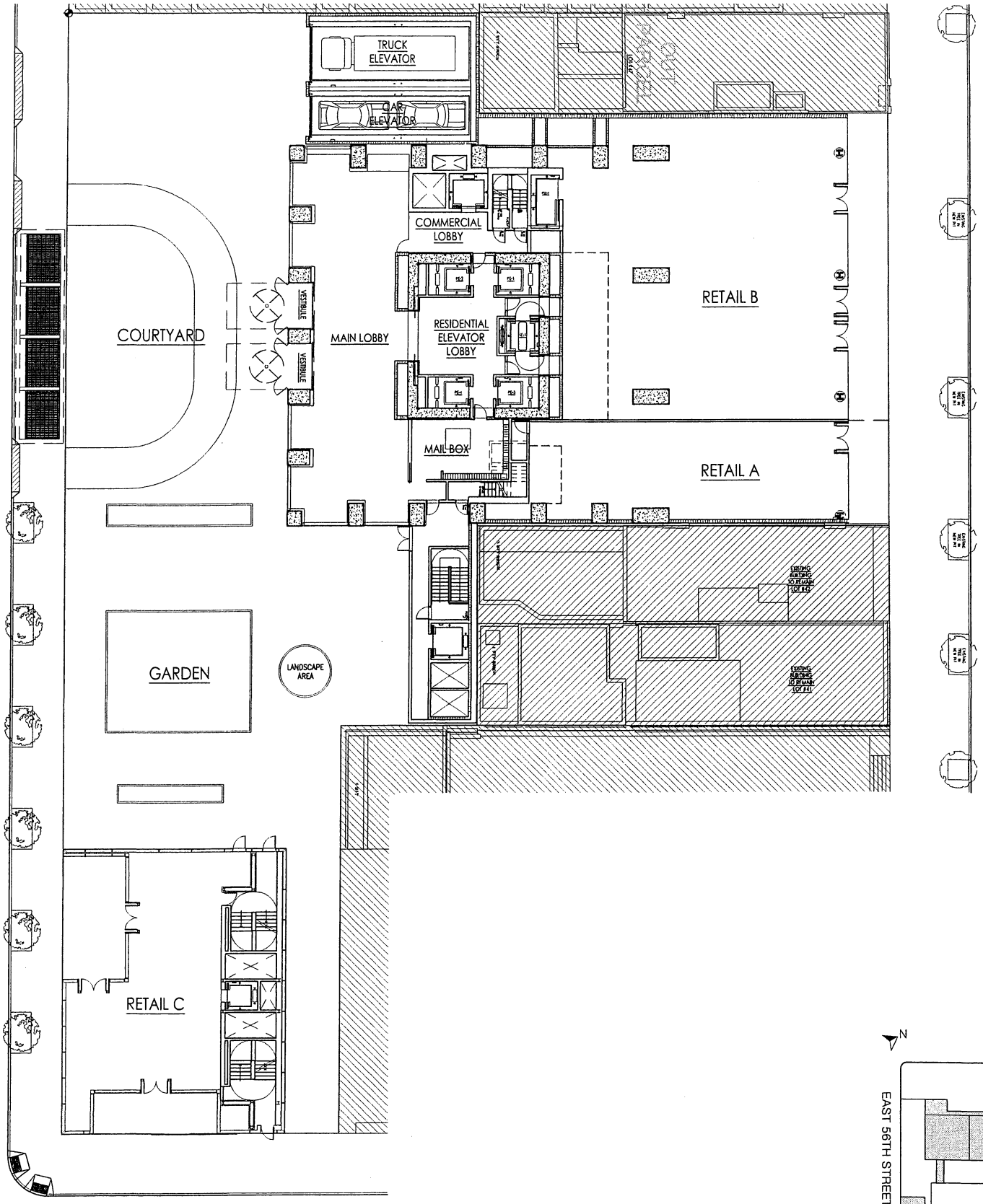



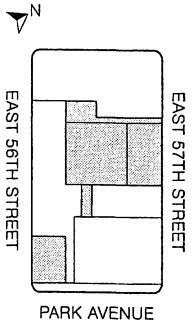

0 8' 16' 24'

NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

# 432PARKAVENUE

## First Floor Main Lobby & Retails



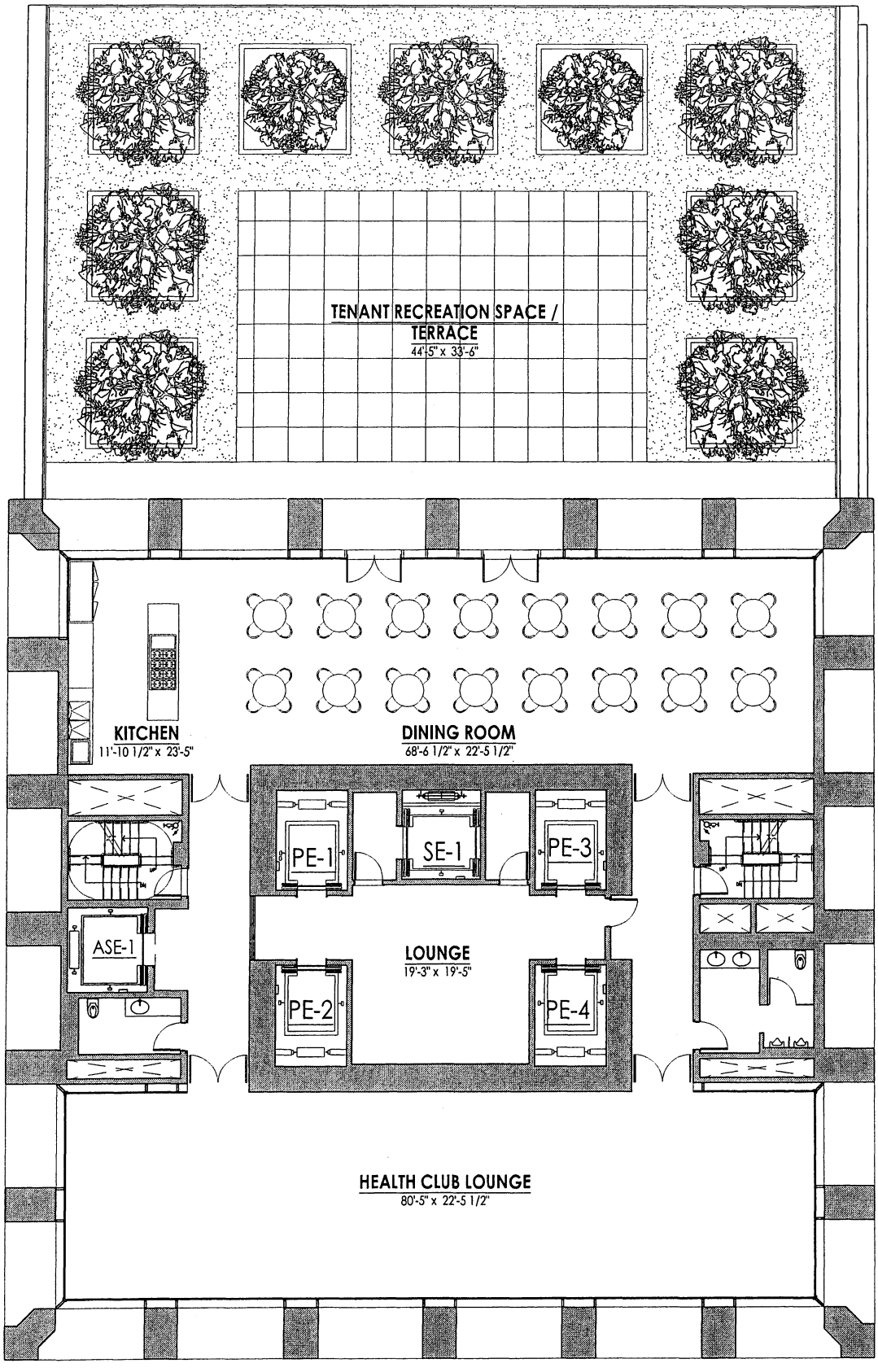



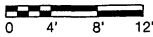

NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

# 432PARKAVENUE

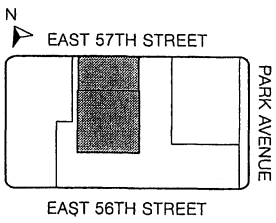
## Amenities — Dining & Lounge (North) Health Club (South) Floor 12

- Residential Amenities
- Dining Room
- Kitchen
- Health Club Lounge
- Lounge



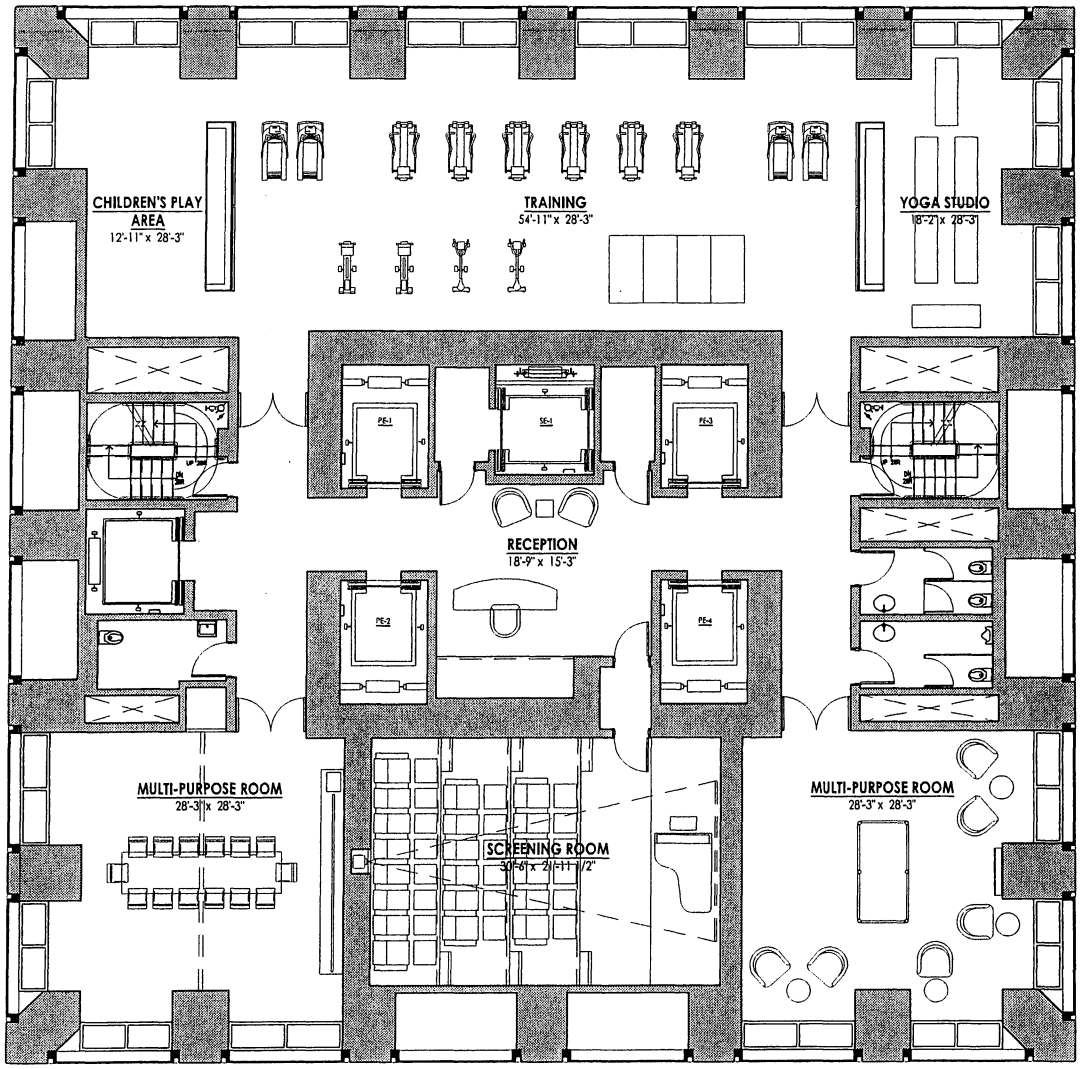

NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

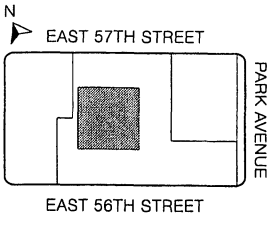


# 432PARKAVENUE

## Health Club
## Floor 14

- Training
- Children's Play Area
- Yoga Studio
- Multi-Purpose Rooms
- Screening Room
- Reception



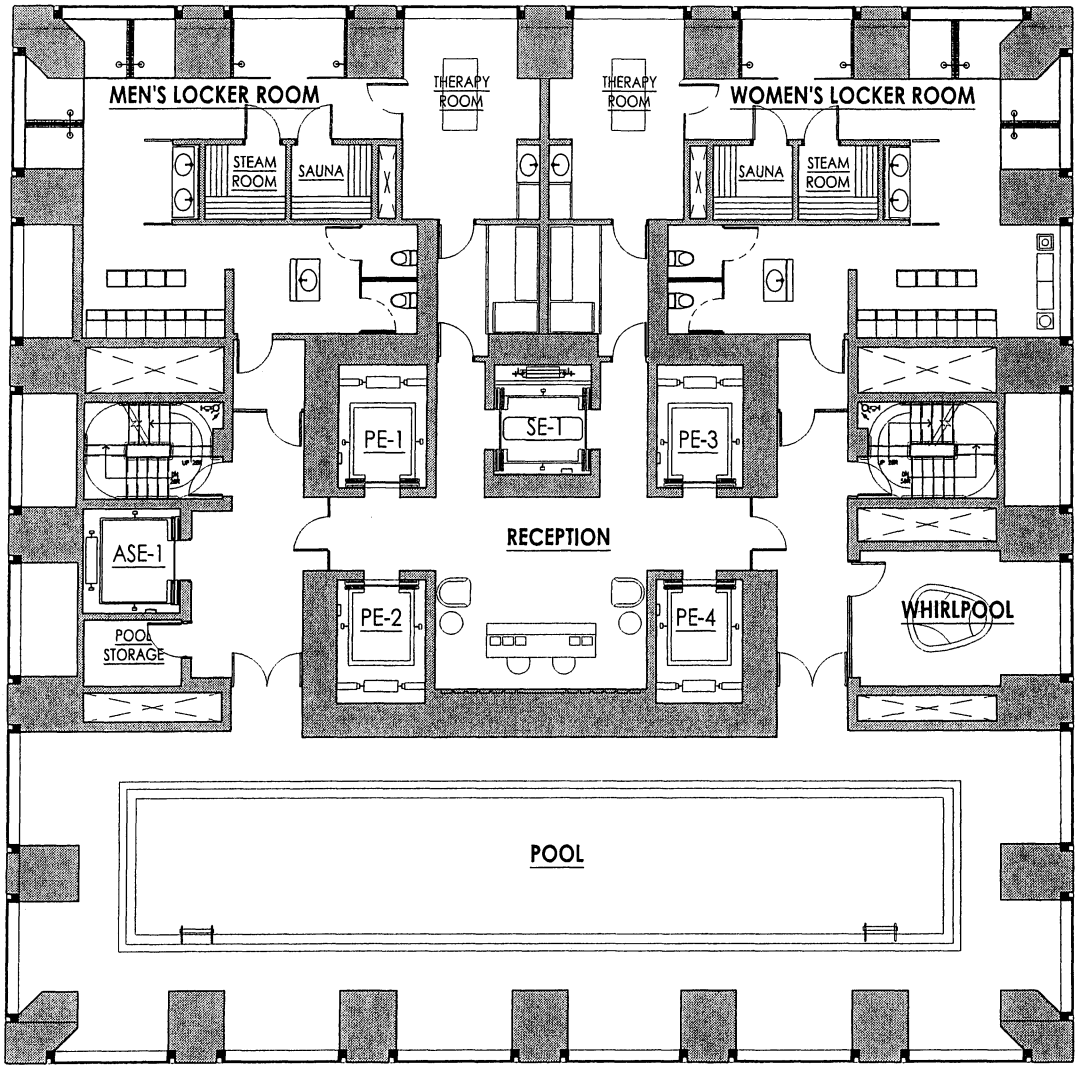

0 4' 8' 12'

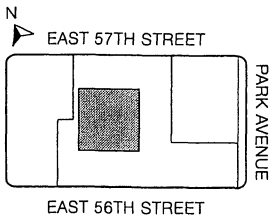
NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

# 432PARKAVENUE

## Health Club Pool & Locker Rooms Floor 16

- Pool
- Saunas
- Steam Rooms
- Therapy Rooms
- Locker Rooms
- Whirlpool




0 4' 8' 12'

NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

**EXHIBIT 7**

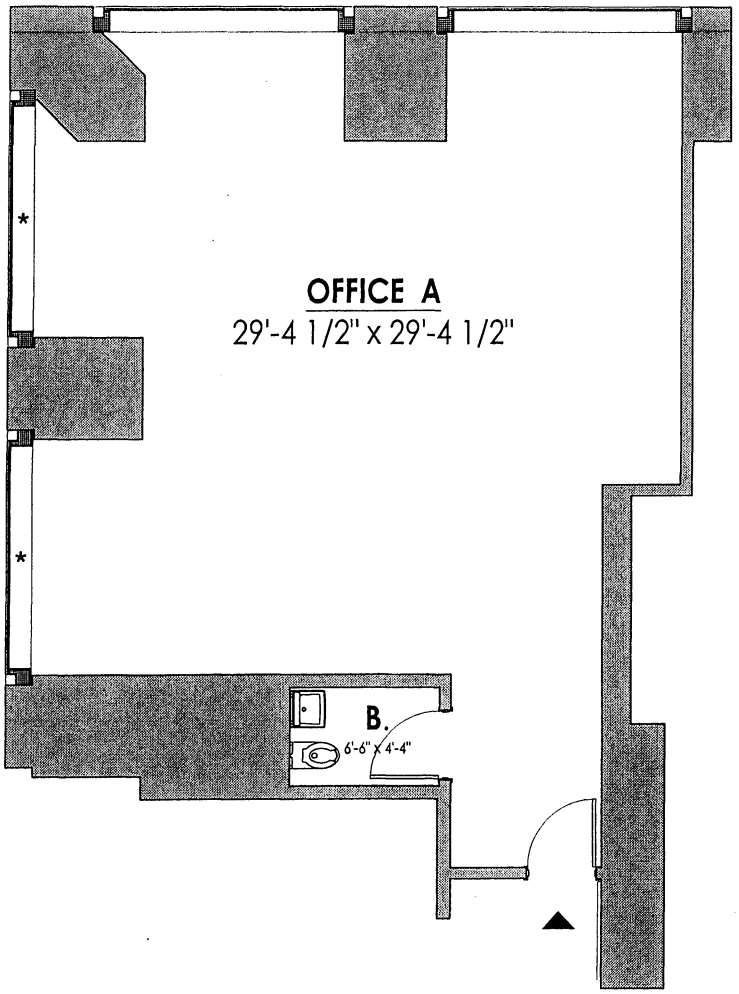
FLOOR PLANS

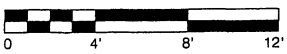
# 432PARKAVENUE

## Offices
## Floors 18 & 19

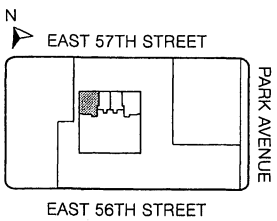
- **Office A**
- 975 sf (90.58 m²)

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN



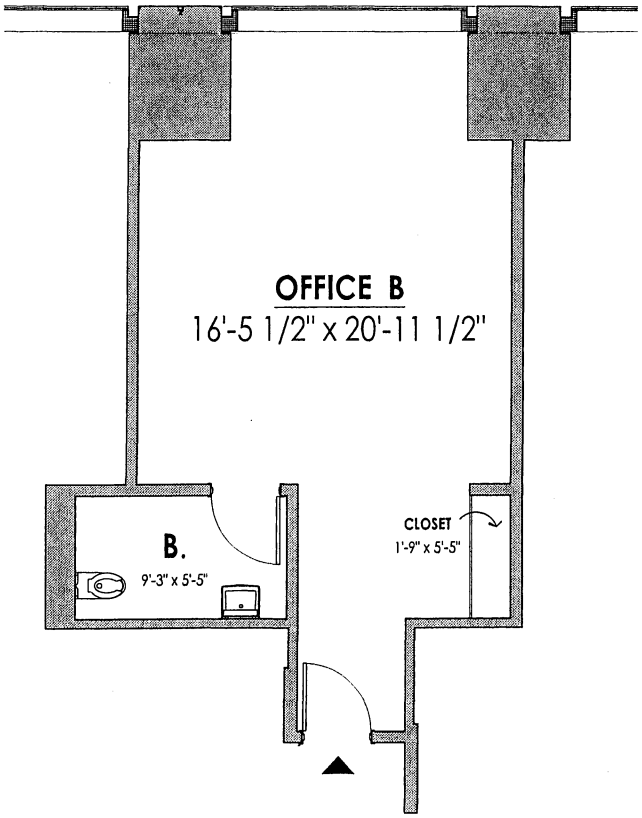

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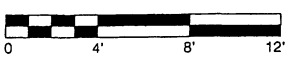


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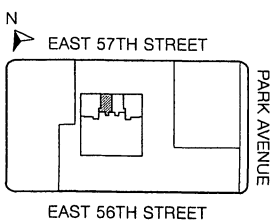
## Offices
## Floors 18 & 19

- **Office B**
- 496 sf (46.08 m²)



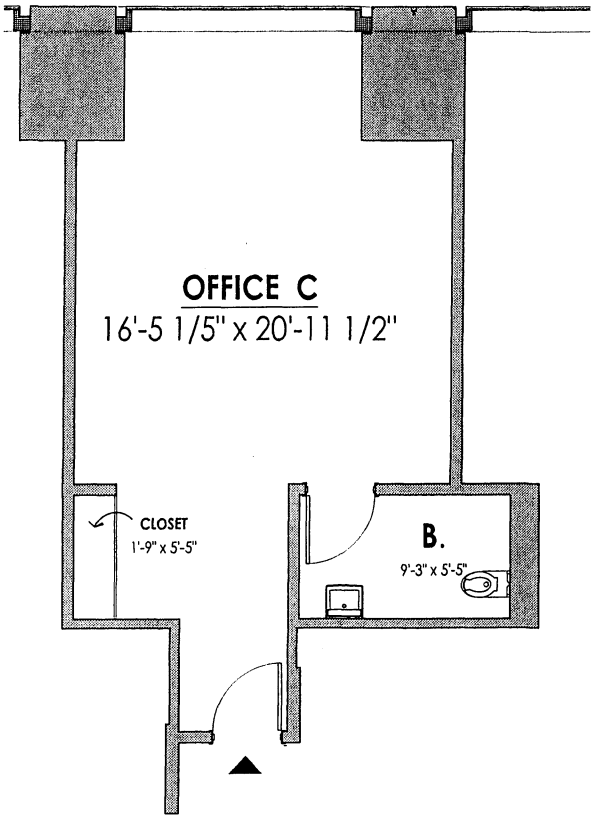

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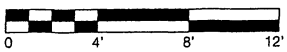


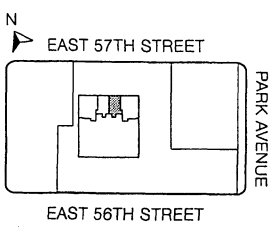
# 432PARKAVENUE

## Offices
## Floors 18 & 19

- **Office C**
- 496 sf (46.08 m²)



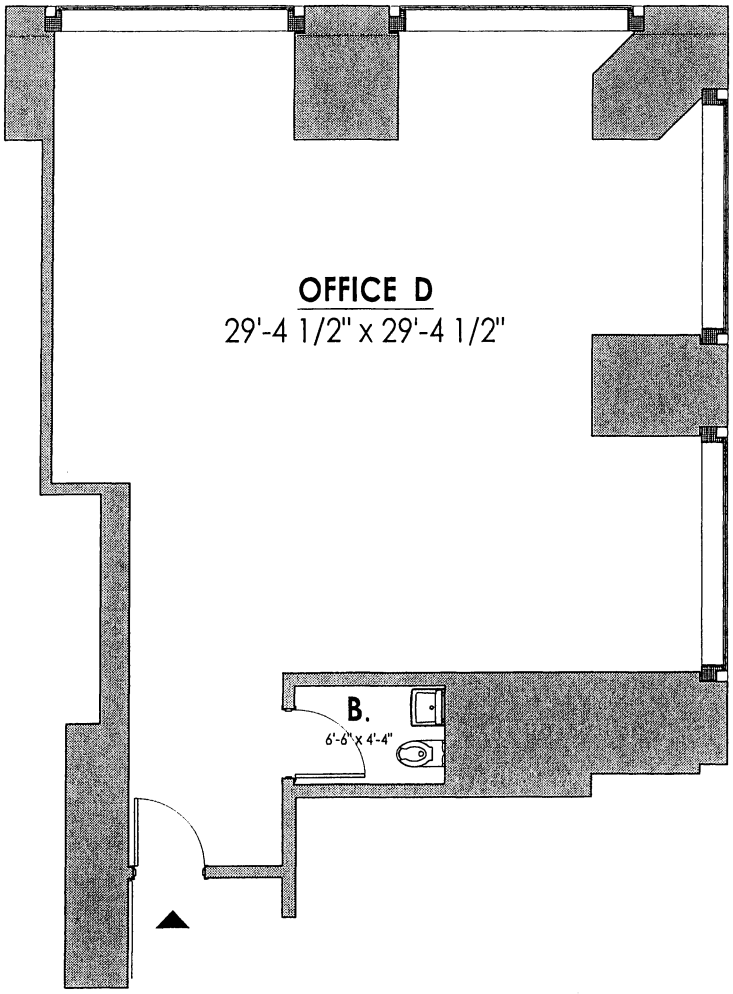



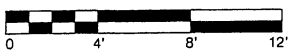

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# 432PARKAVENUE

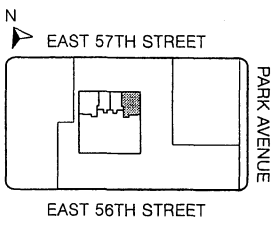
## Offices
## Floors 18 & 19

- **Office D**
- 975 sf (90.58 m²)




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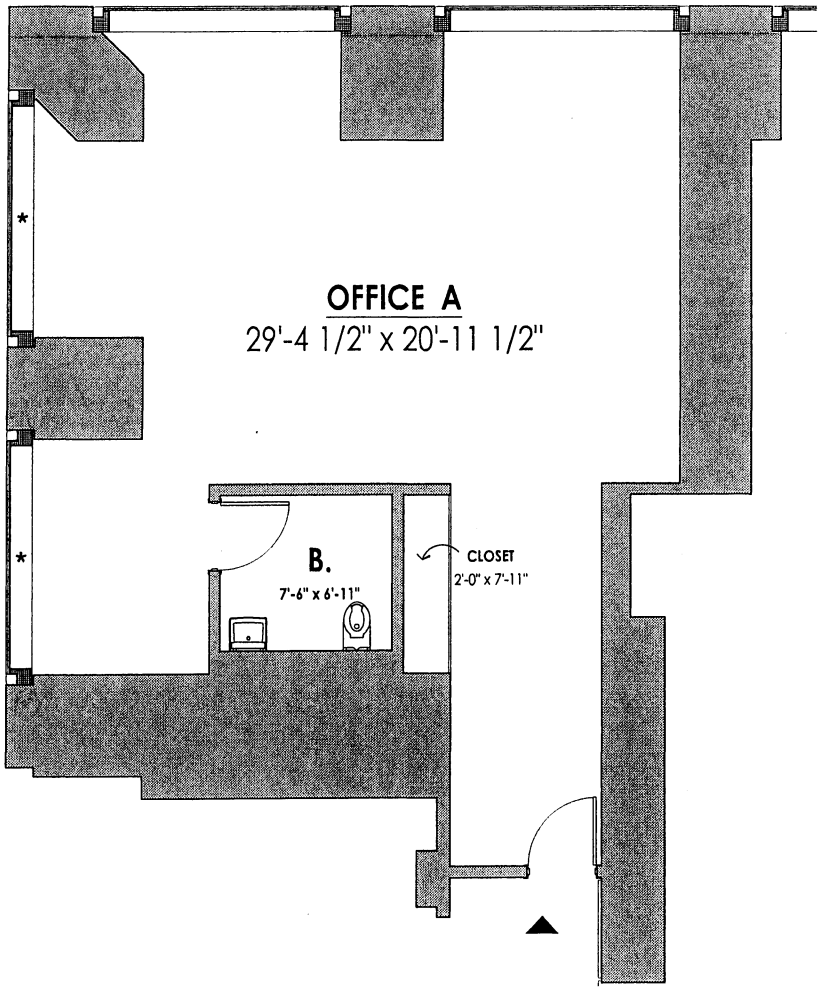


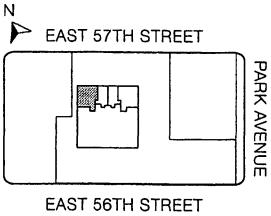
# 432PARKAVENUE

## Offices
## Floor 20

- **Office A**
- 978 sf (90.86 m²)

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN





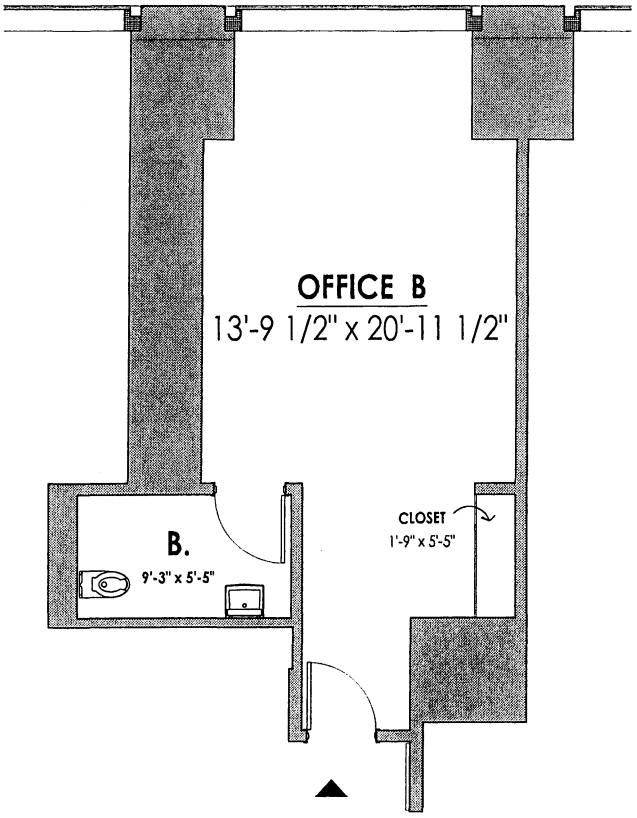


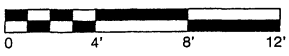
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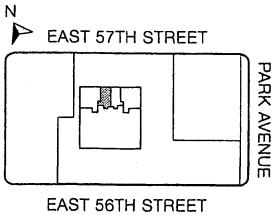
# 432PARKAVENUE

## Offices
## Floor 20

- **Office B**
- 474 sf (44.04 m²)



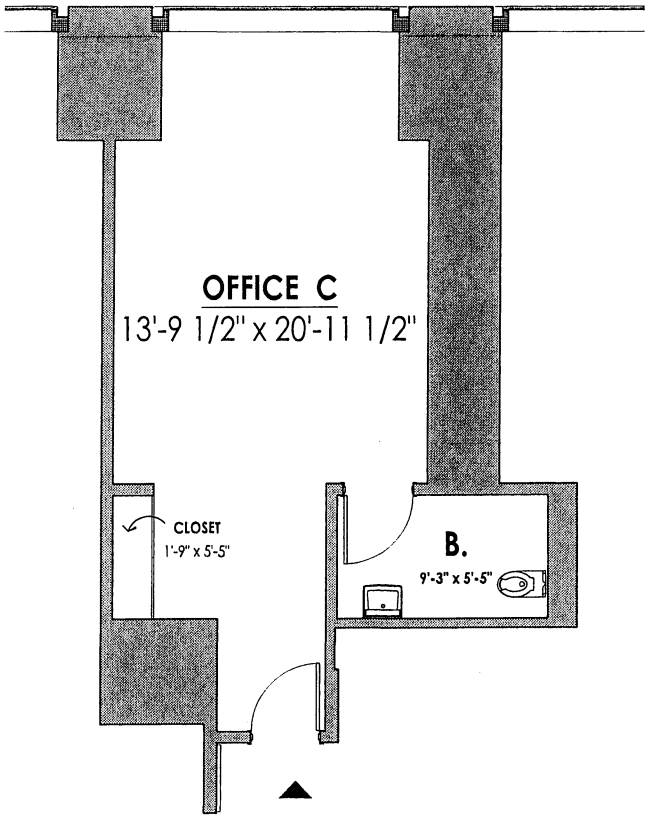



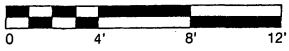

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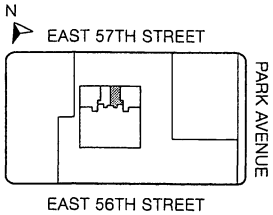
# 432PARKAVENUE

## Offices
## Floor 20

- **Office C**
- 474 sf (44.04 m²)



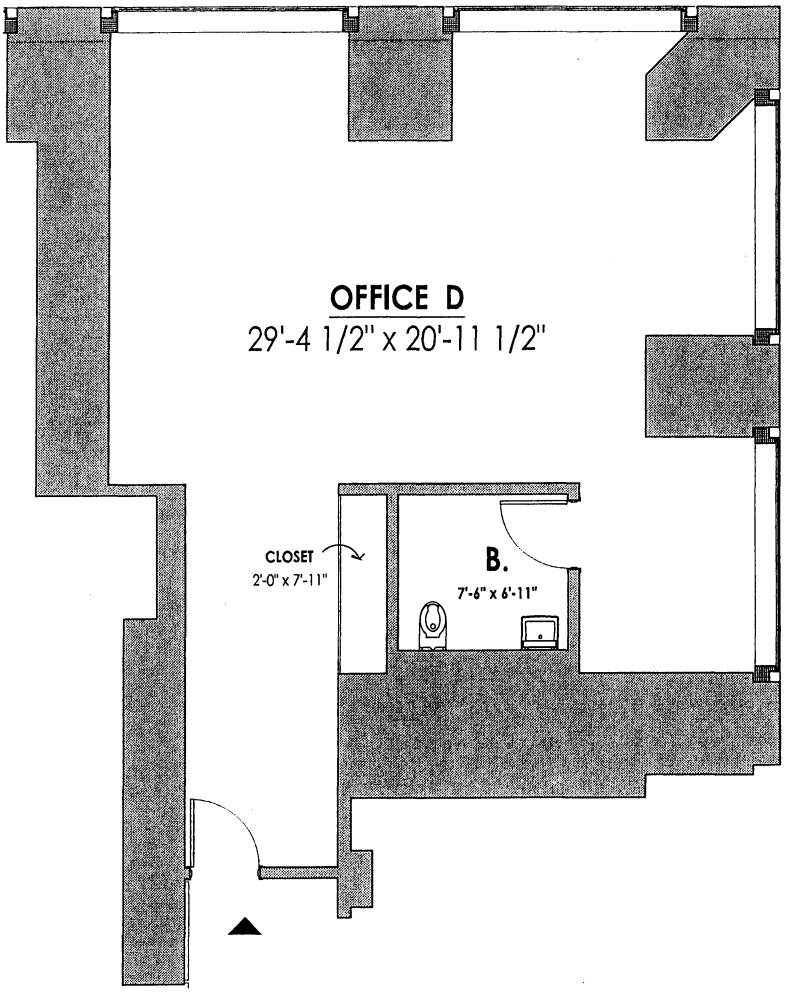




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# 432PARKAVENUE

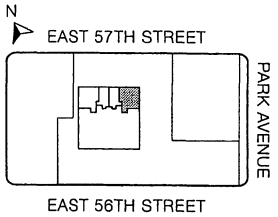
## Offices
## Floor 20

- **Office D**
- 979 sf (90.95 m²)







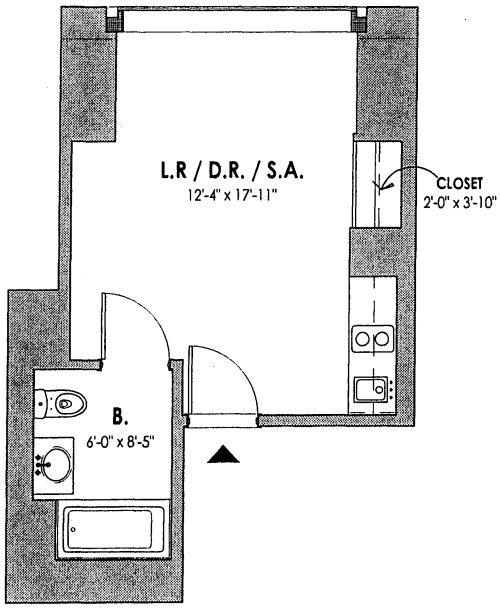


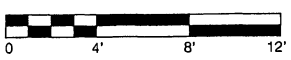

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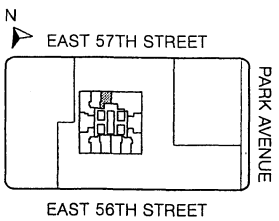
## Apt. L
## Floor 28

- Area: 342 sf (31.77 $m^2$)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath



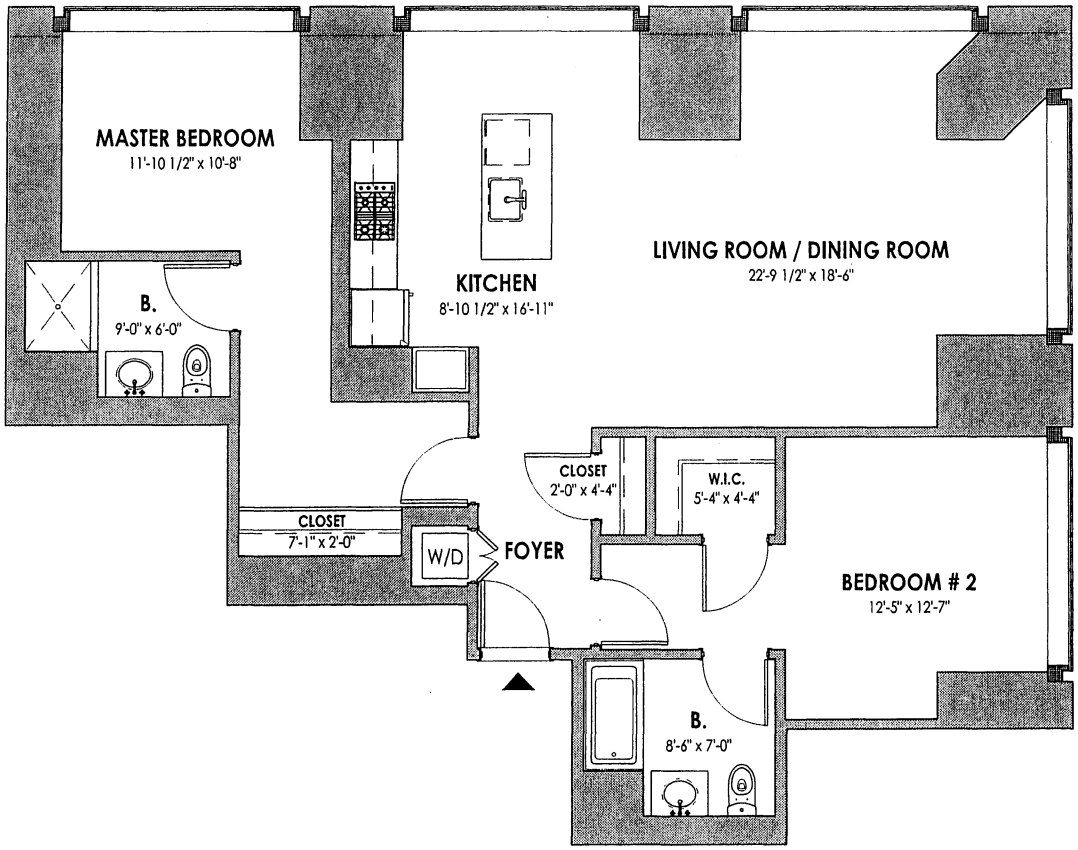

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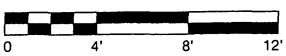


# 432PARKAVENUE

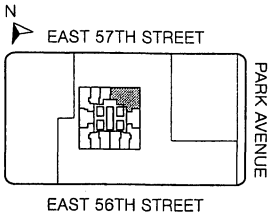
## Apt. M (Resident Manager's Unit) Floor 28

- Area: 1,306 sf (121.33 m²)
- 2 Bedrooms
- 2 Baths



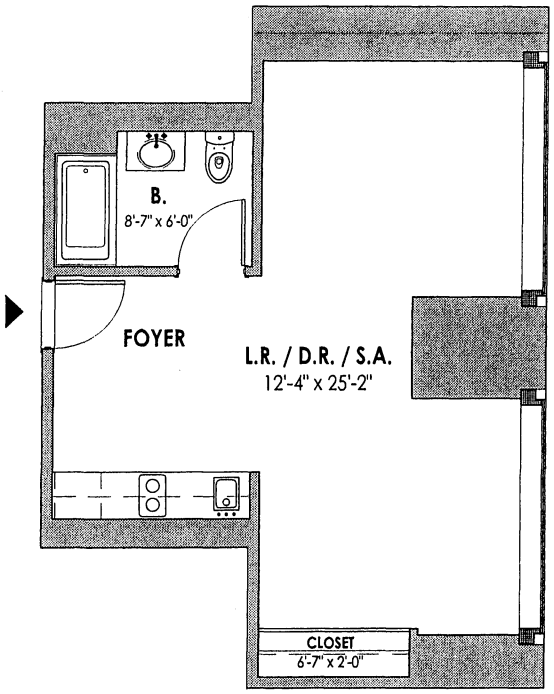

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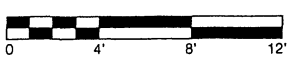


# 432PARKAVENUE

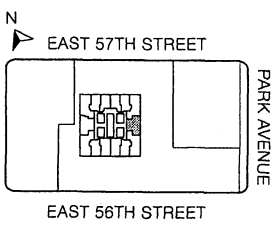
## Apt. A
## Floors 28 & 29

- Area: 546 sf (50.73 m²)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath



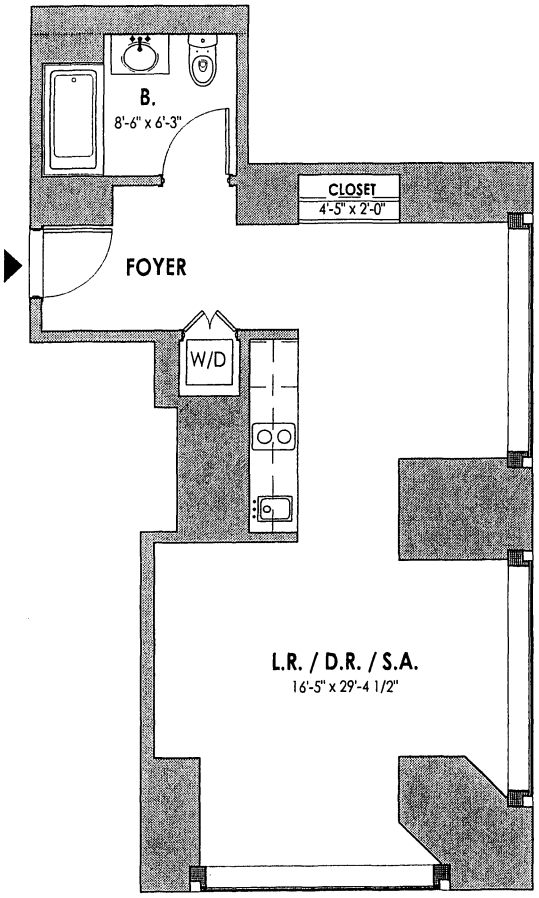

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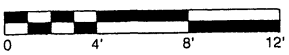


# 432PARKAVENUE

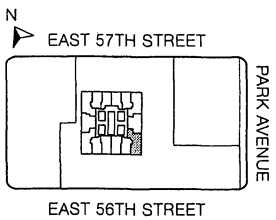
## Apt. B
## Floors 28 & 29

- Area: 613 sf (56.95 m²)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath



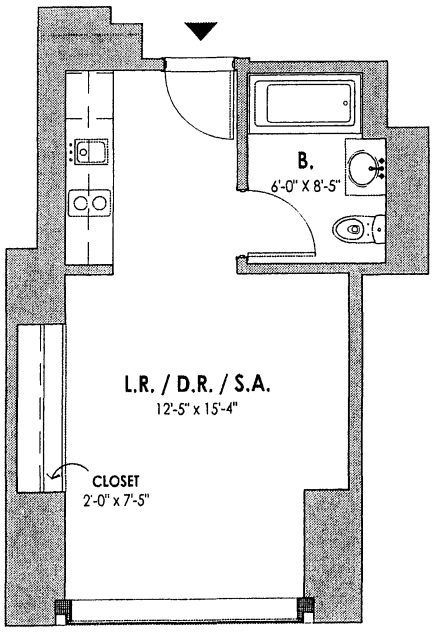

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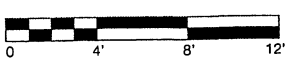


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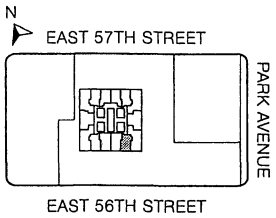
## Apt. C
## Floors 28 & 29

- Area: 384 sf (35.67 m²)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath



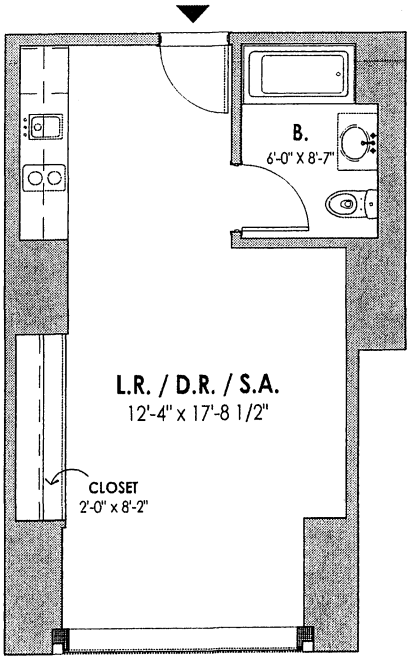

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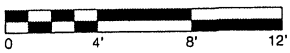


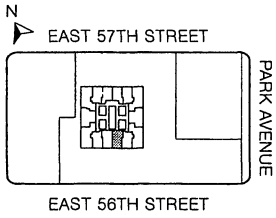
# 432PARKAVENUE

## Apt. D
## Floors 28 & 29

- Area: 421 sf (39.11 m²)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath



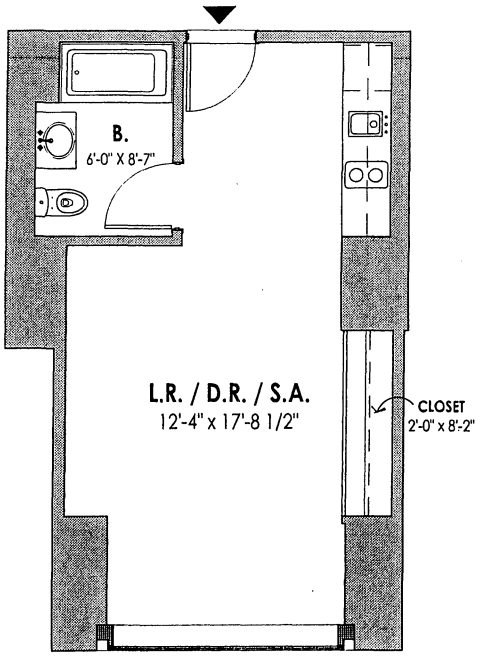



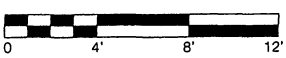

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# 432PARKAVENUE

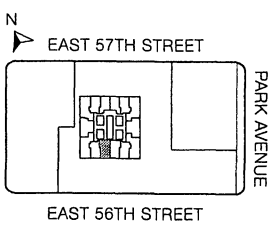
## Apt. E
## Floors 28 & 29

- Area: 421 sf (39.11 m²)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath



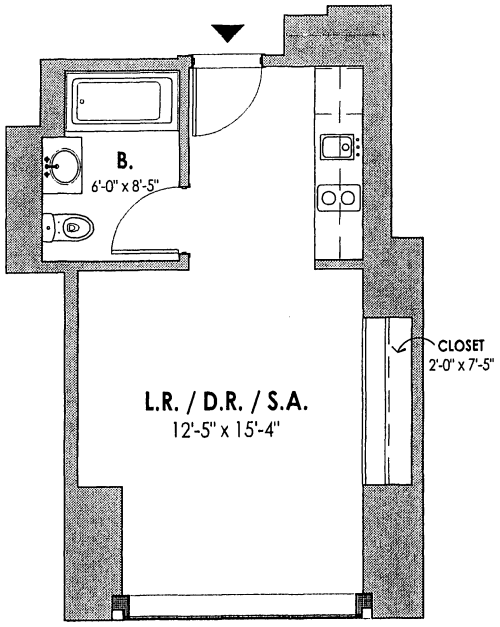

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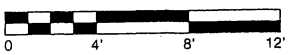


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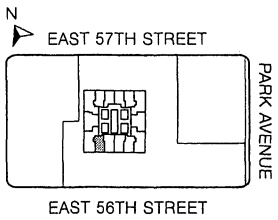
## Apt. F
## Floors 28 & 29

- Area: 384 sf (35.67 m²)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath



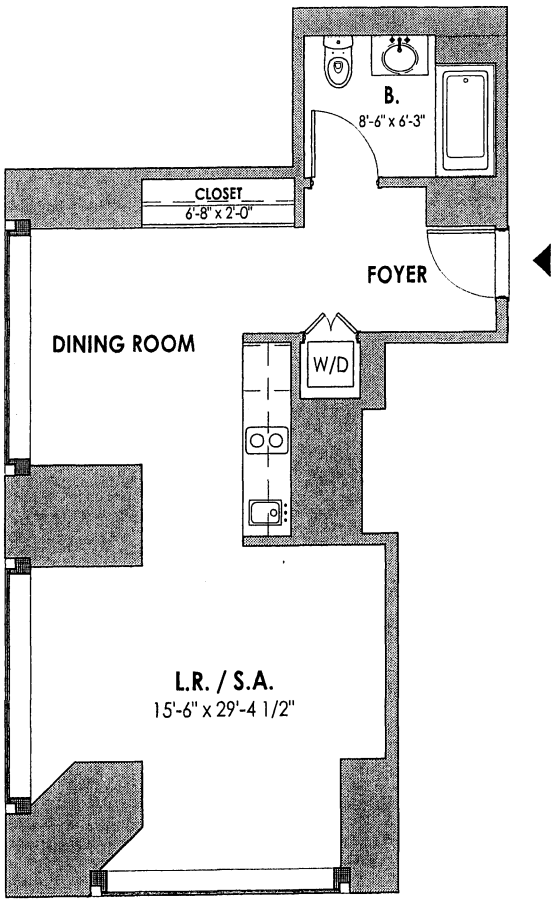

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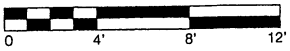


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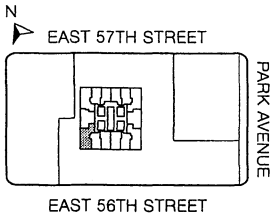
## Apt. G
## Floors 28 & 29

- Area: 615 sf (57.14 m²)
- Living Room/Sleeping Area
- Dining Room
- 1 Bath




NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

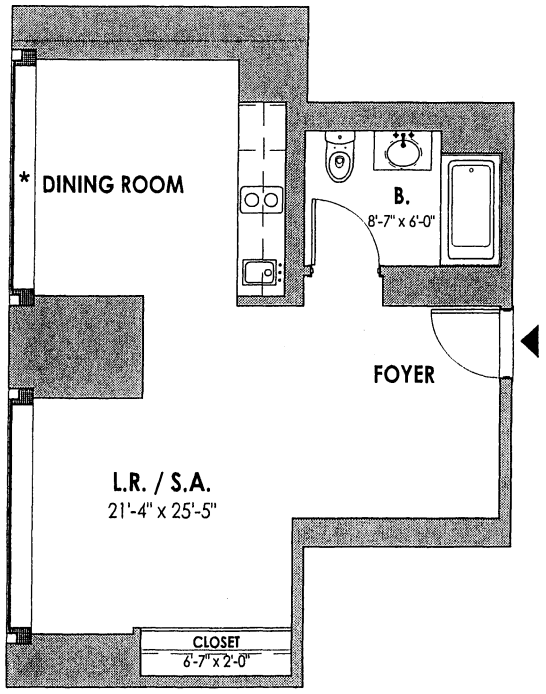


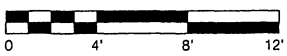
# 432PARKAVENUE

## Apt. H
## Floors 28 & 29

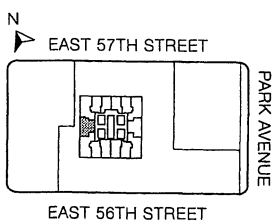
- Area: 535 sf (49.70 m²)
- Living Room/Sleeping Area
- Dining Room
- 1 Bath

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN




NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

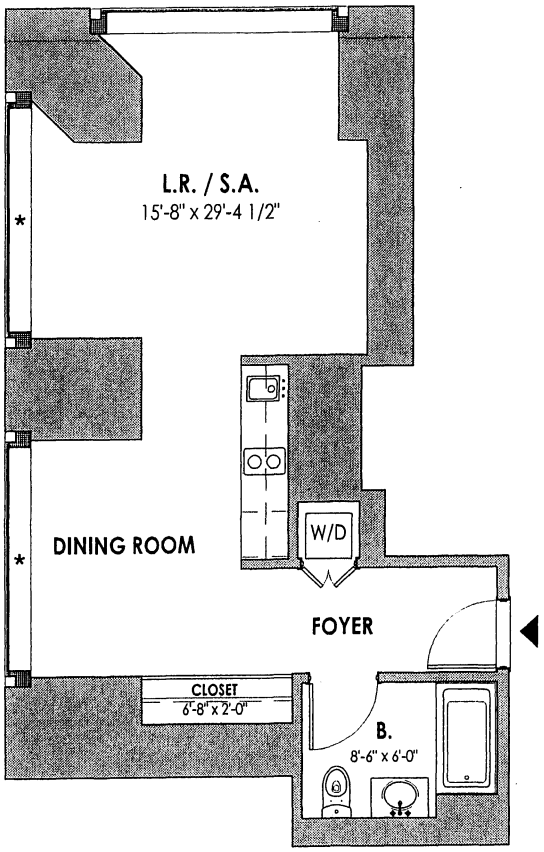


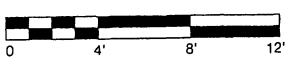
# 432PARKAVENUE

## Apt. J
## Floors 28 & 29

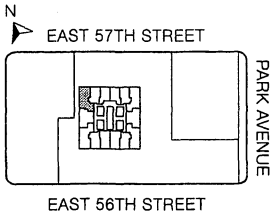
- Area: 603 sf (56.02 m²)
- Living Room/Sleeping Area
- Dining Room
- 1 Bath

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN



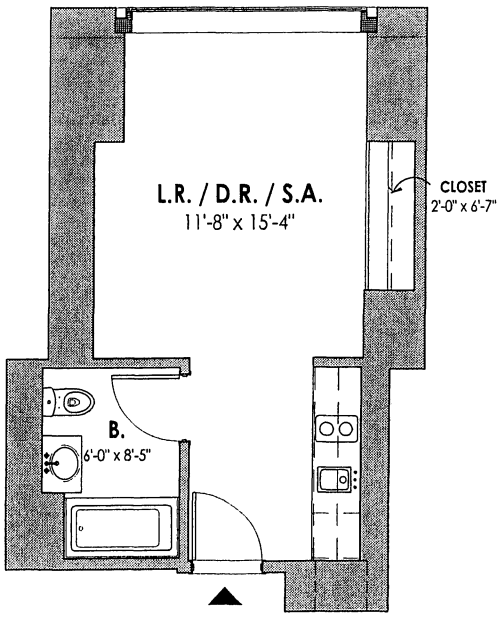

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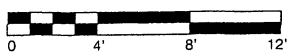


# 432PARKAVENUE

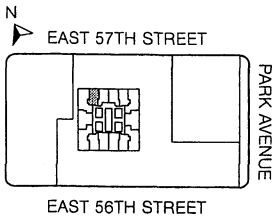
## Apt. K
## Floors 28 & 29

- Area: 379 sf (35.21 m²)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath



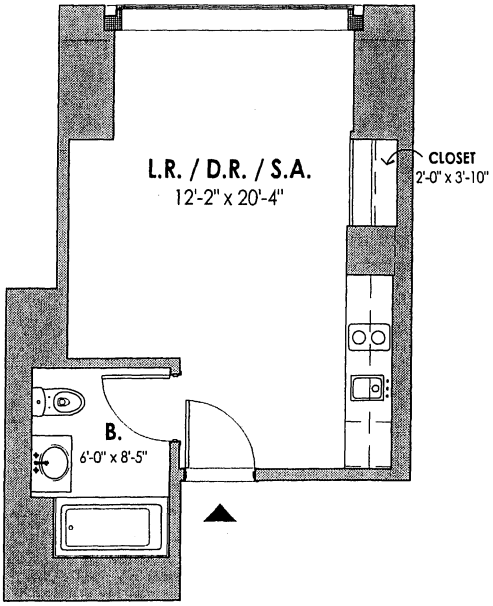

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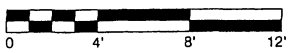


# 432PARKAVENUE

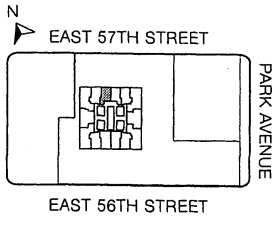
## Apt. L
## Floor 29

- Area: 351 sf (32.61 m²)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath



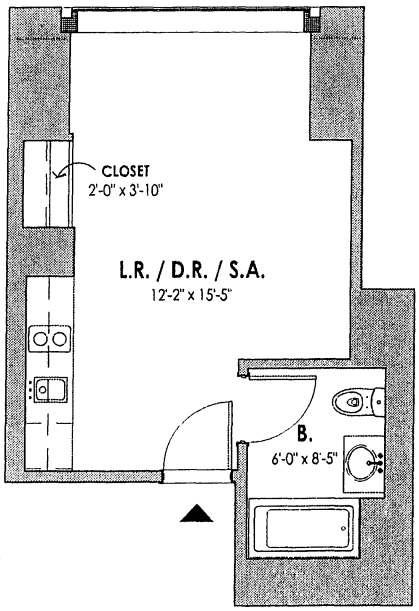

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# 432PARKAVENUE

## Apt. M
## Floor 29

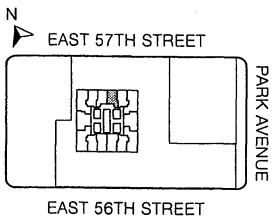
- Area: 351 sf (32.61 m²)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath







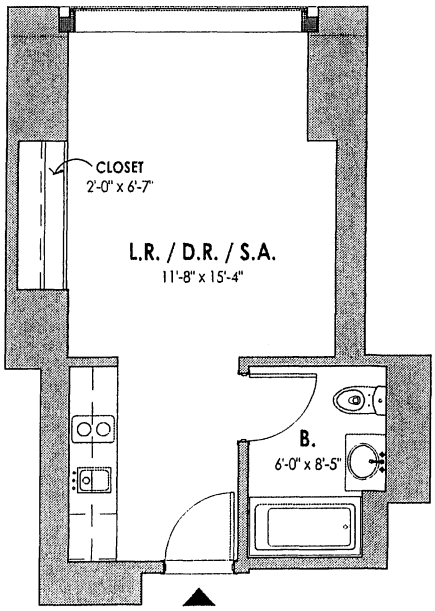
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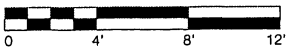


# 432PARKAVENUE

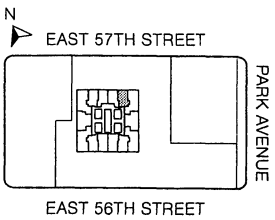
## Apt. N
## Floor 29

- Area: 380 sf (35.30 m²)
- Living Room/Dining Room/ Sleeping Area
- 1 Bath



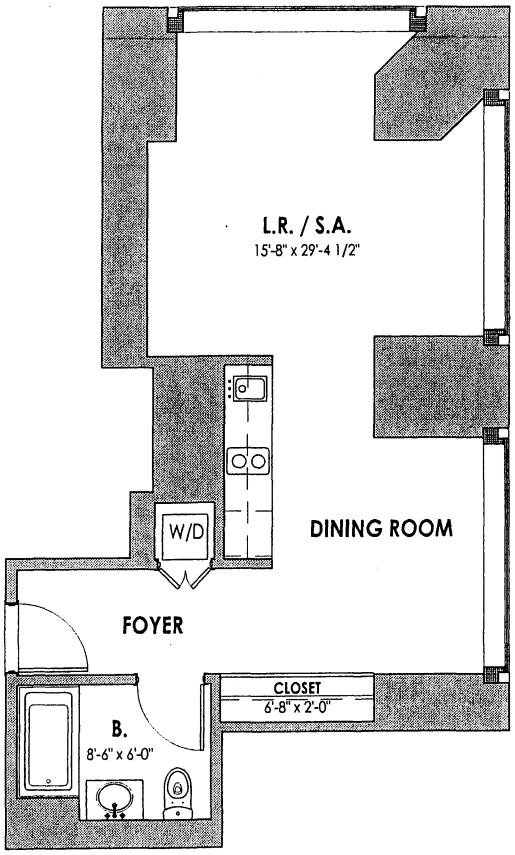

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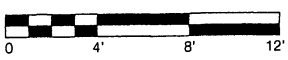


# 432PARKAVENUE

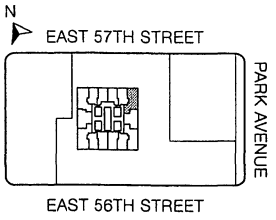
## Apt. P
## Floor 29

- Area: 595 sf (55.28 m²)
- Living Room/Sleeping Area
- Dining Room
- 1 Bath



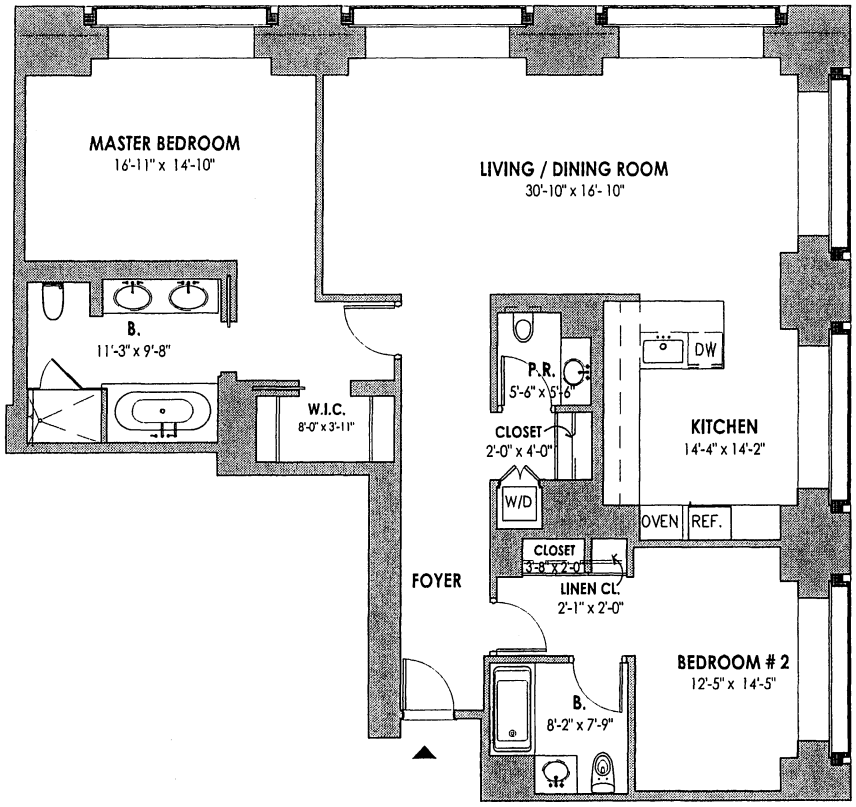

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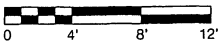


# 432PARKAVENUE

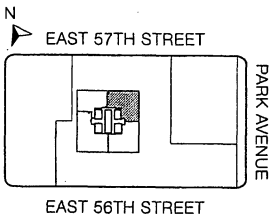
## Apt. A
## Floors 34, 36, 38, 40, 42 & 44

- Area: 1,814 sf (168.53 m²)
- 2 Bedrooms
- 2 Baths
- 1 Powder Room



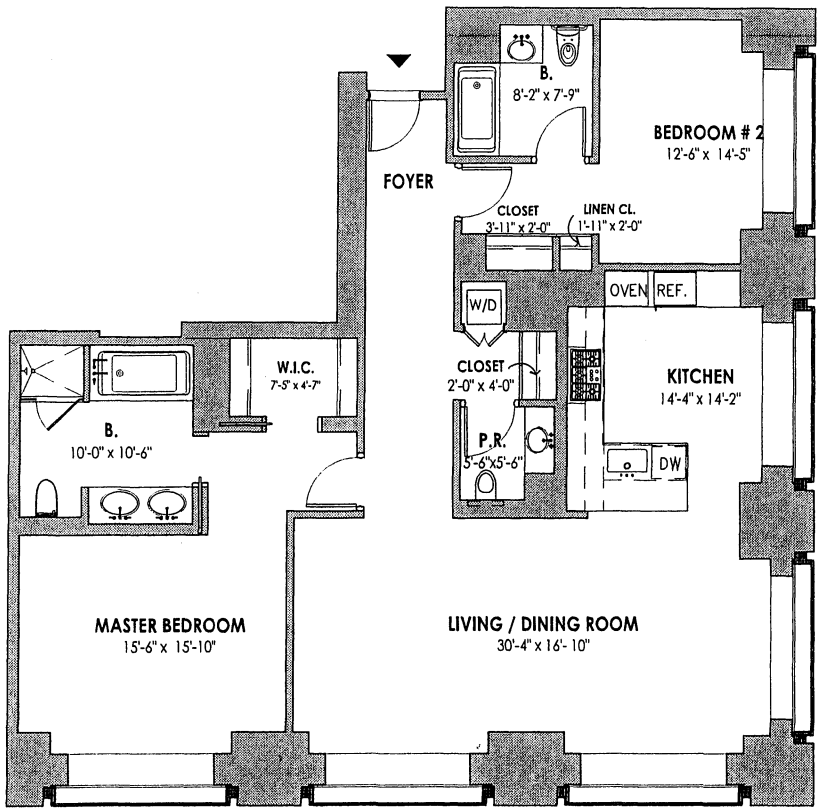

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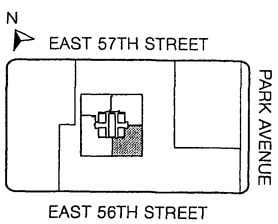


# 432PARKAVENUE

## Apt. B
## Floors 34, 36, 38, 40, 42 & 44

- Area: 1,795 sf (166.76 m²)
- 2 Bedrooms
- 2 Baths
- 1 Powder Room




0 4' 8' 12'

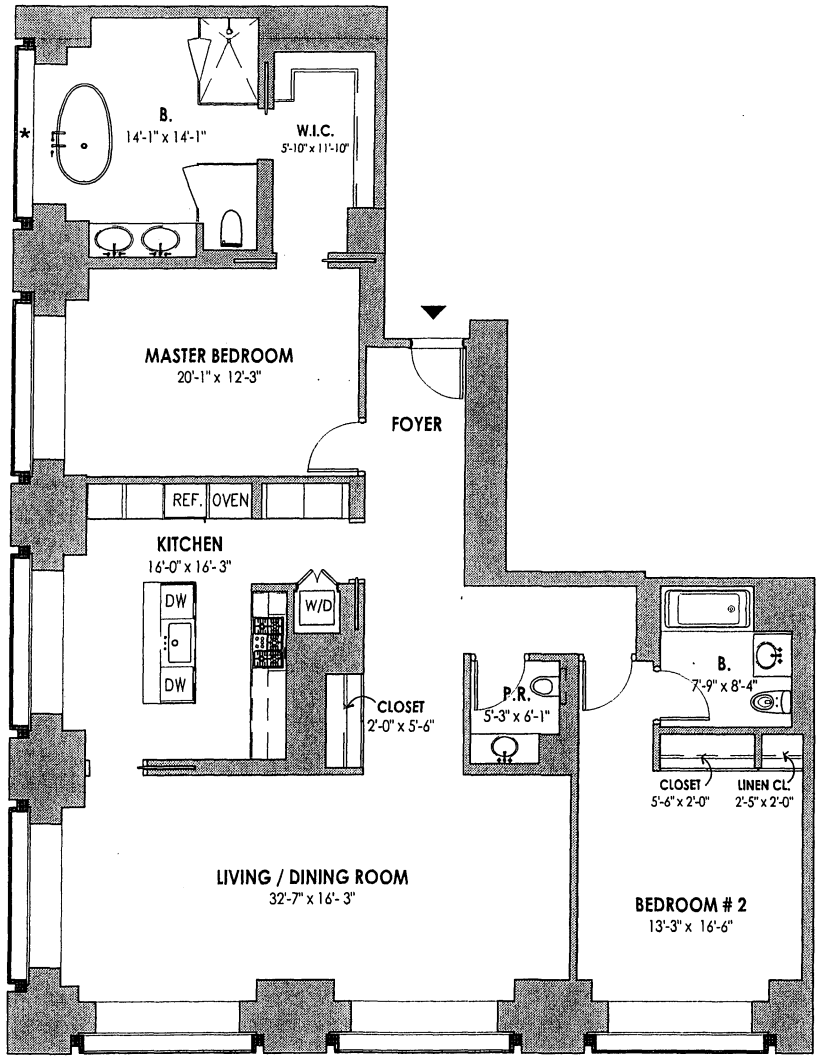
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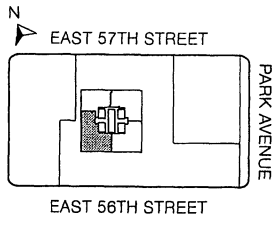
# 432PARKAVENUE

## Apt. C
## Floors 34 to 45

- Area: 2,100 sf (195.10 m²)
- 2 Bedrooms
- 2 Baths
- 1 Powder Room

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN




0 4' 8' 12'

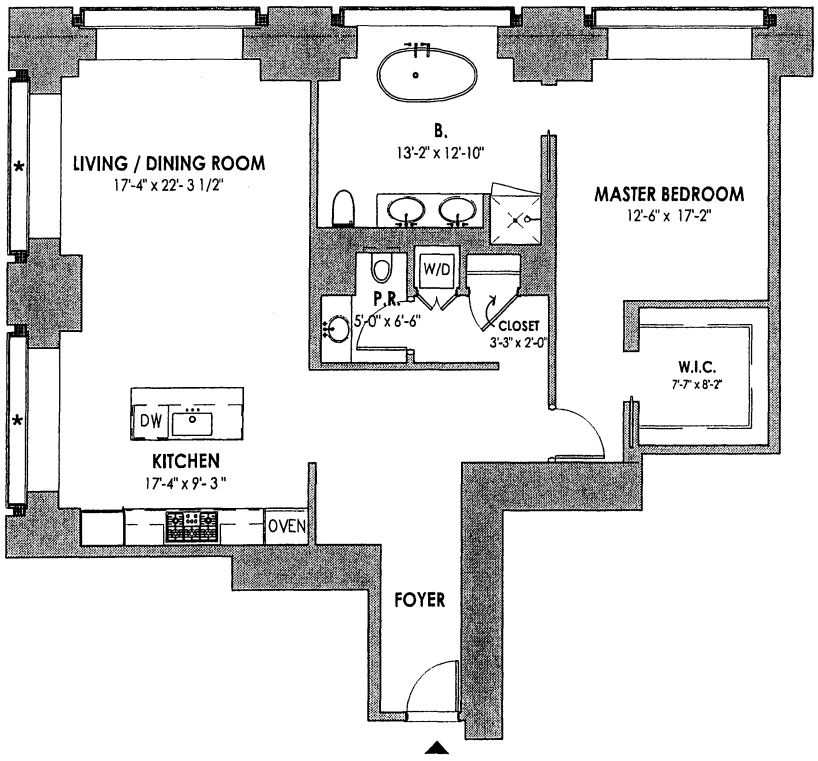
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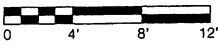
# 432PARKAVENUE

## Apt. D
## Floors 34 to 45

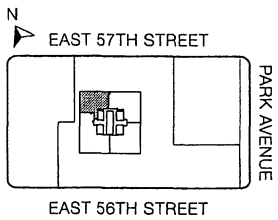
- Area: 1,422 sf (132.11 m²)
- 1 Bedroom
- 1 Bath
- 1 Powder Room

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN



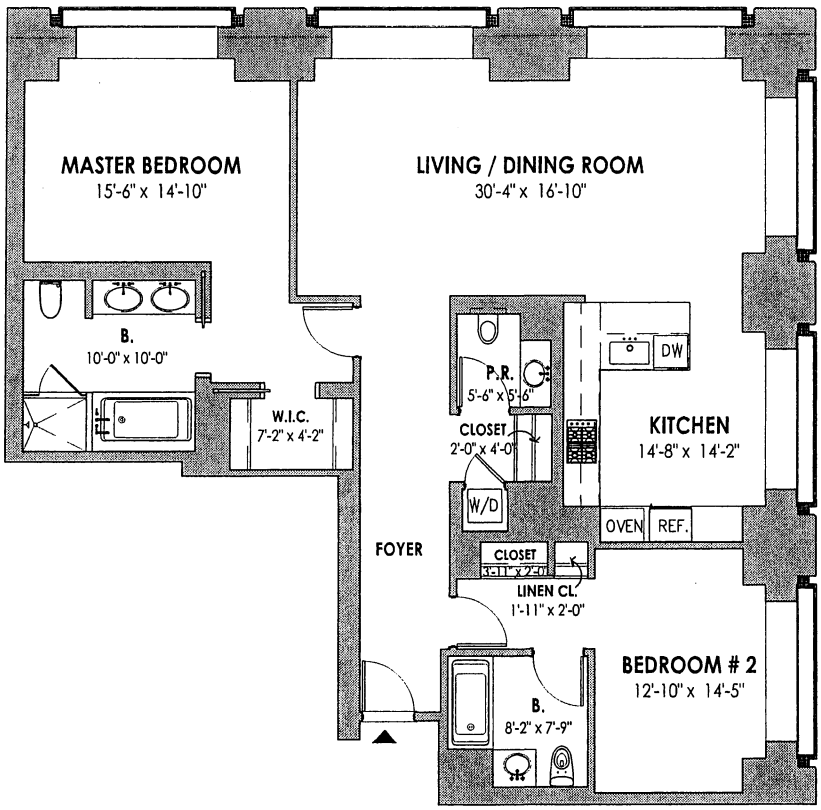

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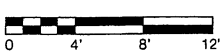


# 432PARKAVENUE

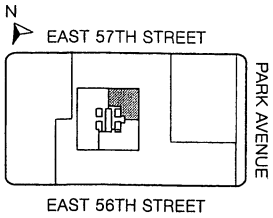
## Apt. A
## Floors 48 to 59

- Area: 1,789 sf (166.20 m²)
- 2 Bedrooms
- 2 Baths
- 1 Powder Room



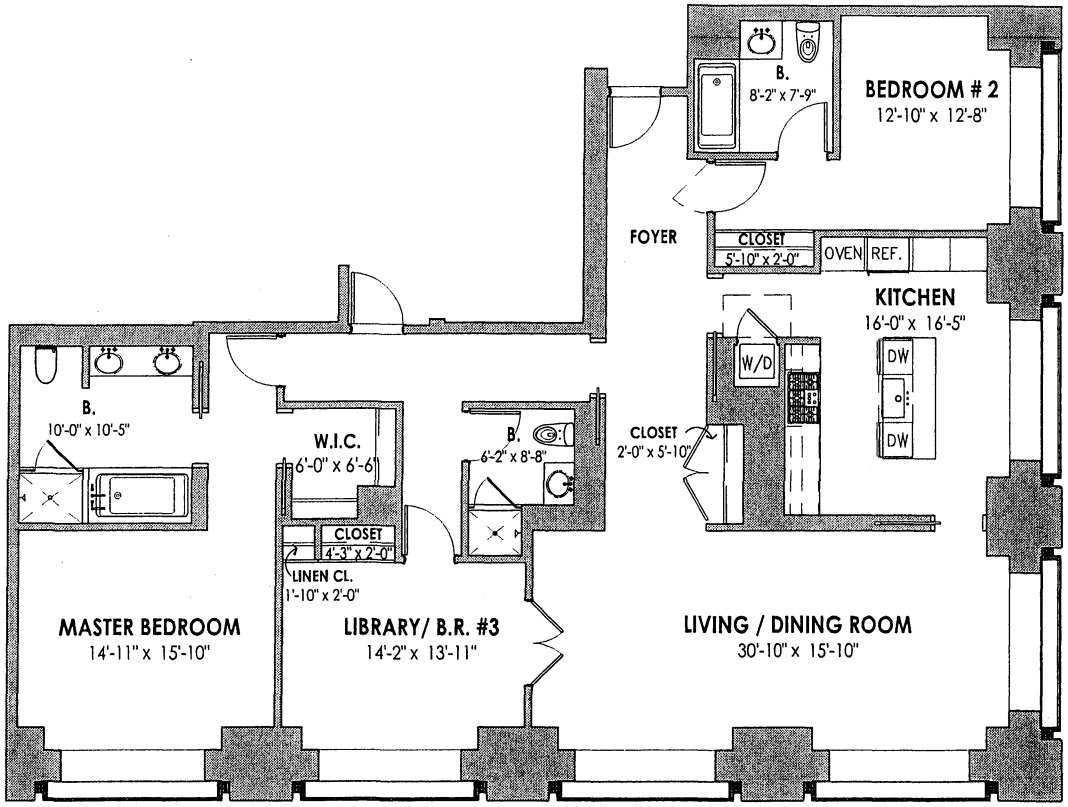

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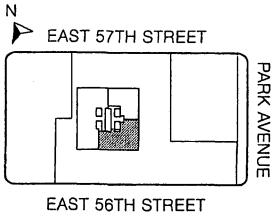


# 432PARKAVENUE

## Apt. B
## Floors 48 to 59

- Area: 2,224 sf (206.62 m²)
- 3 Bedrooms
- 3 Baths




0 4' 8' 12'

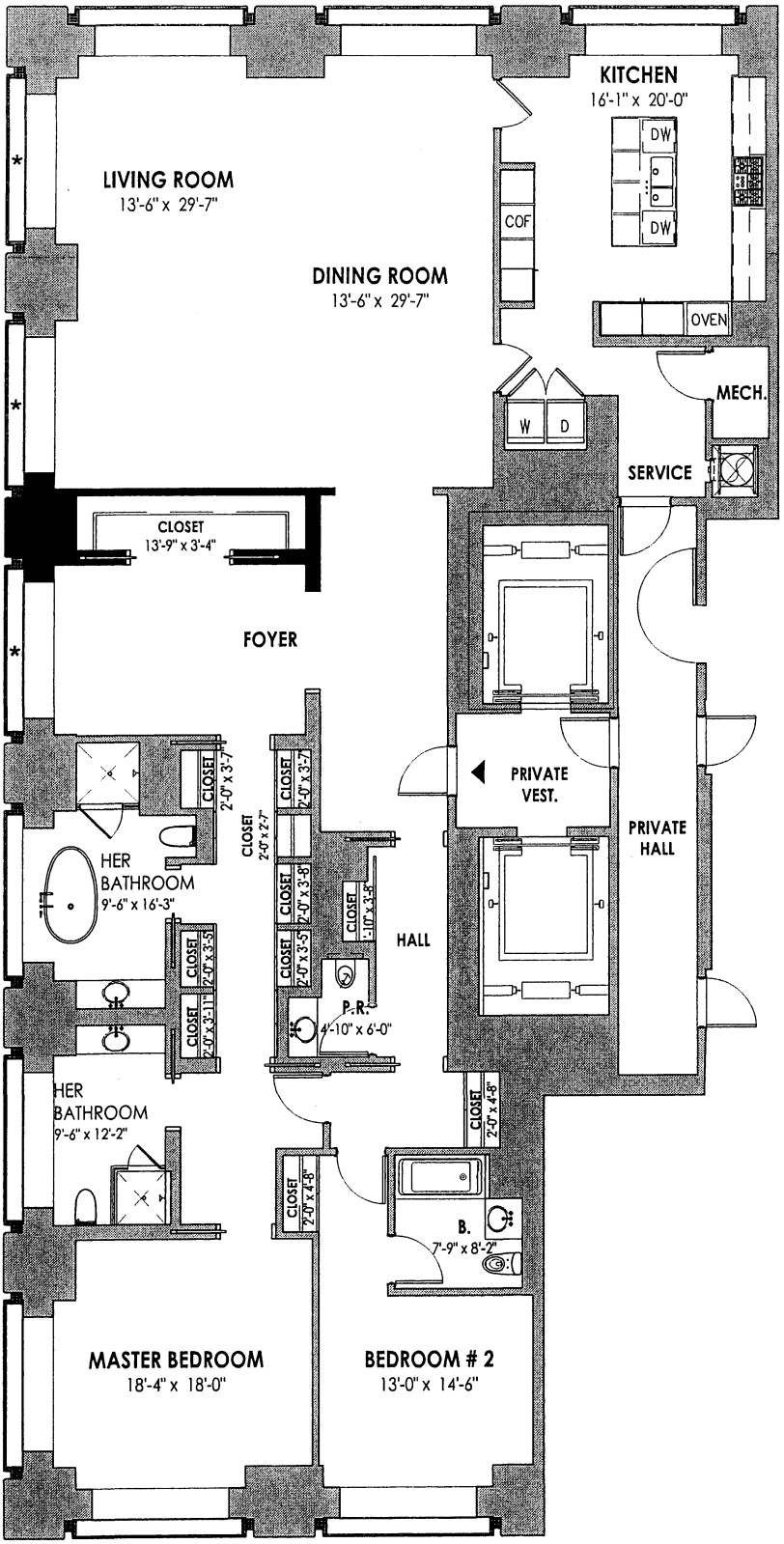
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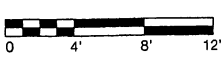
# 432PARKAVENUE

## Apt. C
## Floors 48 to 59

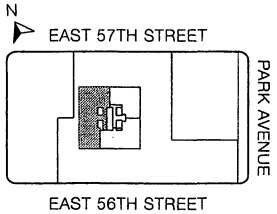
- Area: 3,576 sf (332.22 m²)
- 2 Bedrooms
- 3 Baths
- 1 Powder Room

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN



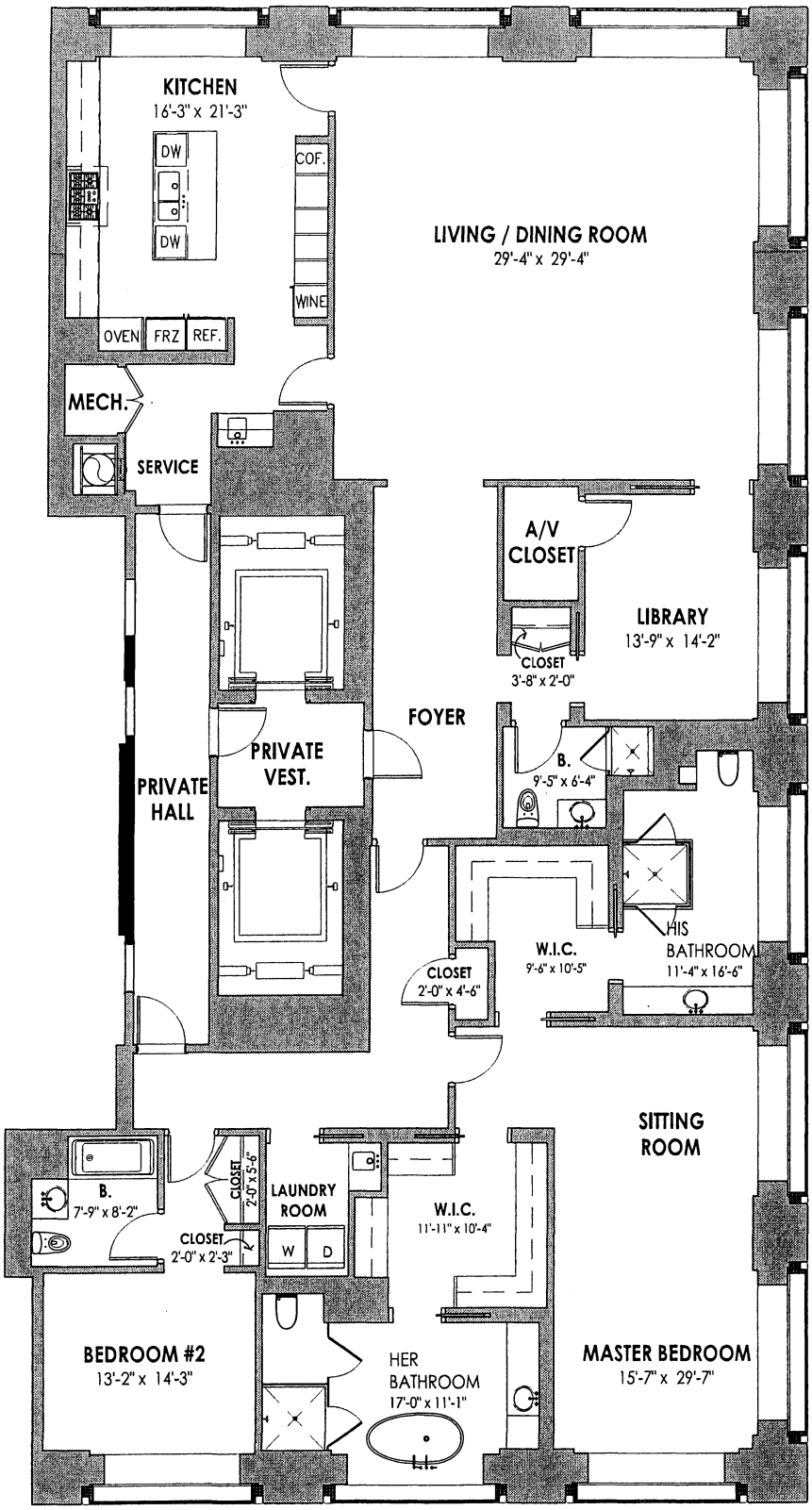

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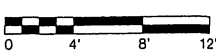


# 432PARKAVENUE

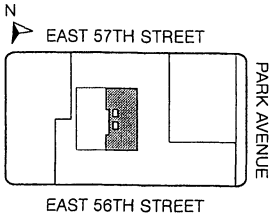
## Apt. A
## Floors 62 to 73

- Area: 4,004 sf (371.98 m²)
- 3 Bedrooms
- 4 Baths




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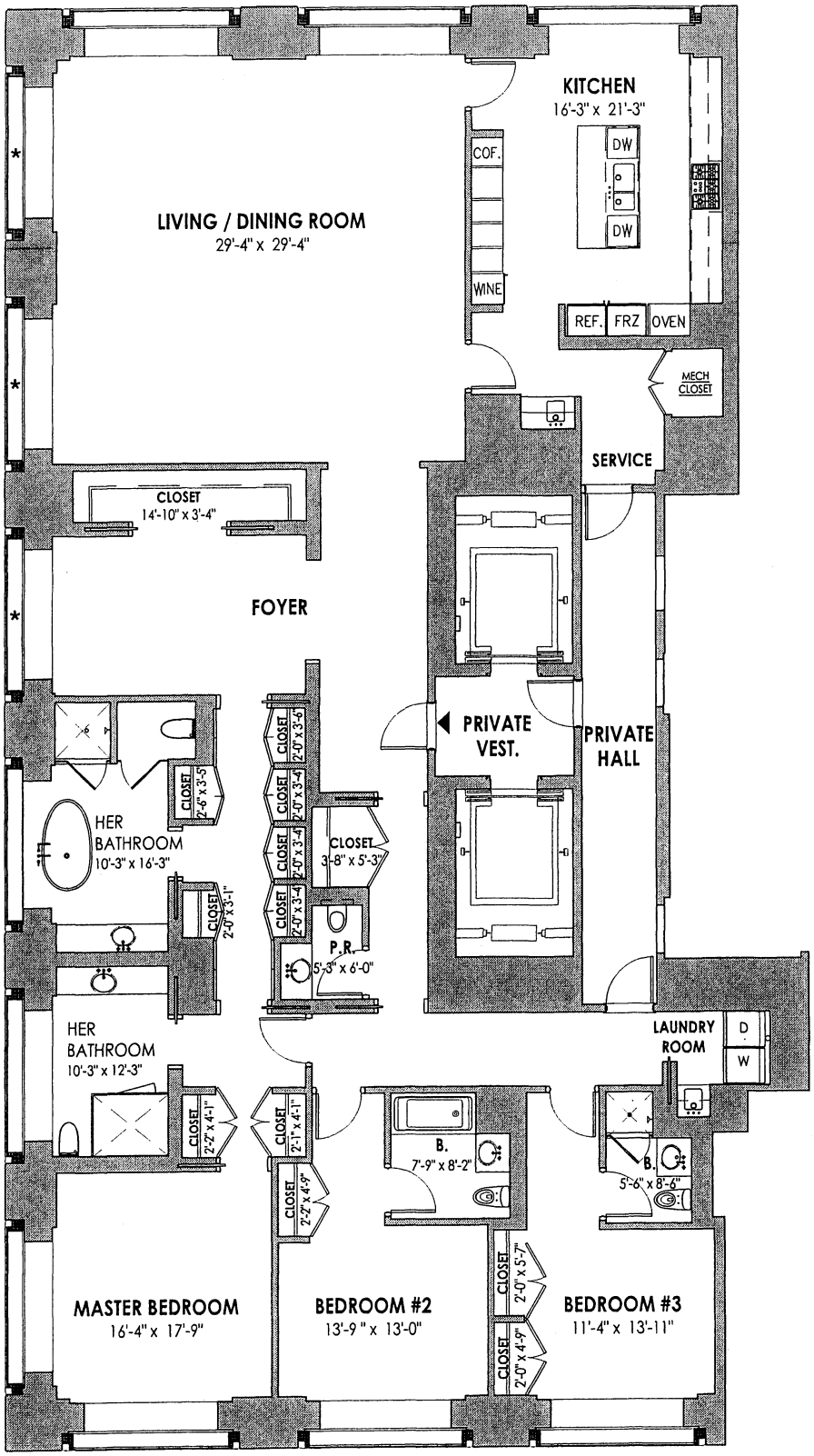


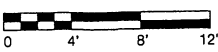
# 432PARKAVENUE

## Apt. B
## Floors 62 to 73

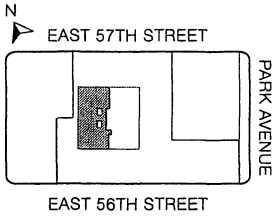
- Area: 4,034 sf (374.77 m²)
- 3 Bedrooms
- 4 Baths
- 1 Powder Room

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN



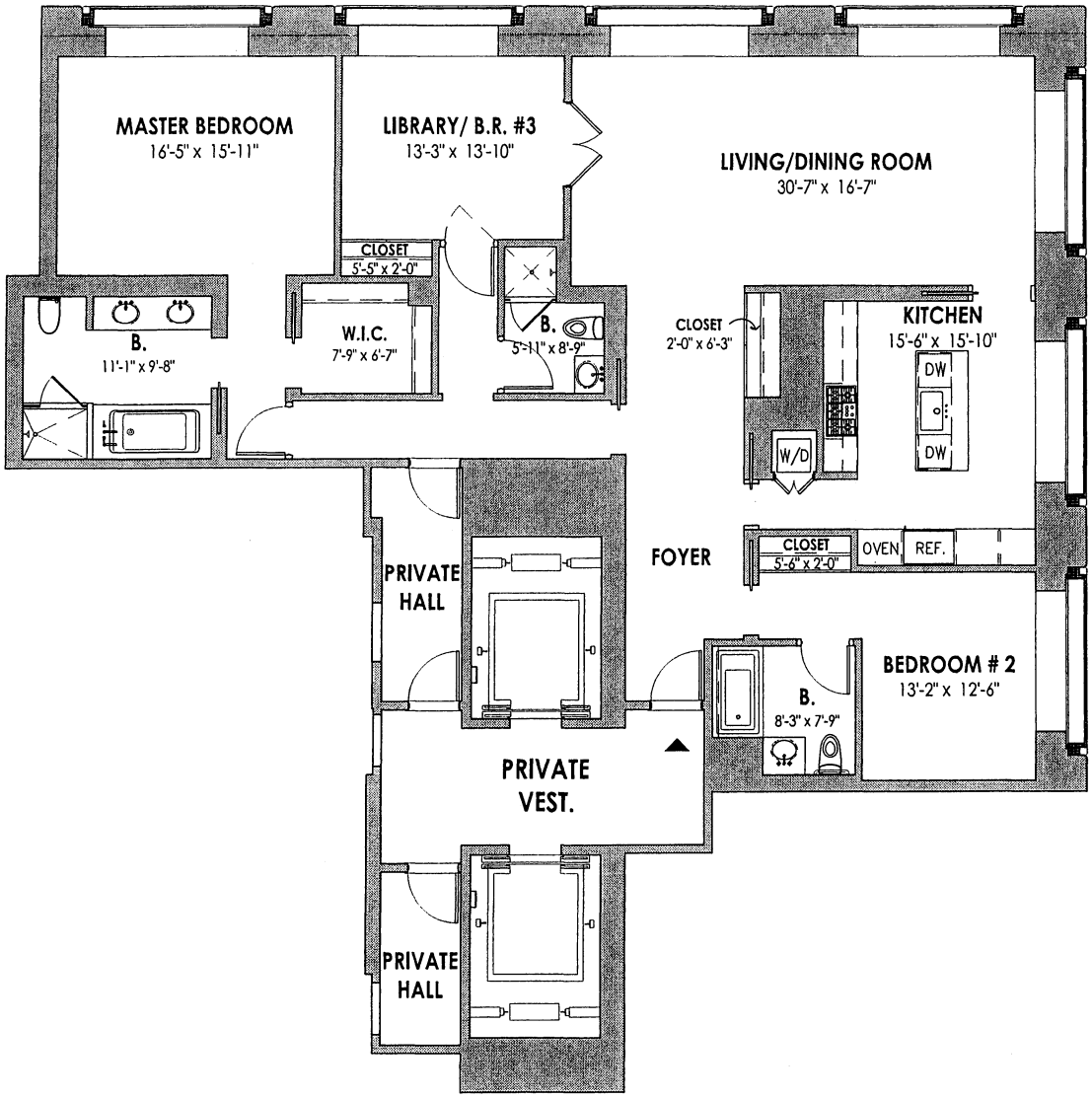

NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

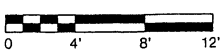


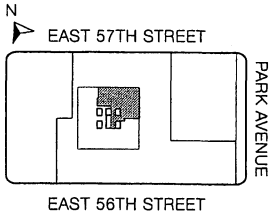
# 432PARKAVENUE

## Apt. A
## Floors 77 to 84

- Area: 2,633 sf (244.61 m²)
- 3 Bedrooms
- 3 Baths



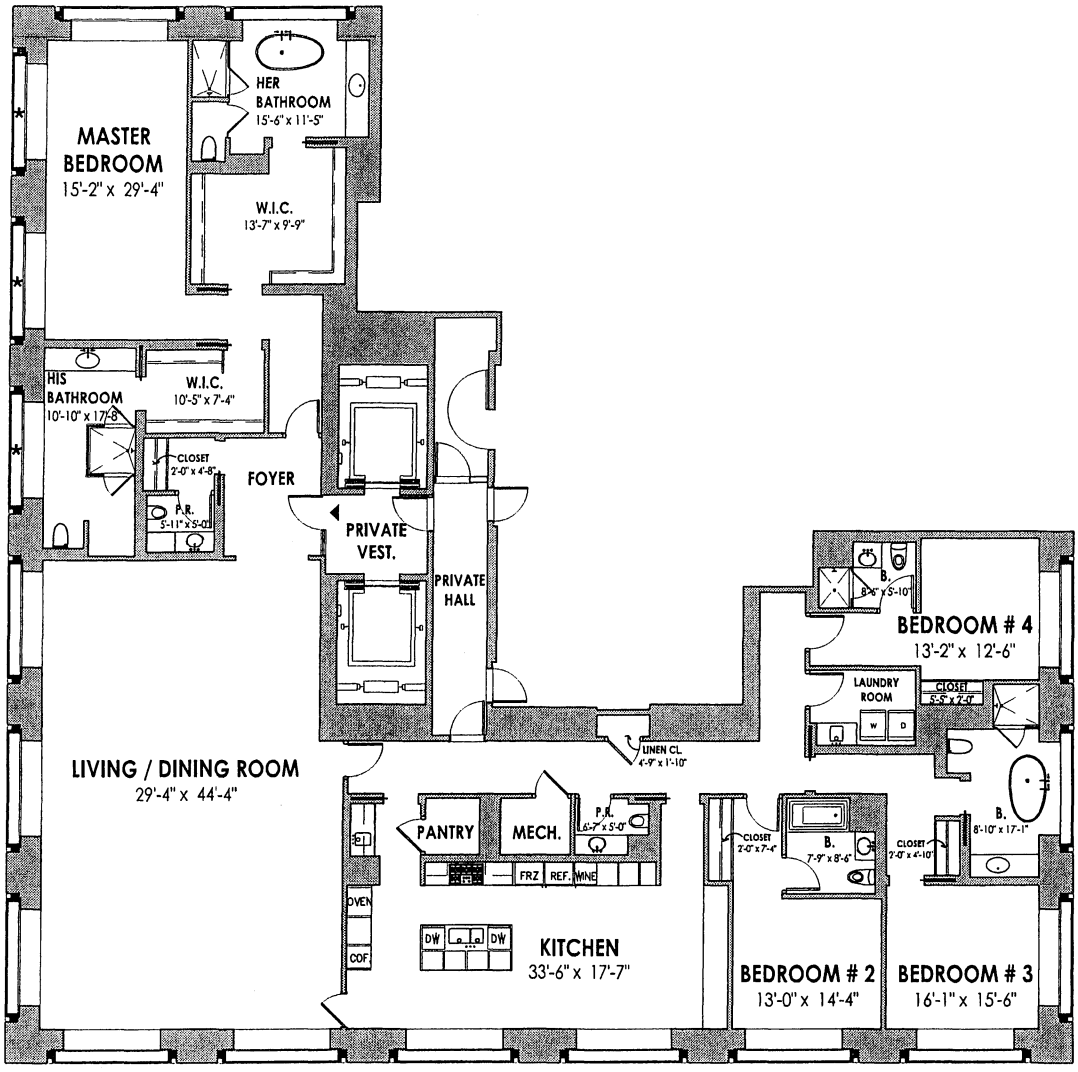

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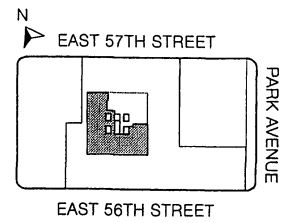
# 432PARKAVENUE

## Apt. B
## Floors 77 to 84

- Area: 5,421 sf (503.63 m²)
- 4 Bedrooms
- 5 Baths
- 2 Powder Rooms

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN




0 4' 8' 12'

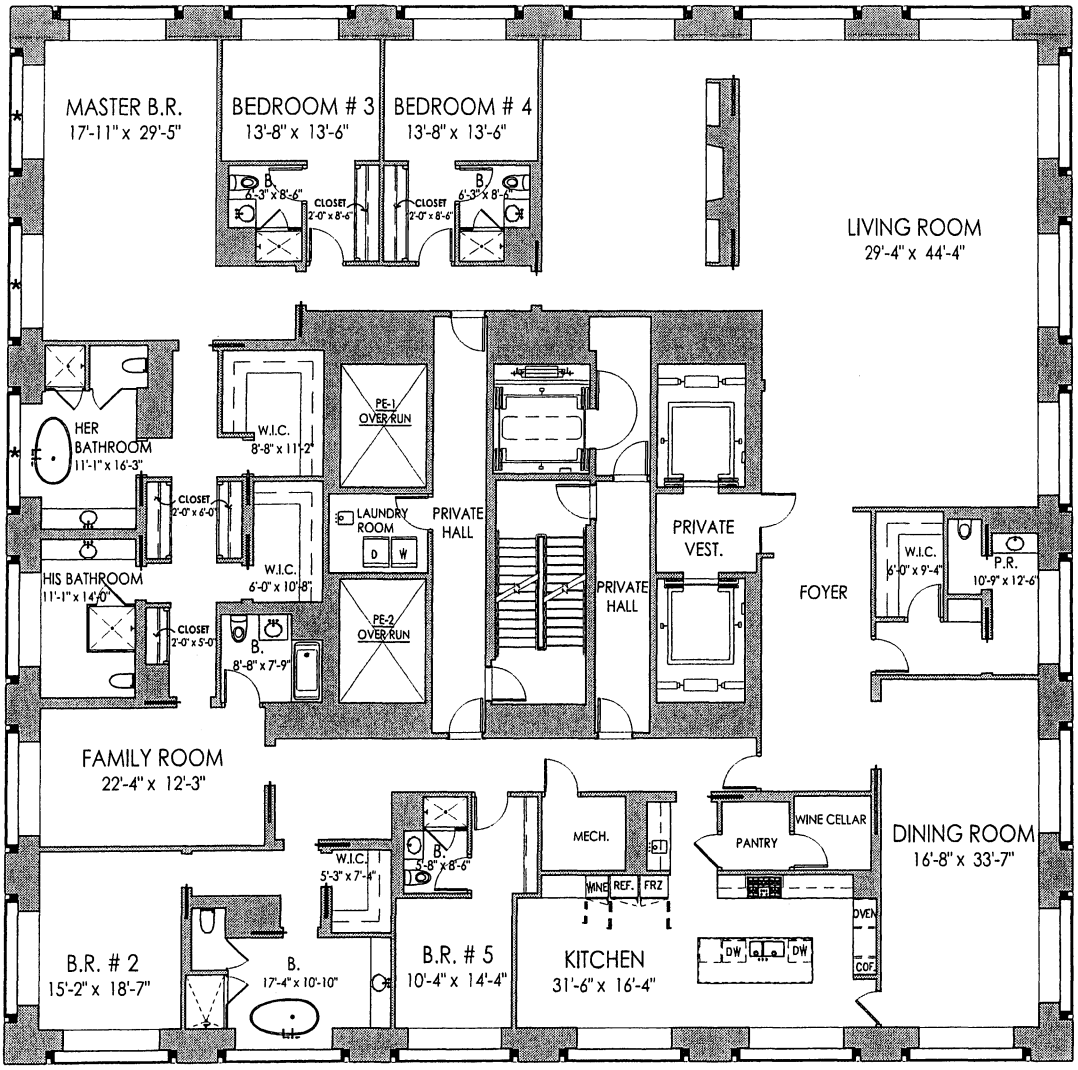
NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

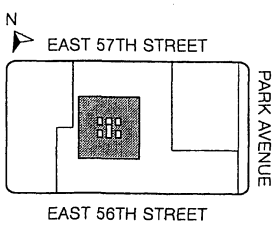
# 432PARKAVENUE

## Apt. A
## Floors 85 to 88

- Area: 8,055 sf (748.33 m²)
- 5 Bedrooms
- 1 Library
- 7 Baths
- 1 Powder Room

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN




0 4' 8' 12'

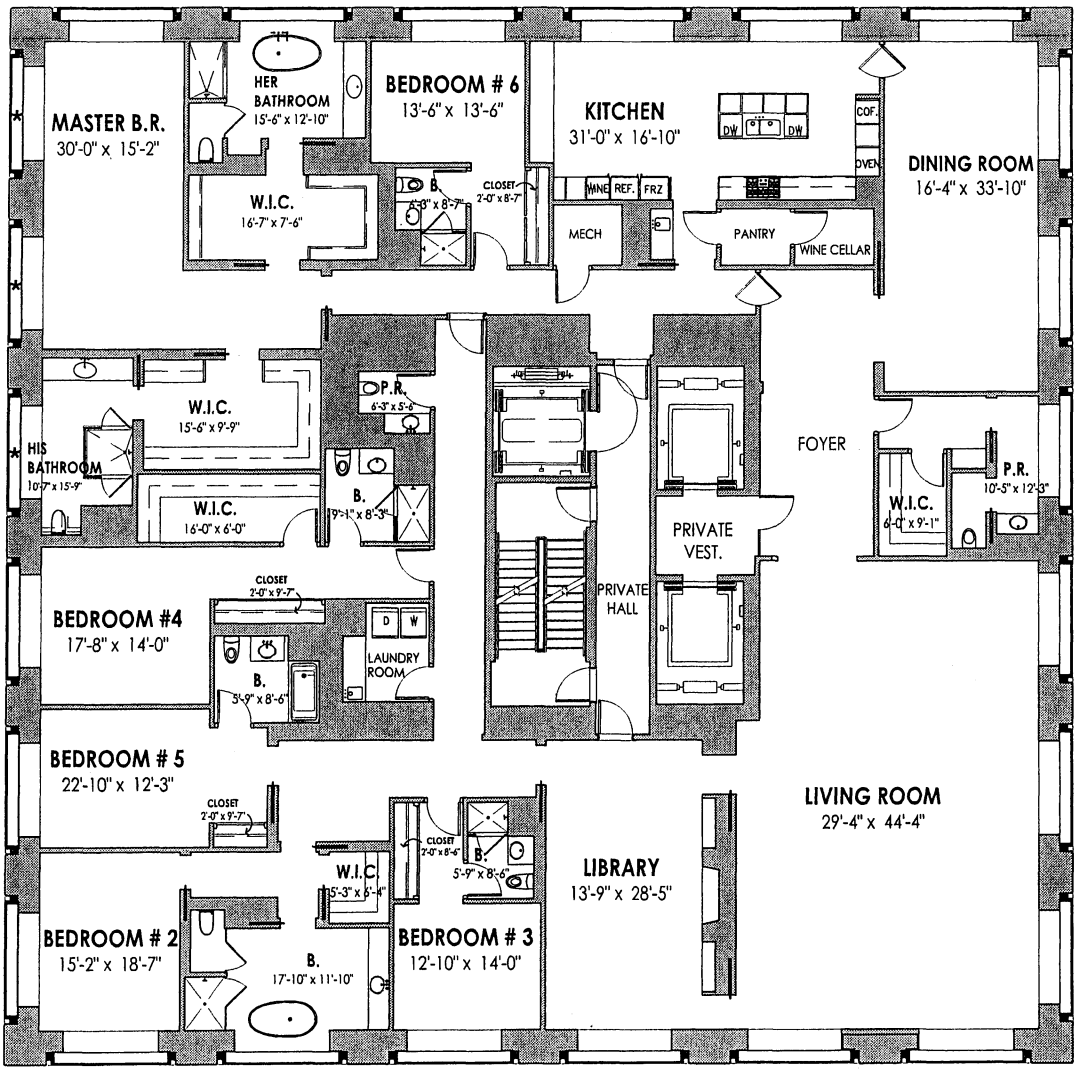
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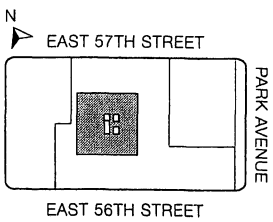
# 432PARKAVENUE

## Apt. A
## Floors 91 to 95

- Area: 8,255 sf (766.91 m²)
- 6 Bedrooms
- 1 Library
- 7 Baths
- 2 Powder Rooms

* SPECIAL WINDOW: SEE SECTION H.1 (ii) OF THE ARCHITECT'S REPORT SET FORTH AS EXHIBIT 6 IN 6 IN PART II OF THE OFFERING PLAN




0 4' 8' 12'

NOTE: ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR.

**EXHIBIT 8**

FORM OF APPLICATION TO THE ATTORNEY GENERAL FOR RESOLUTION OF DISPUTE CONCERNING DOWN PAYMENT

EXHIBIT 8 (II)

# APPLICATION TO THE ATTORNEY GENERAL FOR A DETERMINATION ON THE DISPOSITION OF DOWN PAYMENTS

(Send this application to the reviewing attorney assigned to the subject plan.)

Re: 432 Park Condominium
432 Park Avenue
New York, New York 10016

File Number:_____

Application is made to the Attorney General to consider and determine the disposition of down payments held pursuant to GBL Sections 352-e(2-b) and 352-h. The following information is submitted in support of this application:

1. Name of Applicant_____

2. Address of Applicant_____

3. Name, Address, and Telephone Number of Applicant's Attorney (if any)_____

4. This is an application for

   return of down payment.
   forfeiture of down payment.
   other:_____

5. The project is [ ] a conversion of occupied premises.
   [ ] newly constructed or rehabilitated.
   [ ] vacant (as is).

6. The project is structured as
   [ ] a cooperative.
   [ ] a condominium.
   [ ] a homeowners association.
   [ ] a time share.
   [ ] other:_____

7. Name and Address
of Sponsor:_____
_____

8. Name and Address
of Escrow Agent:_____
_____

9. If down payments are maintained in an escrow account:

(a) Name of account_____

(b) Name and address
of bank_____

(c) Account number (if known)_____

(d) Initial interest rate (if known)_____

10. If down payments have been secured by bonds:

(a) Name and address of
bond issuer or surety:_____
_____

(b) Copy of bond included in this application.
(DO NOT SEND ORIGINAL BOND.) If not included, explain:

_____
_____
_____
_____

11. If down payments have been secured by a letter of credit:

(a) Name and address of bank which issued the letter of credit:

_____
_____
_____
_____

(b) Date of expiration of the letter of credit, if known:

_____

12. Plan information:

(a) Date of filing of plan:_____

(b) Plan

[ ] has been declared effective. Approximate date:
_____

[ ] has not been declared effective.

(c) If effective, the plan

[ ] has closed or the first unit has closed. Approximate date:
_____

[ ] has not closed.

[ ] don't know.

(d) Down payments are secured by

[ ] escrow account.

[ ] bonds.

[ ] letter of credit.

13. Contract information:

(a) Copy of contract and of all riders or modification letters are attached. (DO NOT SEND ORIGINALS.)

(b) Date on which subscription or Agreement was signed:_____

(c) Date(s) of down payment(s):_____

(d) Total amount of down payment(s):_____

(e) Names and addresses of subscribers or purchasers affected by this application:

_____
_____
_____
_____

14. State the basis for your claim. Please be as specific as possible. You may add additional sheets. Attach copies of any relevant documents.

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

15. I am contemporaneously sending a copy of this application to the following persons:

_____
_____
_____
_____

Note: You are required to mail a copy of this Application to all other affected parties.

In filing this application, I understand that the Attorney General is not my private attorney, but represents the public in enforcing laws designed to protect the public from unlawful business practices. I also understand that if I have any questions concerning my legal rights or responsibilities I may contact a private attorney. The above application is true and accurate to the best of my knowledge. False statements made herein are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.

Signature:_____ Date_____

Name (Printed):_____

Telephone: (Home):_____ (Business)_____

Mailing Address: _____
_____
_____

**EXHIBIT 9**

FORM OF ESCROW AGREEMENTWITH RESPECT TO DOWNPAYMENTS

EXHIBIT 9(II)

# ESCROW AGREEMENT

AGREEMENT made as of this ___ day of _____, 2011, between 56th and Park (NY) Owner, LLC, as sponsor ("SPONSOR"), and Kramer Levin Naftalis & Frankel LLP, as escrow agent ("ESCROW AGENT").

WHEREAS, SPONSOR is the sponsor under an offering plan (the "Offering Plan") for 432 Park Condominium, located at 432 Park Avenue, New York, New York 10016; and

WHEREAS, Kramer Levin Naftalis & Frankel LLP is authorized to act as an escrow agent hereunder in accordance with General Business Law ("GBL") Section 352-e(2-b) and the Attorney General's regulations promulgated thereunder (the "Regulations"); and

WHEREAS, SPONSOR desires that ESCROW AGENT act as escrow agent for deposits and payments by purchasers of units from SPONSOR under the Offering Plan, pursuant to the terms of this agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and other good and valuable consideration, the parties hereby agree as follows:

1. ESTABLISHMENT OF THE ESCROW ACCOUNT.

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 from and after the date hereof. The escrow account has been opened with Citibank N.A., 666 Fifth Avenue, New York, New York 10106. The account number is _____.

1.2 The name of the account is "432 Park Condominium Escrow Account".

1.3 The following partners in ESCROW AGENT are the sole signatories on the account: Jay A. Neveloff, Jonathan H. Canter, James P. Godman, Paul S. Pearlman, Neil R. Tucker, and Howard J. Rothman.

1.4 The escrow account shall be an interest-bearing account as disclosed in the Offering Plan.

1.5 The escrow account is not an IOLA established pursuant to Judiciary Law Section 497.

2. DEPOSITS INTO THE ESCROW ACCOUNT

2.1 All funds hereafter received from prospective purchasers prior to closing, whether in the form of checks, drafts, money orders, wire transfers, or other instruments which identify the payor, shall be deposited into the escrow account. All instruments to be deposited into the escrow account shall be made payable to, or endorsed by the purchaser to the order of "Kramer Levin Naftalis & Frankel LLP as escrow agent" for the Offering Plan for 432 Park Condominium. Any instrument payable or endorsed other than as required hereby, and which cannot be deposited into such escrow account, shall be returned to

the prospective purchaser promptly, but in no event more than five (5) business days following receipt of such instrument by ESCROW AGENT. In the event of such return of funds, the instrument shall be deemed not to have been delivered to ESCROW AGENT pursuant to the terms of this Agreement.

2.2 Within ten (10) business days after tender of the deposit submitted with the subscription or purchase agreement, ESCROW AGENT shall notify the purchaser of the deposit of such funds in the bank indicated in the Offering Plan, provide the account number, and disclose the initial interest rate. If the purchaser does not receive notification of such deposit within fifteen (15) business days after tender of the deposit, the purchaser may cancel the purchase and rescind within ninety (90) days after tender of the deposit, or may apply to the Attorney General for relief. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited in accordance with these regulations and requisite notice was timely mailed to the purchaser.

3. RELEASE OF FUNDS.

3.1 ESCROW AGENT shall not release the escrowed funds of a defaulting purchaser until after consummation of the Offering Plan as defined in the Attorney General's regulations. Consummation of the Offering Plan shall not relieve SPONSOR of its fiduciary obligations pursuant to GBL Section 352-h.

3.2 ESCROW AGENT shall continue to hold the funds in escrow until otherwise directed in (a) a writing signed by both SPONSOR and the purchaser or (b) a determination of the Attorney General or (c) a judgment or order of a court of competent jurisdiction or until released pursuant to the regulations of the Attorney General pertaining to release of escrowed funds.

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 Offering Plan or an amendment to the Offering Plan or (b) all purchasers after an amendment abandoning the Offering Plan is accepted for filing by the Department of Law.

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 not fewer than ten (10) business days. Thereafter, the funds may be paid to SPONSOR unless the purchaser has made application to the Department of Law pursuant to the dispute resolution provisions contained in the Attorney General's regulations and has so notified ESCROW AGENT in accordance with such provisions.

4. RECORDKEEPING.

4.1 ESCROW AGENT shall maintain all records concerning the escrow account for seven years after release of the funds.

4.2 Upon the dissolution of ESCROW AGENT, the former partners or members of the firm shall make appropriate arrangements for the maintenance of these records by one of the partners or members of the firm or by the successor firm and shall notify the Department of Law of such transfer.

4.3 ESCROW AGENT shall make available to the Attorney General, upon his request, all books and records of ESCROW AGENT relating to the funds deposited and disbursed hereunder.

5. GENERAL OBLIGATIONS OF ESCROW AGENT.

5.1 ESCROW AGENT shall maintain the accounts called for in this Agreement under the direct supervision and control of ESCROW AGENT.

5.2 A fiduciary relationship 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; or

(c) All unsold units offered by SPONSOR pursuant to the Offering Plan have been sold and all sales transactions have been consummated.

7.2 Upon termination of the duties of ESCROW AGENT as described in paragraph 7.1 (a) or (b) above, ESCROW AGENT shall deliver any and all funds held by it in escrow and any and all contracts or documents maintained by ESCROW AGENT to the new escrow agent.

8. SUCCESSORS AND ASSIGNS.

8.1 This Agreement shall be binding upon SPONSOR and ESCROW AGENT and their 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. ESCROW AGENT'S RIGHTS.

11.1 ESCROW AGENT shall not be responsible to SPONSOR for any act or failure to act on its part except for its own willful default or gross negligence. ESCROW AGENT shall be automatically released by SPONSOR from all responsibility and liability under this Agreement upon ESCROW AGENT's distribution of deposits and payments in accordance with the provisions of this Agreement, GBL Section 352-e(2-b) and the Regulations.

11.2 SPONSOR hereby indemnifies and holds ESCROW AGENT harmless from any and all losses, damages, claims, liabilities, judgments and other costs and expenses of every kind and nature which may be claimed against or incurred by ESCROW AGENT by reason of its acceptance of, and/or its performance under, this Agreement (other than those ultimately determined to have arisen out of the willful misconduct or gross negligence of ESCROW AGENT), including, without limitation, attorneys' fees either paid to retained attorneys or amounts representing the fair value of legal services rendered to itself. The foregoing indemnification shall survive the termination of this Agreement.

11.3 As to SPONSOR, ESCROW AGENT shall be entitled to consult with and retain counsel selected by it (including any member of its firm) with respect to its duties as ESCROW AGENT and be reimbursed by SPONSOR for all reasonable fees and expenses of such consultation and retention. As to SPONSOR, ESCROW AGENT may act or refrain from acting in respect of any matter referred to herein by and with, and in full reliance upon, the advice of such counsel and, except in the case of its own willful

default or gross negligence, ESCROW AGENT shall be fully protected in so acting or refraining from acting upon the advice of such counsel.

11.4 ESCROW AGENT or any member of its firm may act as counsel to SPONSOR in any dispute or question as to the disposition of the deposits or payments or in any dispute between SPONSOR or any purchaser with respect to any matter whatsoever, whether or not ESCROW AGENT is then holding any deposits or payments of such purchaser and is continuing to act as ESCROW AGENT hereunder.

12. SEVERABILITY.

12.1 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.

13. ENTIRE AGREEMENT.

13.1 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:

KRAMER LEVIN NAFTALIS & FRANKEL LLP

By_____, Partner

SPONSOR:

56TH AND PARK (NY) OWNER, LLC

By:_____
Name: Charles E. Garner II
Title: Vice President

**EXHIBIT 10**

DECLARATION OF CONDOMINIUM

# DECLARATION

Establishing a Plan for Condominium Ownership
of the Premises known as
432 Park Avenue
New York, New York
Pursuant to Article 9-B of the Real Property
Law of the State of New York

Name

432 PARK CONDOMINIUM
432 Park Avenue
New York, New York 10016

Declarant(s)

56TH AND PARK (NY) OWNER, LLC
515 Madison Avenue, 41st Floor
New York, New York 10022

and

46 EAST 57TH ST. (NY), LLC
6922 Hollywood Blvd., Suite 900
Los Angeles, California 90028

Date of Declaration

As of _____ __, 201__

Block 1292
Lots [____-____]
(f/k/a Lots 33, 43, 45 and 46)
Borough of Manhattan

When Recorded, Return to:

Kramer Levin Naftalis & Frankel LLP
Attorneys for Declarant(s)
1177 Avenue of the Americas
New York, New York 10036
Attention: Jonathan H. Canter, Esq.

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# DECLARATION

# OF

# 432 PARK CONDOMINIUM

(Pursuant to Article 9-B of the Real Property Law
of the State of New York)

56TH AND PARK (NY) OWNER, LLC, a Delaware limited liability company having an office at 515 Madison Avenue, 41st Floor, New York, New York 10022 ("Project Declarant") and 46 EAST 57TH ST. (NY), LLC, a Delaware limited liability company having an office at 6922 Hollywood Blvd., Suite 900, Los Angeles, California 90028 ("Lot 43 Declarant"; Project Declarant and Lot 43 Declarant are collectively referred to as "Declarant"), do hereby declare as follows:

## ARTICLE 1

## SUBMISSION OF THE PROPERTY; BY-LAWS

1.1 Submission of Property. Declarant hereby submits the Land (Project Declarant's Land in the case of Project Declarant; and Lot 43 Declarant's Land in the case of Lot 43 Declarant) and the Building (each as hereinafter defined), and 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 (as the same may be amended from time to time, the "New York Condominium Act") and pursuant thereto does hereby establish a condominium to be known (subject to the provisions of this Declaration) as "432 PARK CONDOMINIUM" (the "Condominium").

1.2 Condominium By-Laws. Annexed to this Declaration as Exhibit A and made a part hereof are the by-laws of the entire Condominium which shall govern the general operation, use and occupancy of the entire Condominium (said by-laws, as the same may be amended from time to time in accordance with the provisions hereof and thereof, the "Condominium By-Laws").

1.3 Residential By-Laws. Annexed to this Declaration as Exhibit B and made a part hereof are the by-laws that govern the Residential Units and the Residential Limited Common Elements appurtenant thereto, which collectively constitute the "Residential Section" (said by-laws, as the same may be amended from time to time in accordance with the provisions hereof, thereof and of the Condominium By-Laws governing amendment, the "Residential By-Laws") and the same shall (together with, but subject and subordinate to, this Declaration and the Condominium By-Laws) govern the affairs, operation, use and occupancy of the Residential Section from and after the first conveyance of title to a Residential Unit by Sponsor.

1.4 Commercial By-Laws. Annexed to this Declaration as Exhibit C and made a part hereof are the by-laws that govern the Commercial Units (as hereinafter defined) and the Commercial Limited Common Elements appurtenant thereto, which collectively constitute

the "Commercial Section") (said by-laws, as the same may be amended from time to time in accordance with the provisions hereof, thereof and of the Condominium By-Laws governing amendment, the "Commercial By-Laws") and the same shall (together with, but subject and subordinate to, this Declaration and the Condominium By-Laws) govern the affairs, operation, use and occupancy of the Commercial Section from and after the first conveyance of title to a Residential Unit by Sponsor.

1.5 Conveyance of Units following Recording of Declaration. As of the date of the filing of this Declaration in accordance with Law, fee simple absolute title in the Residential Units, the Office Units, Retail Unit B, Retail Unit C, the Garage Unit and the Club Unit shall automatically vest in Project Declarant, and fee simple absolute title in Retail Unit A shall automatically vest in Lot 43 Declarant, without the execution of specific and particular deeds or indentures for each such Unit. Notwithstanding the foregoing, in the event that such conveyances contemplated herein cannot be made in accordance with Law, Declarant shall execute and cause to be recorded in the City Register's Office: (a) a single deed in favor of Project Declarant conveying title to the Residential Units, the Office Units, Retail Unit B, Retail Unit C, the Garage Unit and the Club Unit, and (b) a deed in favor of Lot 43 Declarant conveying title to Retail Unit A.

1.6 Property Subject to Certain Development Rights. The Property is subject to the following: (a) development rights and easements in connection with that certain real estate having a street address of 46 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 43 pursuant to a Zoning Lot Development and Easement Agreement dated December 23, 2010, and recorded under CRFN 2011000014567 on January 12, 2011 between Project Declarant and Lot 43 Declarant; (b) development rights and easements in connection with that certain real estate having a street address of 38 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 46 and a street address of 40 East 57th Street, New York, New York and as formerly set forth on the Tax Map as Block 1292, Lot 145 (now part of Lot 33) pursuant to a Zoning Lot Development and Easement Agreement dated September 29, 2007, and recorded under CRFN 2007000542730 on October 29, 2007 between Dakotah Travel Co. LLC and 440 Park Avenue Associates LLC ("Associates"), as assigned to Project Declarant; (c) development rights and easements in connection with that certain real estate having a street address of 48 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 42 pursuant to a Zoning Lot Development Agreement dated as of December 4, 2006, and recorded under CRFN 2006000680850 on December 12, 2006 between Angel Enterprises, L.L.C. and Associates, as assigned to Project Declarant; (d) development rights and easements in connection with that certain real estate having a street address of 44 East 57th Street, New York, New York and as formerly set forth on the Tax Map as Block 1292, Tax Lot 44 (now part of Lot 33) pursuant to a Zoning Lot Development Agreement dated as of September 13, 2006, and recorded under CRFN 2006000596371 on October 25, 2006 between 44 East 57th St. Realty Corp., Inc. and Associates, as assigned to Project Declarant; and (e) development rights and easements in connection with that certain real estate having a street address of 50 East 57th Street, New York, New York and as set forth on the Tax Map as Block 1292, Tax Lot 41 pursuant to a Zoning Lot Development Agreement dated as of November 2, 2011, and recorded under CRFN 2011000394772 on November 10, 2011 between Project Declarant's predecessor-in-interest, as developer, and Project Declarant's predecessor-in-interest, as owner.

1.7 Development Rights. Excluded from the Property are that portion of the unused floor area development rights that are now owned, subsequently acquired or that may become available under the Zoning Resolution of the City of New York (the "Development Rights") which shall be initially retained by Project Declarant, but which Development Rights may be utilized by Project Declarant or any party acquiring the same from Project Declarant (the "Development Rights Purchaser") and merged into a zoning lot pursuant to the terms of a zoning lot development agreement or similar agreement or instrument (a "ZLDA").

1.8 Defined Terms; Conflicting Provisions. All capitalized terms used but which are not separately defined in this Declaration shall have the meanings given to such terms in the Condominium By-Laws (including the "Table of Definitions" annexed as Exhibit 1 thereto). In the event of a conflict between: (i) the terms and provisions of this Declaration, on the one hand, and the terms and provisions of any of the Condominium By-Laws, the Residential By-Laws or the Commercial By-Laws, on the other hand, the terms of this Declaration shall in all events govern; and (ii) the terms and provisions of the Condominium By-Laws, on the one hand, and the terms and provisions of the Residential By-Laws and/or the Commercial By-Laws, on the other hand, the terms of the Condominium By-Laws shall in all events govern.

## ARTICLE 2

## THE LAND

Included in the Property described in Article 1 is: (1) all that certain tract, plot, piece and parcel of land situate, lying and being in the City, County and State of New York , and more particularly described in Schedule A-1 annexed hereto and made a part hereof (the "Project Declarant's Land"), and (2) all that certain tract, plot, piece and parcel of land situate, lying and being in the City, County and State of New York, and more particularly described in Schedule A-2 annexed hereto and made a part hereof (the "Lot 43 Declarant's Land"; which, together with Project Declarant's Land, is hereinafter referred to as the "Land"). The Land is owned, as of the date hereof, by Declarant in fee simple absolute and has an area of approximately 34,470 square feet.

## ARTICLE 3

## THE PROPERTY

3.1 General. Included in the Property described in Article 1 is a Subcellar 2 Level, Subcellar 1 Level and Cellar Level (below grade), Ground Floor or Floor 1 (at grade), and a tower that features eighty-four (84) stories above grade, located principally in the center portion of the Land (the "Tower") and a pavilion that features three (3) stories above grade, located on the northwest corner of Park Avenue and East 56$^{th}$ Street, and connected to the Tower underground at the Cellar Level (the "Park Avenue Pavilion", which together with the Tower, shall comprise the "Building"), which Building will contain, in addition to the General Common Elements (hereinafter described):

3.1.1 147 residential units ("Residential Units"), consisting of: (i) 121 Residential Units located on portions of Floors 34 through 45, 48 through 59, 62 through 73, 77

through 88, and 91 through 95 of the Tower*; (ii) twenty-five (25) Residential Units specifically designated as "Studio Units" located on portions of Floors 28 and 29 of the Tower; and (iii) a Residential Unit (Unit 28M) located on Floor 28 of the Tower which will be used as an apartment by the Resident Manager (hereinafter, the "Resident Manager's Unit");

3.1.2 Fifty-nine (59) storage closets ("Storage Closets") located in the Subcellar 2 Level and Subcellar 1 Level of the Tower, which are Residential Limited Common Elements but subject to license as set forth in the Residential By-Laws;

3.1.3 Eighteen (18) wine cellars ("Wine Cellars") located in the Subcellar 1 Level of the Tower, which are Residential Limited Common Elements but subject to license as set forth in the Residential By-Laws;

3.1.4 Twelve (12) office units ("Office Units") located principally on portions of Floors 18 through 20 of the Tower;

3.1.5 Three (3) retail units ("Retail Units"), which are as follows: (1) "Retail Unit A", located principally on portions of the Cellar Level through Floor 5 of the Tower and on that portion of the Land previously known as Lot 43; (2) "Retail Unit B", located principally on portions of the Cellar Level and the Ground Floor through Floor 5 of the Tower; and (3) "Retail Unit C", located principally on portions of the Cellar Level and in the Park Avenue Pavilion;

3.1.6 A single unit (the "Garage Unit"), located at the Subcellar 2 Level of the Tower; and

3.1.7 A single unit (the "Club Unit"), located principally on portions of Floors 12, 14, 15 and 16 of the Tower.

The Office Units, Retail Units, Garage Unit and Club Unit are collectively referred to herein as the "Commercial Units".

3.2 Unit and Unit Owners.

3.2.1 The owner of a Residential Unit is herein called a "Residential Unit Owner" and the owners of all such Residential Units are herein collectively called the "Residential Unit Owners".

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* As shown on the Floor Plans to be filed with the City Register's Office upon the recording of this Declaration, the floors of the Building are designated as follows: Subcellar 2 Level, Subcellar 1 Level and Cellar Level (below grade); Ground Floor or Floor 1 (at grade); and Floors 2 through 104 (above grade) (with no floors being designated as "6" through "11", "13", "17", "21" through "26", "32", "33" and "76"). All "Floor" references herein are in accordance with such floor designations. Floor numbering in the plans for the Building filed with the New York City Department of Buildings includes references to construction levels which may differ from the Floor designations of the Building as set forth above.

3.2.2 The owner of an Office Unit is herein called an "Office Unit Owner" and the owners of all such Office Units are herein collectively called the "Office Unit Owners".

3.2.3 The owner of a Retail Unit is herein called a "Retail Unit Owner" and the owners of all such Retail Units are herein collectively called the "Retail Unit Owners".

3.2.4 The owner of the Garage Unit is herein called the "Garage Unit Owner".

3.2.5 The owner of the Club Unit is herein called the "Club Unit Owner".

3.2.6 The owner of a Commercial Unit is herein called a "Commercial Unit Owner" and the owners of all such Commercial Units are herein collectively called the "Commercial Unit Owners".

3.3 Street Addresses. The overall street address of the Property is 432 Park Avenue, New York, New York 10016. The address of the Residential Section shall be [_____], New York, New York 10016; the address of the Office Units shall be [_____], New York, New York 10016; the address of Retail Unit A shall be [_____], New York, New York 10016; the address of Retail Unit B shall be [_____], New York, New York 10016; the address of Retail Unit C shall be [_____], New York, New York 10016; the address of the Garage Unit shall be [_____], New York, New York 10016; and the address of the Club Unit shall be [_____], New York, New York 10016.

## ARTICLE 4

## THE BUILDING

4.1 The Tower features eighty-four construction (84) stories above grade, with a Subcellar 2 Level, Subcellar 1 Level and Cellar Level below grade. The Park Avenue Pavilion features three construction (3) stories above grade, and is connected underground to the Tower at the Cellar Level. All references in the Condominium Documents to a particular "Floor" or "Floors" of the Tower or Park Avenue Pavilion shall mean the floor(s) so designated on the Floor Plans. Such designations shall be subject to change in an Amendment to the Declaration (and/or the Condominium By-Laws and Floor Plans, as may be appropriate) made in accordance with Article 16 of the Condominium By-Laws, provided that such changed designation(s) comply at all times with all applicable Laws and Insurance Requirements; and further provided that in no event shall any such changed designation(s) conflict or overlap with any Floor designations then in effect.

4.2 The Tower structural system is comprised primarily of concrete shear walls, a perimeter column/beam tube system, and slab frames across the width of the Tower and parallel to the length. Outrigger braces or walls are provided intermittently throughout the height of the Tower to provide additional lateral bracing. The Ground Floor of the Tower, Retail Units A and B and the Park Avenue Pavilion are primarily steel framed with composite concrete over

metal deck slabs. The exterior walls of the Tower are comprised primarily of an aluminum curtain wall system and exposed reinforced concrete. The exterior façade of Retail Units A and B and the Park Avenue Pavilion features an aluminum curtain wall and glass storefronts.

## ARTICLE 5

## THE UNITS

The location of each Unit is shown on and is governed by the floor plans of the Building certified by SLCE Architects, LLP, 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 (as the same may be amended from time to time, the "Floor Plans"). Schedule B annexed hereto and made a part hereof sets forth the following supplementary data with respect to each Unit necessary for the further proper identification thereof: Unit designation; tax lot number; direction in which each Unit faces; approximate square foot area; number of rooms in the residential areas; the portions of the Common Elements (as hereinafter defined) to which the Unit has immediate access; and the proportionate undivided interest in fee simple absolute (expressed as a percentage) in the Common Elements appurtenant to such Unit.

## ARTICLE 6

## DIMENSIONS OF UNITS

The approximate dimensions of each Unit consists of the area measured horizontally from the exterior side of the exterior wall (columns, mechanical, pipes, shafts, shaftways, chases, chaseways and conduits are not deducted from measurement of each Unit) to the centerline of the partitions or concrete walls separating one Unit from another Unit or separating one Unit from the corridor, stairs, elevators and other mechanical equipment spaces or any Common Elements not within a Unit or to the exterior side of the opposite exterior wall. Each Unit consists of the area measured vertically from the top of the floor (located under the finished flooring and sub-flooring materials) to the underside of the ceiling. The method of measurement is applicable to all Units.• The Condominium Board and Declarant and its

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• Each Unit includes, and each Unit Owner shall be responsible for, all fixtures, equipment and other items of personalty, including, without limitation, all plumbing and heating fixtures and equipment, and other appliances as may be contained in, affixed, attached or appurtenant to such Unit, other than as may constitute part of the Common Elements. Plumbing and heating fixtures and equipment as used in the preceding sentence shall include exposed gas and water pipes attached to fixtures, appliances and equipment 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 water or other pipes, conduits, wiring or ductwork within the walls, ceiling or floors. Except as otherwise expressly set forth herein, each Unit shall also include all lighting and electrical fixtures and appliances within the Unit and any special equipment, fixtures or facilities

*(footnote cont'd on next page)*

designee will each have an easement to install and maintain pipes, conduits, wires, ducts and other facilities in the space between the underside of each such floor slab and the top surface of each Unit's finished ceiling, without any need to obtain the consent of any Unit Owner with respect to the same.

## ARTICLE 7

## COMMON ELEMENTS

7.1 General. The Common Elements of the Condominium (the "Common Elements") consist of the Land, together with all easements, rights and privileges appurtenant thereto and all parts of the Building other than the Units themselves, including, generally, the foundations, roofs and supports of the Tower and Park Avenue Pavilion and all other parts of the Tower and Park Avenue Pavilion and all apparatus, installations, systems, equipment and facilities therein for the common use of the Units and Unit Owners or which are necessary or convenient for the existence, maintenance or safety of the Property. The Common Elements are divided into the following separate categories: (a) the General Common Elements, which are, generally, those Common Elements which serve or benefit all the Units or Unit Owners; (b) the Residential Limited Common Elements, which are, generally, those Common Elements which serve or benefit exclusively the Residential Units or the Residential Unit Owners; and (c) the Commercial Limited Common Elements, which are, generally, those Common Elements which serve or benefit exclusively the Commercial Units or the Commercial Unit Owners (the Residential Limited Common Elements and the Commercial Limited Common Elements, collectively the "Limited Common Elements"), all of which are described in Sections 7.2 through 7.4 of this Article 7, respectively, subject in all events however to any specific designation for any portion of the Property as may be reflected on the Floor Plans (whether or not consistent with the general descriptions contained in this Article).

7.2 General Common Elements. The General Common Elements include those portions of the Building that are designated as "General Common Elements" on the Floor Plans and, to the extent not specifically identified as part of the General Common Elements on the Floor Plans, all other parts of the Property (other than those areas and items specifically identified as part of a Unit and/or the Residential Limited Common Elements or Commercial Limited Common Elements) the common use of which is necessary or convenient for the existence, maintenance, operation or safety of the Property. More specifically, the General Common Elements consist of the following (whether or not covered by the preceding sentence):

7.2.1 the Land, together with all easements, rights and privileges appurtenant thereto (except as otherwise expressly provided in this Declaration);

7.2.2 all structural elements, foundations, foundation walls, roofs (except as otherwise expressly provided in this Declaration), footings, columns, girders, beams, supports,

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*(footnote cont'd from previous page)*

affixed, attached or appurtenant to the Unit to the extent located within such Unit and serving or benefiting only that Unit.

interior load-bearing walls, floor slabs (but not flooring material) and ceilings (when they contain Common Element mechanical systems and are made of two hour fire rated construction);

7.2.3 the cooling tower;

7.2.4 all halls, passages and corridors, storage rooms, housekeeping areas, mechanical and other utility rooms, all fire staircases, landings, lobbies and stairs, areas and spaces located in the Building, which are not Residential Limited Common Elements, Commercial Limited Common Elements or included in any Unit;

7.2.5 any ventilation system consisting of pumps, motors, ductwork, fans and controls, steam and condensate return piping, serving or benefiting any combination of the Residential Units and the Commercial Units;

7.2.6 hot water and chilled or condenser water systems serving or benefiting any combination of the Residential Units and the Commercial Units;

7.2.7 all enclosing walls and doors and all mechanical equipment and associated piping and controls and all utilities and mechanical and electrical transfers and equipment serving or benefiting any combination of the Residential Units and the Commercial Units;

7.2.8 all electrical risers, feeders, lines and equipment, including incoming service, main switchgear and distribution panelboards, conduits, wires, meters, transformers and panelboards serving or benefiting any combination of the Residential Units and the Commercial Units, excluding, however, all such items located within a Unit and serving only that Unit;

7.2.9 all plumbing fixtures, equipment for distribution of cold water and equipment for producing and distributing hot and chilled water, including pumps, valves, pressure reducers, meters and water heaters and chillers, excluding, however, all such items located within a Unit and serving only that Unit;

7.2.10 all storm and sanitary sewer equipment and pipes (including vent lines, ejectors, interceptors, filters and valves), excluding, however, all such items located within a Unit and serving only that Unit;

7.2.11 all electric service rooms, gas, steam and water meter rooms, Building storage rooms, workrooms, washrooms, locker rooms, telephone rooms and other service, mechanical and utility rooms serving or benefiting any combination of the Residential Units and the Commercial Units;

7.2.12 all elevators (including both passenger and service elevators) which are for the use of all or any combination of the Residential Units and the Commercial Units (but excluding the elevators traversing only space within a Commercial Unit) in each case including the shafts, elevator equipment, elevator pits and entrances and appurtenant facilities;

7.2.13 all other facilities of the Building (including shafts, pipes, wires, ducts, vents, flues, cables, conduits and lines) which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of any combination of the Residential Units and the Commercial Units;

7.2.14 whether or not specifically identified as part of the General Common Elements (or identified at all) on the Floor Plans, all other parts of the Property either existing for the common use of any combination of the Residential Units and the Commercial Units, or their respective Unit Owners or that are necessary or convenient for the existence, maintenance, operation or safety of the Property;

7.2.15 all emergency generator rooms, elevator pit/runbys, compactor room, uniform room, workshops, maintenance storage, maintenance offices, locker rooms, engine room, pump room, electrical vault and all mechanical equipment serving same, all to the extent not located within a Commercial Unit;

7.2.16 all loading/receiving areas, elevators and Main Lobby (excluding those spaces identified as the Residential Lobby and Commercial Lobby), egress stairs and corridors and all associated mechanical equipment serving same; and the exterior space at the Tower and Park Avenue Pavilion entries consisting of any stairs, railings, lighting and other electrical equipment, marquees and ornamental fixtures, planters and other freestanding structures; excluding, in all instances, such of these as only serve the Residential Units or Residential Unit Owners, and excluding such of these as are located within a Commercial Unit;

7.2.17 the Tower's service entrance located on the Ground Floor of the Tower and facing East 56$^{th}$ Street between Park Avenue and Madison Avenue;

7.2.18 the Courtyard and the Garden;

7.2.19 the No-Access Terraces;

7.2.20 enclosing walls and doors surrounding mechanical equipment; all utilities and mechanical and electrical transfers and equipment used for all or any combination of the Residential Units and the Commercial Units;

7.2.21 with respect to any roof of the Building, egress stairs, elevator machine rooms, house tank rooms and their enclosing walls and doors and all mechanical equipment serving same, excluding in all instances the Twelfth Floor Terrace;

7.2.22 smoke detection, alarm system, and sprinkler system; telephone system and cable television system existing for the common use of any combination of the Residential Units and the Commercial Units, except as located within an individual Unit;

7.2.23 all security monitors and equipment and other security facilities serving or benefiting all or any combination of the Residential Units and the Commercial Units;

7.2.24 the installations, equipment, apparatus, facilities, exterior walls, interior walls, doors, partitions, floors, roofs, ceilings, hallways, lobbies, corridors and vestibules

that enclose or service any one of the Units but are not part of such Unit (the storefront of a Commercial Unit, however, shall be deemed to be a part of such Unit and shall not constitute a General Common Element); and

7.2.25 whether or not specifically identified as part of the General Common Elements (or identified at all) on the Floor Plans, all other parts of the Property and all equipment existing in the Tower or Park Avenue Pavilion or on the Property (other than those areas and items specifically identified on the Floor Plans as part of a Unit and/or the Residential Limited Common Elements or Commercial Limited Common Elements) the common use of and/or benefit from which is necessary or convenient for the existence, maintenance, operation or safety of the Property.

7.3 Residential Limited Common Elements. 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 (other than vertical shaftways and penetrations) 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 telecom providers). The Residential Limited Common Elements include, without limitation, the following:

7.3.1 to the extent shown on the Floor Plans as a Residential Limited Common Element, the Residential Lobby;

7.3.2 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 Tower which exclusively serve or benefit the Residential Units and are not part of any Unit;

7.3.3 four (4) passenger elevators (PE-1, PE-2, PE-3 and PE-4), and the one (1) service elevator (SE-1) in each case including the shafts, elevator equipment, elevator pits and entrances and appurtenant facilities (specifically excluding elevators which traverse only portions of a Commercial Unit), service entrances and accessways to service elevators, all located on the Ground Floor;

7.3.4 those stairs and stairways in the Tower shown on the Floor Plans as Residential Limited Common Elements (and excluding those stairs, stairways and fire stairways in the Tower shown on the Floor Plans as constituting part of another Common Element or Unit);

7.3.5 the Residential Restaurant;

7.3.6 the Twelfth Floor Terrace;

7.3.7 the Storage Closets located on the Subcellar 2 Level and Subcellar 1 Level of the Tower (which shall be subject to Storage Licenses as set forth in the Residential By-Laws);

7.3.8 the Wine Cellars located on the Subcellar 1 Level of the Tower (which shall be subject to Wine Cellar Licenses as set forth in the Residential By-Laws);

7.3.9 all Building storage rooms, locker rooms, telephone rooms and other service, mechanical and utility rooms not located in a Commercial Unit which serve or benefit only the Residential Units;

7.3.10 all windows appurtenant to or otherwise serving or benefiting only the Residential Units;

7.3.11 all security monitors and equipment and other security facilities serving or benefiting only the Residential Units; and

7.3.12 whether or not specifically identified as part of the Residential Limited Common Elements (or identified at all) on the Floor Plans, all other parts of the Property and all telecommunications equipment and all other systems, installations and facilities (including shafts, pipes, wires, ducts, vents, flues, cables, conduits and lines) and Equipment in the Tower or on the Property (other than those areas and/or items specifically identified on the Floor Plans or herein as part of a Unit and/or the General Common Elements or Commercial Limited Common Elements), which serve or benefit or are necessary or convenient or existing for the common use, existence, maintenance, operation or safety of the Residential Units, or any combination of the Residential Units or the respective Unit Owners thereof.

7.4 Commercial Limited Common Elements. The Commercial Limited Common Elements consist of those portions of the Property designated on the Floor Plans as Commercial Limited Common Elements; and also those Common Elements (other than vertical shaftways and penetrations) which exclusively serve or exclusively benefit all or a combination of the Commercial Units or the Commercial Unit Owners whether or not designated as Commercial Limited Common Elements (or designated at all) on the Floor Plans (but excluding any items therein or in the Building which are not part of the Property, including, without limitation, any equipment, wiring and devices owned by telecom providers). The Commercial Limited Common Elements include, without limitation, the following:

7.4.1 to the extent shown on the Floor Plans as Commercial Limited Common Elements, the Commercial Lobby;

7.4.2 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 Commercial Units and are not part of any Unit;

7.4.3 three (3) elevators (RPE-1, RSE-2 and ASE-1) and two (2) lifts (TL-1 and CL-1) in each case including the shafts, elevator equipment, elevator pits and entrances and appurtenant facilities, service entrances and accessways to service elevators;

7.4.4 those stairs and stairways in the Building shown on the Floor Plans as Commercial Limited Common Elements (and excluding those stairs, stairways and fire

stairways in the Building shown on the Floor Plans as constituting part of another Common Element or Unit);

7.4.5 all Building storage rooms, locker rooms, telephone rooms and other service, mechanical and utility rooms not located in a Residential Unit which serve or benefit only the Commercial Units;

7.4.6 all windows appurtenant to or otherwise serving or benefiting only the Commercial Units (except storefronts of the Commercial Units which are subject to Section 7.2.24);

7.4.7 all security monitors and equipment and other security facilities serving or benefiting only the Commercial Units; and

7.4.8 whether or not specifically identified as part of the Commercial Limited Common Elements (or identified at all) on the Floor Plans, all other parts of the Property and all telecommunications equipment and all other systems, installations and facilities (including shafts, pipes, wires, ducts, vents, flues, cables, conduits and lines) and Equipment in the Building or on the Property (other than those areas and/or items specifically identified on the Floor Plans or herein as part of a Unit and/or the General Common Elements or Residential Limited Common Elements), which serve or benefit or are necessary or convenient or existing for the common use, existence, maintenance, operation or safety of the Commercial Units, or any combination of the Commercial Units or the respective Unit Owners thereof.

## ARTICLE 8

## USE OF UNITS AND COMMON ELEMENTS

8.1 Use of the Residential Units.

8.1.1 General. A Residential Unit may generally be used only for residential purposes and, subject to compliance with this Declaration, the Condominium By-Laws and the Residential By-Laws, for a lawful home occupation as defined in the Zoning Resolution and subject to such additional requirements as are set forth in the Residential By-Laws.

8.1.2 Unsold Residential Units. Notwithstanding the foregoing or anything contained herein, in the Condominium By-Laws, the Residential By-Laws, the Commercial By-Laws or any Rules and Regulations to the contrary, subject only to compliance with all Laws, Project Declarant and Sponsor (and their respective designees) may, without the permission of any Board or any other Person use or grant permission for the use of any Unsold Residential Unit for any lawful purpose, including, but not limited to, the use of any Unsold Residential Units as models and sales and/or promotion offices in connection with the sale or rental of the Residential (or other) Units or for any other purpose. As used in the Condominium Documents, "Unsold Residential Unit" refers to any Residential Unit owned or retained, by way of lease or any other arrangement by which management and/or financial responsibility is retained, by Project Declarant or Sponsor or any of their respective designees as the holder of one or more Unsold Residential Unit(s); any Residential Unit that is acquired, individually or

collectively, by a principal of Project Declarant or Sponsor or a group of which Project Declarant or Sponsor or one or more of their principals is a member; or a Residential Unit that is acquired, individually or collectively, by either the holder of a Permitted Mortgage given by Project Declarant or Sponsor or the designee of a holder of such a Permitted Mortgage.

8.2 Use of Commercial Units. Subject to compliance with all Laws, including, without limitation, the certificate of occupancy for such Unit and any applicable zoning regulations, and except as otherwise provided herein and in the Condominium By-Laws, each Commercial Unit may be used and operated for any legally permitted purpose. No income derived from any use of such Commercial Units will constitute income to any Board or any Unit Owner (except as may be expressly provided in the Condominium By-Laws or Commercial By-Laws to the contrary or pursuant to separate written agreement by or among the applicable parties). The Unit Owner of any such Unit may lease or license all or any portion of its Unit to one or more lessees (or may permit occupants or permittees to use all or any portion of its Unit) so long as the uses thereof are in conformance with all Laws, this Declaration and the Condominium By-Laws. No Units may be used as a pornography store, massage parlor (except that in the Club Unit massage therapy and spa-type services are permitted provided that any such areas or facilities are maintained in a reputable manner), drug treatment facility or homeless shelter.

8.2.1 Unsold Commercial Units. Notwithstanding the foregoing or anything contained herein, in the Condominium By-Laws, the Residential By-Laws, the Commercial By-Laws or any Rules and Regulations to the contrary, subject only to compliance with all Laws, Project Declarant (and its designees) may, without the permission of any Board or any other Person use or grant permission for the use of any Unsold Commercial Unit for any lawful purpose, including, but not limited to, the use of any Unsold Commercial Units as models and sales and/or promotion offices in connection with the sale or rental of the Commercial (or other) Units or for any other purpose. As used in the Condominium Documents, "Unsold Commercial Unit" refers to any Commercial Unit owned or retained, by way of lease or any other arrangement by which management and/or financial responsibility is retained, by Project Declarant or any of its designees as the holder of one or more Unsold Commercial Unit(s); any Commercial Unit that is acquired, individually or collectively, by a principal of Project Declarant or a group of which Project Declarant or one or more of its principals is a member; or a Commercial Unit that is acquired, individually or collectively, by either the holder of a Permitted Mortgage given by Project Declarant or Sponsor or the designee of a holder of such a Permitted Mortgage.

8.3 Use of the Common Elements.

8.3.1 Except as otherwise provided herein or in the Condominium By-Laws, the Residential By-Laws and/or the Commercial By-Laws, the 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.

8.3.2 Subject to any easements (exclusive or otherwise) and/or rights of access or as otherwise provided in the Condominium Documents with respect to the Common Elements, none of the Boards nor any Unit Owner shall impede the exercise of or encroach upon

the rights of the others of such parties or anyone claiming, by, through or under them, including, but not limited to, the occupants of the Units and their respective invitees, to use the same.

8.4 Use of the Storage Closets and Wine Cellars. The Storage Closets may only be used for storage purposes, and the Wine Cellars may only be used for the storage of wine and other beverages, and in no event may be used as a dwelling space or for the storage of toxic or inflammable items or Combustibles (as such term is defined in the New York City Building Code). No article or material that shall pose a threat to the health or safety of the Unit Owners or other occupants of the Building, or that shall cause the dissemination of noxious odors, dirt or other sanitary problems or otherwise create a nuisance, shall be permitted to be brought into or stored in any Storage Closet or Wine Cellar. The use of the Storage Closets and Wine Cellars shall be further subject to the provisions of the Residential By-Laws and the Residential Rules and Regulations.

8.5 Special Use Provisions for Club Unit. The Club Unit shall be used for health club purposes (and ancillary uses) as a Physical Culture Establishment as defined in the Zoning Resolution and at all times in compliance with Law, including, without limitation, the provisions of the certificate(s) of occupancy covering same).

8.6 Nuisance. No nuisance shall be allowed in the Property nor shall any use or practice 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 applicable Laws relating to any portion of the Property shall be complied with at the sole expense of whichever of the Unit Owner(s) or Board(s) shall have the obligation pursuant to the Declaration, the Condominium By-Laws and, as applicable the Residential By-Laws or the Commercial By-Laws, to maintain or repair such portion of the Property.

## ARTICLE 9

## CHANGES IN RESIDENTIAL UNITS, STORAGE CLOSETS AND WINE CELLARS

9.1 Residential Units.

9.1.1 Unsold Residential Units. Except to the extent prohibited by applicable Laws, Project Declarant, Sponsor, their respective designees and any other owner of an Unsold Residential Unit shall have the right, pursuant (and subject) to the terms of the Condominium By-Laws and the Residential By-Laws, as the same may be amended from time to time, without the approval of the Condominium Board, Residential Board or any other Unit Owner or any Person to: (a) make alterations, additions or improvements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon any Unsold Residential Unit; (b) change the layout of, or number of rooms in, any Unsold Residential Unit; (c) change the size and/or number of Unsold Residential Units by subdividing one (1) or more such Residential Units into two (2) or more separate Residential Units, combining separate Unsold Residential Units (including those resulting from a subdivision or combination or otherwise) into one (1) or more Residential Units, altering any boundary walls between any Unsold Residential Units, and/or incorporating within any Unsold Residential Unit the use of any

portion of the Common Elements adjacent thereto (but only to the extent that such Common Elements are not required to be maintained as Common Elements based upon such alterations); (d) if appropriate, reapportion among the Unsold Units affected by such change, their Common Interests, provided, however, that after the recording of the Declaration, no change in any Residential Unit's Common Interest will be made without obtaining the prior consent of all Unit Owners affected by such change; (e) change the permitted use of some or all of the Unsold Residential Units; and (f) increase the number of Residential Units contained within the Tower (including, without limitation, by the addition of floor slabs separating multi-level Residential Units). Sponsor also reserves the right to convert Unsold Office Units to Unsold Residential Units and vice versa; to convert Retail Units to Office Units and vice versa; and to create additional Storage Closets and Wine Cellars within additional areas of the Residential Limited Common Elements and to sell additional Storage Licenses and Wine Cellar Licenses therefor. None of the foregoing changes will be made unless: (i) such changes are in compliance with Section 339 of the New York Condominium Act, (ii) the percentage interest in the Common Elements of any other Units (other than Unsold Residential Units) shall not be changed by reason thereof unless the owners of such Units shall consent thereto in writing, and (iii) Project Declarant, Sponsor, such designee or such other owner of an Unsold Residential Unit, as the case may be, shall comply with all applicable Laws and shall agree to defend and hold each Board and all other Unit Owners harmless from any liability arising therefrom. Project Declarant, Sponsor, or such other owner of an Unsold Residential Unit, as the case may be, shall have the right, without the consent of any Board, Unit Owner or Person to amend (and/or cause the Condominium Board and/or Residential Board to amend) the Declaration, the Condominium By-Laws, the Residential By-Laws and the Floor Plans and any other documentation to reflect the foregoing changes.

9.1.2 Residential Units Generally. Subject to this Declaration, the Condominium By-Laws and the Residential By-Laws and compliance with all applicable Laws, the Unit Owner(s) of one (1) or more Residential Units (other than Unsold Residential Unit(s)), with the consent of the Residential Board and (for so long as there remain any Unsold Residential Units), Project Declarant shall have such rights with respect to changing, combining and/or subdividing such Residential Unit(s) as are provided in the Residential By-Laws.

9.2 Unlicensed Storage Closets and Unlicensed Wine Cellars. Project Declarant and Sponsor shall have the same rights set forth in Section 9.1 above with respect to changes in unlicensed Storage Closets and unlicensed Wine Cellars.

9.3 Consents. The provisions of Article 9 of this Declaration may not be added to, amended, modified or deleted without the prior written consent of Project Declarant, Sponsor or the owner of any Unsold Residential Unit(s), as the case may be, or the designee of any of the foregoing. Wherever the consent, approval or satisfaction of Project Declarant or Sponsor (as the owner of any Unsold Residential Units), is required under this Declaration, the Condominium By-Laws or the Residential By-Laws, such consent, approval or satisfaction of such party shall not be required (unless otherwise required under the Condominium Documents) when such party no longer owns any Unsold Residential Units.

9.4 Certification Regarding Common Interest Reallocation. Notwithstanding the other provisions of this Article 9, no reapportionment of the interests in the Common

Elements appurtenant to any Residential Unit shall be made unless there is first delivered to the Residential Board and to the Condominium Board, a written certification stating, in each case with respect to the Unit(s) in question that the percentage interests of the affected Unit(s) in the Common Elements, immediately after such reapportionment, are consistent with the terms of this Declaration and in compliance with the terms of Section 339-i(1) of the Condominium Act. The certification referred to herein shall be delivered, in the case of any Unsold Unit(s), at the election of Project Declarant or Sponsor, by Project Declarant or Sponsor, the managing agent of the Condominium, or any other Person reasonably acceptable to the applicable Boards.

## ARTICLE 10

## CHANGES TO THE COMMERCIAL UNITS

10.1 General. Except to the extent prohibited by Law or as otherwise provided herein or in the Condominium By-Laws, each of the Commercial Unit Owners, with the exception of Office Unit Owners, shall have the right, without the consent of any Board, Unit Owner, or other Person to: (a) mortgage or otherwise hypothecate its Unit; (b) decorate or make Alterations and/or Repairs in, to and upon its Unit (provided, however, that such Unit Owner, if other than Project Declarant or its designee, must obtain the prior consent of (i) the Condominium Board to any Alterations and/or Repairs to its Commercial Unit which would have a material adverse effect on the structure or General Common Element or Commercial Limited Common Element mechanical, electrical or plumbing elements or systems of the Building or the exterior appearance of the Building or another Unit or which would increase insurance premiums or maintenance costs for any other Unit or Common Element, (ii) the affected Commercial Unit Owner to any Alterations and/or Repairs which would have a material adverse effect on such Commercial Unit, and (iii) the Residential Board to any Alterations and/or Repairs which would have a material adverse effect on any Residential Unit or the Residential Limited Common Elements); (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 such subdivision, altering the boundary walls between the Commercial Units (with the consent of the Unit Owner(s) thereof); (e) designate a Commercial Unit as part of a newly created or expanded commercial condominium unit or designate all or part of a Commercial Unit as a newly created or expanded commercial common element; and (f) if appropriate, reapportion among the Units or newly created Units affected by such changes pursuant to the preceding clauses (c), (d) and (e) their percentage interests in the Common Elements; provided, however, that: (i) such changes are in compliance with Section 339 of the New York Condominium Act; (ii) the Common Interest of any other Units (other than the Commercial Unit(s) owned by such Person) shall not be changed by reason thereof unless the owners of such other Units shall consent thereto; (iii) each Commercial Unit Owner, other than Project Declarant or its designee, shall send notice of any Alterations and/or Repairs to each of the Boards and any other affected Unit Owner, whether or not consent of any of the foregoing is required for such Alterations or Repairs; and (iv) the Commercial Unit Owner(s) in question shall comply with all Laws and the applicable terms of the Condominium By-Laws and Commercial By-Laws, and shall agree to defend and hold each Board and all other Unit Owners harmless from any liability arising therefrom. The Commercial Unit Owners shall each have the right with regard to its Unit, without the consent of any Board, Unit Owner or other Person to amend (and/or cause the Condominium Board or Commercial

Board, as applicable, to amend) the Declaration, the Condominium By-Laws, the Commercial By-Laws, and the Floor Plans, as applicable, and any other documentation to reflect the foregoing changes; and the Condominium Board or Commercial Board, as applicable, shall upon request by the applicable Commercial Unit Owner, at the sole cost and expense of the applicable Commercial Unit Owner, reasonably cooperate as needed to effect the same. If any of the Commercial Units are subdivided or combined, the Owner of each Unit resulting from a subdivision or combination will generally have all of the rights (without the consent of any Board, Unit Owner or other Person) set forth above in this Section 10.1, described as pertaining to the Unit Owner of the original Commercial Unit or Units in question, subject to the provisions of the Condominium By-Laws and Commercial By-Laws with respect thereto.

10.1.1 Unsold Office Units. Except to the extent prohibited by applicable Laws, Project Declarant, Sponsor, their respective designees and any other owner of an Unsold Office Unit shall have the right, pursuant (and subject) to the terms of the Condominium By-Laws and the Commercial By-Laws, as the same may be amended from time to time, without the approval of the Condominium Board, Commercial Board or any other Unit Owner or any Person to: (a) make alterations, additions or improvements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon any Unsold Office Unit; (b) change the layout of, or number of rooms in, any Unsold Office Unit; (c) change the size and/or number of Unsold Office Units by subdividing one (1) or more such Office Units into two (2) or more separate Office Units, combining separate Unsold Office Units (including those resulting from a subdivision or combination or otherwise) into one (1) or more Office Units, altering any boundary walls between any Unsold Office Units, and/or incorporating within any Unsold Office Unit the use of any portion of the Common Elements adjacent thereto (but only to the extent that such Common Elements are not required to be maintained as Common Elements based upon such alterations); (d) if appropriate, reapportion among the Unsold Units affected by such change, their Common Interests, provided, however, that after the recording of the Declaration, no change in any Office Unit's Common Interest will be made without obtaining the prior consent of all Unit Owners affected by such change; (e) change the permitted use of some or all of the Unsold Residential Units; and (f) increase the number of Office Units contained within the Tower. None of the foregoing changes will be made unless: (i) such changes are in compliance with Section 339 of the New York Condominium Act, (ii) the percentage interest in the Common Elements of any other Units (other than Unsold Office Units) shall not be changed by reason thereof unless the owners of such Units shall consent thereto in writing, and (iii) Project Declarant, Sponsor, such designee or such other owner of an Unsold Office Unit, as the case may be, shall comply with all applicable Laws and shall agree to defend and hold each Board and all other Unit Owners harmless from any liability arising therefrom. Project Declarant, Sponsor, or such other owner of an Unsold Office Unit, as the case may be, shall have the right, without the consent of any Board, Unit Owner or Person to amend (and/or cause the Condominium Board and/or Commercial Board to amend) the Declaration, the Condominium By-Laws, the Commercial By-Laws and the Floor Plans and any other documentation to reflect the foregoing changes.

10.1.2 Office Units Generally. Subject to this Declaration, the Condominium By-Laws and the Commercial By-Laws and compliance with all applicable Laws, the Unit Owner(s) of one (1) or more Office Units (other than Unsold Office Unit(s)), with the consent of the Commercial Board and (for so long as there remain any Unsold Office Units),

Project Declarant shall have such rights with respect to changing, combining and/or subdividing such Office Unit(s) as are provided in the Commercial By-Laws.

10.2 Certification Regarding Common Interest Reallocation. Notwithstanding the other provisions of this Article 10, no reapportionment of the interests in the Common Elements appurtenant to any Commercial Unit(s) shall be made unless there is first delivered to the Commercial Board and to the Condominium Board a written certification stating, in each case with respect to the Unit(s) in question, that the percentage interests of the affected Unit(s) in the Common Elements, immediately after such reapportionment, are consistent with the terms of this Declaration and in compliance with the terms of Section 339-i(1) of the Condominium Act. The certification referred to herein shall be executed and delivered by all of the affected Commercial Unit Owners or any other Person reasonably acceptable to the Commercial Board.

## ARTICLE 11

## PERSON TO RECEIVE SERVICE

The Secretary of State of the State of New York (the "Secretary of State") is hereby designated to receive service of process in any action which may be brought against the Condominium or any of the Boards. The Condominium and the Boards shall each, with respect to itself, notify the Secretary of State of the address to which a copy of any process received should be mailed.

## ARTICLE 12

## DETERMINATION OF PERCENTAGE INTERESTS IN COMMON ELEMENTS

The Common Interest of each Unit has been determined, pursuant to Section 339-i(1)(iv) of the Condominium Act. In accordance with such method of calculation, the Common Interests have been determined based primarily upon a comparison of the floor areas of the Units, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of the Common Elements for exclusive or shared use and the overall dimensions of the particular Unit. The aggregate Common Interests of all of the Units equals 100%.

## ARTICLE 13

## ENCROACHMENTS

If: (a) any portion of the Common Elements encroaches upon any Unit or 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 made to the Common Elements in accordance with the applicable terms of this Declaration, the Condominium By-Laws, the Residential By-Laws and/or the Commercial By-Laws by, or with the consent (when required by the applicable by-laws), of the Condominium Board and any other Board, or made by or Project

Declarant or its designee, as the case may be; or (iii) any Alteration or Repair of the Building (or any portion thereof) or of any Unit or Common Element after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all 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 (or during any period in which it is being rebuilt or restored, in accordance with the Condominium By-Laws, following any such fire or other casualty, taking or eminent domain proceeding); provided that in the case of any such encroachment described in subparagraph (c)(ii) or (iii) above, such encroachment does not unreasonably interfere with the use of any of the Units for their permitted purposes and/or the use of the Common Elements for their intended purposes.

## ARTICLE 14

## FACILITIES AND ALL OTHER COMMON ELEMENTS

Except as otherwise expressly set forth in this Declaration or the Condominium By-Laws (or, with respect to the Residential Units, the Residential By-Laws; or, with respect to the Commercial Units, the Commercial By-Laws): (i) each Unit Owner will have, in common with all other Unit Owners and each Unit will be subject to, an easement for the use of the General Common Elements located anywhere on the Property without hindering the exercise of or encroaching upon the rights of the other Unit Owners in respect of such easement, including, but not limited to, such easement as will be necessary to maintain, such Unit Owner's Unit; (ii) each Residential Unit Owner will have, in common with all other Residential Unit Owners, an easement for the use of the Residential Limited Common Elements and any facilities located therein (subject to any easements or other exclusive rights of use, etc. provided in the Declaration, Condominium By-Laws or Residential By-Laws), including, but not limited to, such easement as will be necessary to operate and maintain, as necessary, such Residential Unit Owner's Unit, and the Residential Board, on behalf of all Residential Unit Owners, shall have an easement to maintain, and to make Repairs and Alterations to, the Residential Limited Common Elements; and (iii) each Commercial Unit Owner will have, in common with all other Commercial Unit Owners, an easement for the use of the Commercial Limited Common Elements and any facilities located therein (subject to any easements or other exclusive rights of use, etc. provided in the Declaration, Condominium By-Laws or Commercial By-Laws), including, but not limited to, such easement as will be necessary to operate and maintain, as necessary, such Commercial Unit Owner's Unit, and the Commercial Board, on behalf of all Commercial Unit Owners, shall have an easement to maintain, and to make Repairs and Alterations to, the Commercial Limited Common Elements. Each Unit and the Common Elements shall be subject to an easement in favor of the Condominium Board, on behalf of all Unit Owners, to use, operate, maintain, Repair, Alter and rebuild all General Common Elements located in such Unit or elsewhere on the Property. In addition, Project Declarant (or its designee), the Condominium Board and the Residential Board shall have the right to erect scaffolding on or upon the Twelfth Floor Terrace and elsewhere on the Property for a temporary period of time in connection with maintenance and repairs of the Building and its Common Elements.

## ARTICLE 15

## EASEMENTS; RIGHTS OF ACCESS

15.1 Operation and Maintenance of Common Elements. Each Unit Owner shall have, in common with all other Unit Owners, and each Unit shall be subject to, an easement: (a) to install, operate, maintain, Repair, Alter and rebuild the Common Elements located in, over, under, through or upon any Unit, or any other Common Elements or elsewhere on the Property; and (b) to maintain any encroachment on any Unit, the General Common Elements or any Residential Limited Common Element or Commercial Limited Common Element resulting from the Repair, Alteration or rebuilding of the Units or the Common Elements; 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 normal conduct of business of the tenants and occupants of the Commercial Units or with the use of the Residential Units for their permitted purposes. Such entry shall be permitted on not less than one (1) day's notice, except that no notice will be necessary in the case of an Emergency.

15.2 Ingress and Egress. Each Unit Owner shall have, to the extent reasonably necessary, in common with all other Unit Owners, an easement for ingress to and egress from its Unit and its appurtenant (shared or exclusive) Residential Limited Common Elements or Commercial Limited Common Elements. Each Unit, General Common Element, Residential Limited Common Element, and Commercial Limited Common Element shall be subject to such easement.

15.3 Subjacency, Support and Necessity. Each Unit and the Common Elements shall have easements of subjacency, support and necessity, and the same shall be subject to such easements in favor of all the other Units and the Common Elements.

15.4 Miscellaneous. Each Unit Owner (except as otherwise set forth below) grants an easement over its Unit and the Common Elements (including, without limitation, its appurtenant Limited Common Elements), and the Condominium Board and each of the other Boards grants an easement over and through the General Common Elements and its Residential Limited Common Elements or Commercial Limited Common Elements, respectively: (a) to each Board, in common with each other Board, for the purpose of (and to the extent reasonably necessary for) maintaining, Repairing, Altering, preventing or minimizing damage to and causing to be in compliance with Laws and Insurance Requirements such granting Unit Owner's Unit, the Limited Common Elements, if any, appurtenant to its Unit and the Limited Common Elements of such Board; (b) to each Unit Owner, in common with each other Unit Owner, for the purpose of (but only in the absence of a commercially practicable alternative and only to the extent necessary for) maintaining, Repairing, Altering, preventing or minimizing damage to and causing to be in compliance with Laws and Insurance Requirements any portions of the grantee Unit Owner's Unit and its appurtenant Limited Common Elements; (c) to each Unit Owner, and to each Board, in common with each other, for the purpose of (but only in the absence of a commercially practicable alternative and only to the extent necessary for) installing, allowing to remain (and using for their respective intended purposes), maintaining, Repairing, Altering, preventing or minimizing damage to and causing to be in compliance with Laws and Insurance Requirements any Common Elements or other facilities located in or only readily accessible

through such granting Unit Owner's Unit or Limited Common Elements, if any, which serve other Units (including, without limitation, reading, maintaining or replacing utility meters relating to the Common Elements, such Unit or any other Unit in the Building); (d) to each Board (only to the extent permitted under the other provisions of the Condominium Documents), in common with each other, for the purpose of (and to the extent reasonably necessary for) preventing or minimizing damage to such Unit or to any other portion of the Property; (e) to each Board (in each case, only to the extent permitted under the other provisions of the Condominium Documents), in common with each other, for the purpose of (and only to the extent reasonably necessary for) making inspections of, or removing violations noted or issued by any Governmental Authority against, the Common Elements or any other part of the Property; and/or (f) to each Unit Owner and to each Board (in each case, only to the extent permitted under the other provisions of the Condominium Documents), in common with each other, for the purpose of (and only to the extent reasonably necessary for) curing defaults hereunder or under the Condominium By-Laws, the Residential By-Laws or the Commercial By-Laws, as applicable, or correcting any conditions originating in such Unit Owner's Unit or Limited Common Elements and threatening the health, safety and welfare of the occupants of, or the property located within, another Unit or all or any part of the Common Elements.

15.5 Utilities. Project Declarant (or its designee) and the Condominium Board with respect to the Property, the Residential Board with respect to the Residential Section and the Commercial Board with respect to the Commercial Section shall each 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, the Residential Section or the Commercial Section, as the case may be, as Project Declarant (or its designee) or the Condominium Board, the Residential Board or the Commercial 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 applicable Units, provided that such additional utilities or the relocation of existing utilities will not prevent or unreasonably interfere with the normal conduct of business of the tenants and occupants of the Commercial Units or with the use of any of the Residential 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 normal conduct of business of the tenants and occupants of the Commercial Units or with the use of any of the Residential Units for their permitted purposes.

15.6 Signage. (a) Sponsor (or its designee), shall, to the extent permitted by Law, have an easement to erect, maintain, repair and replace, from time to time, one or more signs, canopies, flags, flagpoles, lighting, lighting elements or awnings or other protrusions, devices or decorative elements on the Property in those areas adjacent to or adjoining the Residential Section (or as otherwise approved by the Condominium Board) (but not within a Unit without the consent of the Unit Owner thereof), including without limitation, on the exterior of the walls of the Building, for the purposes of advertising the sale or lease of any Unsold Unit; and (b) each Retail Unit Owner (or its designee), shall, to the extent permitted by Law, have an easement to erect, maintain, repair and replace, from time to time, one or more signs, canopies, flags, flagpoles, lighting, lighting elements or awnings or other protrusions, devices or decorative elements on the exterior of the Property in those areas adjacent to or adjoining its Retail Unit (or

as otherwise approved by the Condominium Board), including without limitation, on the exterior of the walls of the Building, in connection with the operation of any business of a tenant or occupant of all or any portion of its Retail Unit. In addition, Sponsor, Project Declarant and its designee(s) shall have the right, until the tenth ($10^{th}$) anniversary of the First Closing, to use, without charge, portions of the Building, including the Common Elements, for exhibitions, events, promotional functions (e.g., with respect to any sales programs for Unsold Residential Units) or otherwise.

15.7 Contractors and Agents. Each easement and other right granted under this Article 15 shall be deemed to permit the benefited party's/ies' contractors, subcontractors, agents, representatives, occupants, employees and other designees (and, in the case of a grant to the Condominium Board, Residential Board or Commercial Board, such Board's managing agent), to use such easement or other right, as applicable, if such Unit Owner or such Board so elects.

15.8 Miscellaneous Terms. Any grant of an easement "on", "over", "across" or "through" a given area shall be deemed to mean "on, over, across, through, and upon" such area, unless the context otherwise requires.

15.9 Roof Telecom Installations. Project Declarant and/or its designee (and its respective successors and assigns) shall have an easement for so long as the Condominium shall remain in existence: (i) to erect, use, lease, license, maintain, repair, replace, and operate a platform and other facilities for the purpose of erecting, using, leasing, licensing, maintaining, repairing, replacing and operating antennae, satellite dishes and other communications equipment on the roof of the Building that is not occupied as of the date hereof for any other Building installations; and (ii) to erect, use, lease, maintain, repair, replace and operate related electronic and other communications equipment in any portion of any mechanical equipment room that is not occupied as of the date hereof by any other Building installations, and the right to erect partitions separating such portion from the balance of such equipment room; in each case, without the consent of, or charge by any Board, Unit Owner or other Person; provided, however, that the Project Declarant (or its designee) shall give prior notice to the Boards of the type and location of any such equipment before installation. Any obligations of the Project Declarant under any lease, license or other right of use granted by the Project Declarant with respect to the roof or the aforesaid mechanical equipment room shall be the obligation solely of the Project Declarant and not of the Condominium and any rights of the Project Declarant, including, without limitation, the right to receive rent or other consideration for such lease, license or other right of use, shall be the right solely of Project Declarant and not of the Condominium. In connection with such easements and related rights, the Project Declarant and its designee (and their respective successors and assigns) and the respective tenants and licensees shall each have, to the extent necessary or advisable for such erection, use, lease, maintenance, repair, replacement and operation, an easement in common with all Unit Owners for ingress, egress and the use of any Common Elements. The Units and the Common Elements shall each be subject to such easement. The word "utility" or "utilities" as used in this Section shall be deemed to include fiber optic cable and other communications lines, wires, cables and conduits.

15.10 Perpetual and Irrevocable. Except as may otherwise be set forth in this Declaration, any easement created or granted hereunder shall be perpetual and irrevocable for so long as the Condominium shall remain in existence.

15.11 Right of Access for Operation, Emergency Repairs, Damage Prevention. Each of the Condominium Board, the Residential Board, the Commercial Board and each Unit Owner grants a right of access over, as applicable, the General Common Elements, its Unit and its appurtenant Limited Common Elements to, in each case, each of Sponsor (with respect to the all aspects of the Property other than the Commercial Units), and each Commercial Unit Owner (with respect to its respective Commercial Unit and with respect to the Commercial Common Elements) as shall be necessary in each case for the purpose of performing such party's initial construction and fit-out work to their respective Unit(s). Following any material occupancy of a particular grantor Board's Common Elements or Unit Owner's Unit (or applicable Limited Common Elements), the exercise by any Person of the rights of access provided in this Section with respect to such portion(s) of the Property shall be subject to the Access Conduct Standards (defined below).

15.12 Access Conduct Standards. The right of access granted pursuant to Section 15.11 above and any easement or right of access granted pursuant to any other provisions of the Condominium Documents which expressly require compliance with the "Access Conduct Standards", i.e., the standards set forth in this Section, shall be exercised:

(a) upon at least one (1) day's prior notice, which notice shall specify, in reasonable detail, the purpose and contemplated extent, location and duration of such exercise;

(b) to the extent reasonably possible, in such a manner as will not unreasonably interfere with: (i) the conduct of business of the Occupants of the Commercial Units; or (ii) the use of the Residential Units for their permitted purposes;

(c) subject to the requirement that the Person exercising such right of access or easement shall be liable for any and all physical damage caused thereby and shall indemnify and hold the affected Board(s), their managing agents, and the affected Unit Owner(s) and Occupants (as the case may be) harmless from and against all costs resulting from, arising out of, or in any way connected to such exercise; and

(d) in compliance with the Condominium Documents (including, without limitation, the provisions hereof and thereof regarding the removal of mechanics' liens and violations), all Laws (including, without limitation, those regarding the licensing of contractors) and all Insurance Requirements.

15.13 Control of Main Lobby. The Tower lobby will be located on the Ground Floor of the Tower, set back from East 56th Street (the "Main Lobby"). The Main Lobby will provide: (i) access to the Residential Section lobby, which includes the elevators (and surrounding area) servicing the Residential Section, the mail room, and a concierge (the "Residential Lobby"); (ii) and access to the elevator and surrounding area servicing the Club Unit and Office Units (the "Commercial Lobby"). The Residential Board shall control the staffing, insuring, operation, maintenance, Alteration, Repair, etc. of the Main Lobby; provided,

however, that the cost reasonably allocated for all the same shall be shared among all Unit Owners in the manner set forth in the Condominium By-Laws and borne by such Unit Owners as a General Common Expense.

## ARTICLE 16

## POWER OF ATTORNEY TO THE BOARD

16.1 From Residential Unit Owners. Each Residential Unit Owner shall grant to the persons who shall from time to time constitute:

(a) the Residential Board, an irrevocable power of attorney, coupled with an interest (in such form and with such content as the Residential Board shall determine) to: (i) acquire on behalf of all Residential Unit Owners any Residential Unit, together with its appurtenant Common Interest: (A) in connection with the enforcement of the Residential Board's lien for unpaid Residential Common Charges, (B) whose Residential Unit Owner elects to surrender the same pursuant to the terms of the Residential By-Laws, or (C) that becomes the subject of a foreclosure or other similar sale; (ii) acquire or lease on behalf of all Residential Unit Owners any Residential Unit, together with its appurtenant Common Interest, whose Residential Unit Owner desires to sell, convey, transfer, assign or lease the same; (iii) after any such acquisition or leasing described herein, to manage, convey, sell, lease, sublease, mortgage or otherwise deal with (but not vote the Common Interests appurtenant to) any such Residential Unit so acquired by them, or to sublease any such Residential Unit so leased by them without the necessity of further authorization by the Residential Unit Owners or any other Person, on such terms as the attorneys-in-fact may determine; and (iv) execute, acknowledge and deliver: (A) any declaration or other instrument affecting the Residential Section which the Residential Board deems necessary or appropriate to comply with any Laws applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Building or Residential Section, or (B) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting only the Residential Section which the Residential Board, in its reasonable discretion, deems necessary or appropriate;

(b) the Condominium Board, an irrevocable power of attorney, coupled with an interest (in such form and content as the Condominium Board shall determine) to: (i) purchase or otherwise acquire in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, title to any Unit, together with its appurtenant Common Interest: (A) in connection with the enforcement of the Condominium Board's lien for unpaid General Common Charges; or (B) that becomes the subject of a foreclosure or other similar sale; on such terms, including, without limitation, price (with respect to clause (B) immediately above) as said attorneys-in-fact shall deem proper; (ii) convey, sell, lease, mortgage, or otherwise deal with (but not to vote the Common Interest appurtenant to) any Unit so acquired or to sublease any Unit so leased by them, without the necessity of any authorization by the Unit Owners or any other Person, on such terms as said attorneys-in-fact may determine, granting to said attorneys-in-fact the power to do all things in and to said Unit which the undersigned could do if personally present; and (iii) execute, acknowledge, deliver and (if determined to be necessary or desirable by said attorneys-in-fact) cause to be recorded in the City Register's Office: (A) any declaration or other instrument affecting the Condominium that the

Condominium Board deems necessary or appropriate to comply with any Laws applicable to the maintenance, demolition, construction, Alteration or Repair of the Condominium; or (B) any consent, covenant, restriction, easement or declaration, or amendment thereto, affecting the Condominium or any of the Common Elements, that the Condominium Board deems necessary or appropriate, provided that in no event shall the Condominium Board execute, acknowledge and deliver any document pursuant to clause (iii)(B) of this sentence prior to the approval thereof by any Unit Owner(s) whose Unit is affected, unless such approval is expressly not required under any of the provisions hereof or of the Condominium By-Laws or Residential By-Laws; and

(c) Sponsor, an irrevocable power of attorney, coupled with an interest (in such form and content as Project Declarant shall determine) to: execute an amendment to any of the Condominium Documents or acquire any permits, applications or documents required to undertake, perform or complete work to the Unsold Units or Common Elements by Sponsor 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 Units and/or the reapportionment of the Common Interests of the aforesaid Units resulting therefrom made by Sponsor in accordance with this Declaration; or (ii) shall be required by: (1) a Permitted Mortgagee designated by Sponsor to make a mortgage loan secured by a mortgage on any Unit, (2) any governmental agency having regulatory jurisdiction over the Condominium, or (3) any title insurance company selected by Sponsor to insure title to any Unit.

16.2 From Office Unit Owners. Each Office Unit Owner shall grant to the persons who shall from time to time constitute:

(a) the Commercial Board, an irrevocable power of attorney, coupled with an interest (in such form and with such content as the Commercial Board shall determine) to: (i) acquire on behalf of all Commercial Unit Owners any Commercial Unit, together with its appurtenant Common Interest: (A) in connection with the enforcement of the Commercial Board's lien for unpaid Commercial Common Charges, (B) whose Commercial Unit Owner elects to surrender the same pursuant to the terms of the Commercial By-Laws, or (C) that becomes the subject of a foreclosure or other similar sale; (ii) acquire or lease on behalf of all Commercial Unit Owners any Commercial Unit, together with its appurtenant Common Interest, whose Commercial Unit Owner desires to sell, convey, transfer, assign or lease the same; (iii) after any such acquisition or leasing described herein, to manage, convey, sell, lease, sublease, mortgage or otherwise deal with (but not vote the Common Interests appurtenant to) any such Commercial Unit so acquired by them, or to sublease any such Commercial Unit so leased by them without the necessity of further authorization by the Commercial Unit Owners or any other Person, on such terms as the attorneys-in-fact may determine; and (iv) execute, acknowledge and deliver: (A) any declaration or other instrument affecting the Commercial Section which the Commercial Board deems necessary or appropriate to comply with any Laws applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Building or Commercial Section, or (B) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting only the Commercial Section which the Commercial Board, in its reasonable discretion, deems necessary or appropriate;

(b) the Condominium Board, an irrevocable power of attorney, coupled with an interest (in such form and content as the Condominium Board shall determine) to: (i) purchase or otherwise acquire in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, title to any Unit, together with its appurtenant Common Interest: (A) in connection with the enforcement of the Condominium Board's lien for unpaid General Common Charges; or (B) that becomes the subject of a foreclosure or other similar sale; on such terms, including, without limitation, price (with respect to clause (B) immediately above) as said attorneys-in-fact shall deem proper; (ii) convey, sell, lease, mortgage, or otherwise deal with (but not to vote the Common Interest appurtenant to) any Unit so acquired or to sublease any Unit so leased by them, without the necessity of any authorization by the Unit Owners or any other Person, on such terms as said attorneys-in-fact may determine, granting to said attorneys-in-fact the power to do all things in and to said Unit which the undersigned could do if personally present; and (iii) execute, acknowledge, deliver and (if determined to be necessary or desirable by said attorneys-in-fact) cause to be recorded in the City Register's Office: (A) any declaration or other instrument affecting the Condominium that the Condominium Board deems necessary or appropriate to comply with any Laws applicable to the maintenance, demolition, construction, Alteration or Repair of the Condominium; or (B) any consent, covenant, restriction, easement or declaration, or amendment thereto, affecting the Condominium or any of the Common Elements, that the Condominium Board deems necessary or appropriate, provided that in no event shall the Condominium Board execute, acknowledge and deliver any document pursuant to clause (iii)(B) of this sentence prior to the approval thereof by any Unit Owner(s) whose Unit is affected, unless such approval is expressly not required under any of the provisions hereof or of the Condominium By-Laws or Residential By-Laws; and

(c) Sponsor, an irrevocable power of attorney, coupled with an interest (in such form and content as Project Declarant shall determine) to: execute an amendment to any of the Condominium Documents or acquire any permits, applications or documents required to undertake, perform or complete work to the Unsold Units or Common Elements by Sponsor 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 Units and/or the reapportionment of the Common Interests of the aforesaid Units resulting therefrom made by Sponsor in accordance with this Declaration; or (ii) shall be required by: (1) a Permitted Mortgagee designated by Sponsor to make a mortgage loan secured by a mortgage on any Unit, (2) any governmental agency having regulatory jurisdiction over the Condominium, or (3) any title insurance company selected by Sponsor to insure title to any Unit.

16.3 From Commercial Unit Owners. Each Commercial Unit Owner, other than the Office Unit Owners, shall grant to the persons who shall from time to time constitute:

(a) the Commercial Board, an irrevocable power of attorney, coupled with an interest (in such form and with such content as the Commercial Board shall determine) to: (i) acquire or lease on behalf of all Commercial Unit Owners any Commercial Unit, together with its Appurtenant Interests, whose Owner desires to sell, convey, transfer, assign or lease the same; (ii) acquire on behalf of all Commercial Unit Owners any Commercial Unit, together with its Appurtenant Interests, whose Owner elects to surrender the same pursuant to the terms of the Commercial By-Laws; (iii) purchase or otherwise acquire any Commercial Unit, together with

its Appurtenant Interests, which becomes the subject of a foreclosure or other similar sale, or with respect to which liens for real estate taxes are being sold, in each case on such terms and at such price or rental, as the case may be, as the attorneys-in-fact deem proper, in the name of the Commercial Board or its designee (corporate or otherwise), on behalf of all Commercial Unit Owners, and after any such acquisition or leasing, to manage, convey, sell, lease, sublease, mortgage or otherwise deal with (but not vote the Common Interests appurtenant to) any such Unit so acquired by them, or to sublease any such Unit so leased by them without the necessity of further authorization by the Commercial Unit Owners or any other Person, on such terms as the attorneys-in-fact may determine; and (iv) execute, acknowledge and deliver: (A) any declaration or other instrument affecting the Commercial Section which the Commercial Board deems necessary or appropriate to comply with any Laws applicable to the maintenance, demolition, construction, alteration, repair, or restoration of the Commercial Section, or (B) any consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting only the Commercial Section which the Commercial Board, in its reasonable discretion, deems necessary or appropriate; and

(b) the Condominium Board, an irrevocable power of attorney, coupled with an interest (in such form and content as the Condominium Board shall determine) to: (i) purchase or otherwise acquire in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, title to any Unit, together with its Appurtenant Interests: (A) in connection with the enforcement of the Condominium Board's lien for unpaid General Common Charges; or (B) that becomes the subject of a foreclosure or other similar sale; on such terms, including, without limitation, price (with respect to clause (B) immediately above) as said attorneys-in-fact shall deem proper; and (ii) convey, sell, lease, mortgage, or otherwise deal with (but not to vote the Common Interest appurtenant to) any Unit so acquired or to sublease any Unit so leased by them, without the necessity of any authorization by the Unit Owners or any other Person, on such terms as said attorneys-in-fact may determine, granting to said attorneys-in-fact the power to do all things in and to said Unit which the undersigned could do if personally present; (iii) execute, acknowledge, deliver and (if determined to be necessary or desirable by said attorneys-in-fact) cause to be recorded in the City Register's Office: (A) any declaration or other instrument affecting the Condominium that the Condominium Board deems necessary or appropriate to comply with any Laws applicable to the maintenance, demolition, construction, Alteration or Repair of the Condominium; or (B) any consent, covenant, restriction, easement or declaration, or amendment thereto, affecting the Condominium or any of the Common Elements, that the Condominium Board deems necessary or appropriate, provided that in no event shall the Condominium Board execute, acknowledge and deliver any document pursuant to clause (iii)(B) of this sentence prior to the approval thereof by any Unit Owner(s) whose Unit is affected, unless such approval is expressly not required under any of the provisions hereof or of the Condominium By-Laws.

16.4 Each Unit Owner shall grant and/or shall hereby be deemed to have granted to Declarant a power of attorney to amend this Declaration and to effectuate the rights granted to Declarant under this Declaration and the Condominium By-Laws and to consent on behalf of each Unit Owner and Board and all mortgagees, as a party in interest, to any declaration or other agreement effecting a merger or division of the zoning lot in which the Property is located, with any other tax lots to form a single zoning lot (the "Merger") for the

purpose of transferring to or from Declarant, or its successors, designees or assigns, all or any portion of the Development Rights.

## ARTICLE 17

## ACQUISITIONS OF UNITS BY THE BOARDS

17.1 If: (a) any Residential Unit Owner surrenders its Unit to the Residential Board, together with its Appurtenant Interests pursuant to the provisions of Section 339-x of the New York Condominium Act; (b) the Residential Board, pursuant to Article 8 of the Residential By-Laws or otherwise, acquires or leases a Unit, together with its Appurtenant Interests; or (c) the Residential Board 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 Residential Board or its designee, on behalf of all Residential Unit Owners, in proportion to their respective interests in the Common Elements. The lease or sublease covering any Residential Unit leased or subleased by the Residential Board or its designee shall be held by the Residential Board or its designee, corporate or otherwise, on behalf of all Residential Unit Owners in proportion to their respective Common Interests.

17.2 If: (a) any Commercial Unit Owner surrenders its Unit to the Commercial Board, together with its Appurtenant Interests pursuant to the provisions of Section 339-x of the New York Condominium Act; (b) the Commercial Board, pursuant to Article 8 of the Commercial By-Laws or otherwise, acquires or leases a Unit, together with its Appurtenant Interests; or (c) the Commercial Board 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 Commercial Board or its designee, on behalf of the Commercial Unit Owners, in proportion to their respective interests in the Common Elements. The lease or sublease covering any Commercial Unit leased or subleased by the Commercial Board or its designee shall be held by the Commercial Board or its designee, corporate or otherwise, on behalf of the Commercial Unit Owners in proportion to their respective interests in the Common Elements.

17.3 As used in this Article 17, "Appurtenant Interests" means with respect to a Residential Unit or Commercial Unit: (i) the undivided interest in the Common Elements appurtenant thereto; (ii) the interest of the Unit Owner of such Unit in any other Units owned at the time in question by the Residential Board or Commercial Board, as applicable, or such Board's designee on behalf of all Residential Unit Owner or Commercial Unit Owners, as applicable, or in any other Units then owned by the Condominium Board or its designee on behalf of all Unit Owners, or in each case the proceeds of the sale or lease of any such Units theretofore acquired; and (iii) the interest of the Unit Owner of such Unit in any other assets of the Residential Board or Commercial Board, as applicable, and of the Condominium Board or the Condominium.

## ARTICLE 18

## COVENANTS RUNNING WITH THE LAND

18.1 Applicability. All provisions of this Declaration, the Condominium By-Laws and the General Rules and Regulations (if any) (and in the case of a Residential Unit, the Residential By-Laws and Residential Rules and Regulations, and in the case of a Commercial Unit, the Commercial By-Laws and Commercial Rules and Regulations (if any)), as may be adopted and amended from time to time, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Unit Owners and all the occupants, and their 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 Condominium By-Laws and the General Rules and Regulations, if any, as they may be amended from time to time (and the Residential By-Laws and Residential Rules and Regulations or Commercial By-Laws and Commercial Rules and Regulations, as applicable).

18.2 Deemed Acceptance of Condominium Documents. The acceptance of a deed or conveyance, or the succeeding to title to, the acquisition of any interest in, or the entering into a lease, sublease or license for, or the act of occupancy of, all or any portion of any Unit by any person shall constitute an agreement that the provisions of this Declaration, the Condominium By-Laws, the General Rules and Regulations (if any), (and in the case of a Residential Unit, the Residential By-Laws and Residential Rules and Regulations and in the case of a Commercial Unit, the Commercial By-Laws and the Commercial Rules and Regulations (if any)), as any of the same may be adopted and amended from time to time, are accepted, ratified and will be complied with by such Owner, tenant, or occupant or other party, 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 or Common Element, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease or license thereof.

18.3 Unenforceability. If any provision of this Declaration or the other Condominium Documents is invalid under, or would cause this Declaration and the other Condominium Documents 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 other Condominium Documents, as applicable, 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 Unit Owners 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, 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 other Condominium Documents to be sufficient to submit the Property to the

provisions of the New York Condominium Act is missing herefrom or therefrom, then such provision shall be deemed included as part hereof or thereof, as the case may be, for the purposes of submitting the Property to the provisions of the New York Condominium Act.

## ARTICLE 19

## AMENDMENTS OF DECLARATION

Article 16 of the Condominium By-Laws is incorporated herein in its entirety; and, except as otherwise expressly set forth herein, the provisions thereof shall govern the amendment and/or modification of, addition to and/or deletion of any of the provisions of this Declaration.

## ARTICLE 20

## TERMINATION OF CONDOMINIUM

20.1 The Condominium shall continue and the Property shall not be subject to an action for partition until: (a) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in the Condominium 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 eighty percent (80%) both in number and aggregate of the Common Interests 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 at least fifty-one percent (51%) of the Residential Mortgagee Representatives, if any. Project Declarant or its designee will not vote its interests appurtenant to any Unsold Residential Units for such withdrawal unless at least eighty percent (80%) in number and in aggregate of the Common Interests of all other Unit Owners have voted in favor of such withdrawal, at which time Project Declarant or its designee may choose to vote its Common Interests either in favor of or against withdrawal from condominium ownership, as it sees fit.

20.2 To the fullest extent permissible under Law, each Unit Owner shall be deemed to have waived any right to seek partition of the Property. In the event said withdrawal is authorized as aforesaid, and only to the extent the waiver contained in the preceding sentence shall be inapplicable or unenforceable, 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, together with the net proceeds of any applicable insurance policies, shall be divided among all Unit Owners in accordance with their respective Common Interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of its share of such funds, such amounts as may be necessary to discharge all unpaid liens on its Unit (other than mortgages which are not Permitted Mortgages or Registered Mortgages, as applicable) in the order of the 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 hereof.

## ARTICLE 23

## CERTAIN REFERENCES

23.1 A reference in this Declaration to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural, and vice versa, unless the context otherwise requires.

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 a Board, or otherwise, shall, at the expense of any such other party (or the holder of a

lien on its Unit) requesting the same, execute, acknowledge and deliver to such other party (or the holder of a lien on its Unit) such instruments, in addition to those specifically provided for herein, and take such other action, as such other party (or the holder of a lien on its Unit) 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. Without intending to limit the generality of the foregoing, each Board and each Unit Owner shall be required, upon the request of Declarant, to execute and deliver any documents or applications reasonably required in connection with any Merger, any declaration of zoning lot restrictions or any ZLDA.

25.2 If any Unit Owner, Board or other Person 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 receipt of a written request therefor, to take any action which such Unit Owner, Board or other Person is required to take pursuant to this Declaration and/or the Condominium By-Laws, and such failure continues for an additional ten (10) day period following receipt of a second written request therefor (together with written advice that the requesting party shall be entitled to take specified action upon the recipient's failure or refusal to perform) then the Condominium Board is hereby authorized as attorney-in-fact for such Unit Owner, other Board or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Unit Owner, Board or other Person and such document or action shall be binding on such Unit Owner, Board or other Person.

25.3 If any Unit Owner, Board or other Person 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 receipt of a written request therefor, to take any action which such Unit Owner, Board or other Person is required to take pursuant to this Declaration, the Condominium By-Laws, Commercial By-Laws or the Residential By-Laws, as the case may be, at the request of Project Declarant (or its designee), and such failure continues for an additional ten (10) day period following receipt of a second written request therefor (together with written advice that Project Declarant (or its designee) shall be entitled to take specified action upon the recipient's failure or refusal to perform), then Project Declarant (or its designee) is hereby authorized as attorney-in-fact for such Unit Owner, Board or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Unit Owner, Board or other Person and such document or action of Project Declarant (or its designee) shall be binding on such Unit Owner, Board or other Person.

## ARTICLE 26

## NAME OF CONDOMINIUM AND BUILDING

26.1 The Condominium and the Building shall be designated and known as "432 Park Condominium." Project Declarant (or its designee) shall own and control all rights and interests, and shall be responsible for all obligations and liabilities, appurtenant to the name of the Condominium and/or the Building. Only Project Declarant (or its designee) shall have the right to change or assign the name of the Condominium and/or the Building. In addition, Project Declarant shall have the right and all necessary easements, for so long as the Property is a

condominium, to maintain one or more plaque(s) identifying Project Declarant (or its affiliate(s)) as the sponsor of the Condominium and/or development of the Property, together with such other information as Project Declarant (or its designee) determines in its sole discretion.

26.2 Notwithstanding the foregoing, however, but subject to the rights of Project Declarant, if the Residential Section, or any Commercial Unit is operated under an identifying name, the Unit Owner(s) thereof shall be free to use whatever name(s) it/they designate(s) for such Unit(s) or Section in press releases or publicly distributed materials or permitted signage. No individual Residntial Unit Owner (other than Sponsor or Project Declarant or its/their designee) may use the name or likeness of the Building or the Condominium to promote or in connection with any commercial venture.

## ARTICLE 27

## SUCCESSORS AND ASSIGNS

Except as set forth herein or in the Condominium By-Laws to the contrary, the rights and obligations of: (i) Declarant or its designee, as set forth in the Condominium Documents, shall inure to the benefit of and be binding upon any successor or assign of Declarant, its designee or, with the consent of Declarant or its designee, any transferee of some or all of the then Unsold Units then owned by Declarant or its designee; and (ii) Sponsor or its designee, as set forth herein, shall inure to the benefit of and be binding upon any successor or assign of Sponsor, its designee or, with the consent of Sponsor or its designee, any transferee of some or all of the then Unsold Residential Units then owned by Sponsor or its designee. For purposes hereof, references to Declarant or its designee or Sponsor or its designee, as the case may be, shall also include any mortgagee (or its nominee or designee) or other Person taking title from such party/ies upon a foreclosure or by deed-in-lieu of foreclosure. The rights and/or obligations of the Unit Owners as set forth in the Condominium Documents shall inure to the benefit of and be binding upon any successors or assigns of the respective Unit Owners.

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IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the __ day of _____, 201_.

**PROJECT DECLARANT:**

56TH AND PARK (NY) OWNER, LLC

By:_____
Name:
Title:

**LOT 43 DECLARANT:**

46 EAST 57TH ST. (NY), LLC

By:_____
Name:
Title:

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

On the ___ day of _____ in the year 201_ 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.

_____
(Signature and office of individual taking acknowledgment)

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

On the ___ day of _____ in the year 201_ 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.

_____
(Signature and office of individual taking acknowledgment)

**SCHEDULE A-1**
**TO DECLARATION ESTABLISHING**
**CONDOMINIUM OWNERSHIP OF**
**432 PARK CONDOMINIUM**

**DESCRIPTION OF PROJECT DECLARANT'S LAND**

**PERIMETER OF PRESENT LOT 33 (f/k/a LOTS 33, 44, 145), LOTS 45, 46:**

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF EAST 56TH STREET WITH THE WESTERLY SIDE OF PARK AVENUE;

RUNNING THENCE NORTHERLY ALONG THE SAID WESTERLY SIDE OF PARK AVENUE, 67 FEET 1 INCH;

THENCE WESTERLY PARALLEL WITH SAID NORTHERLY SIDE OF EAST 56TH STREET, 100 FEET;

THENCE NORTHERLY PARALLEL WITH SAID WESTERLY SIDE OF PARK AVENUE, 33 FEET 4 INCHES TO THE CENTER LINE OF THE BLOCK;

THENCE WESTERLY ALONG THE CENTER LINE OF THE BLOCK 66 FEET 9 INCHES;

THENCE NORTHERLY ON A LINE PARALLEL WITH MADISON AVENUE AND PARTLY THROUGH A PARTY WALL, OR DIVISION WALL, 100 FEET 5 INCHES TO THE SOUTHERLY LINE OF 57TH STREET;

THENCE WESTERLY ALONG THE SAID SOUTHERLY LINE OF 57TH STREET, 83 FEET 9 INCHES;

THENCE SOUTHERLY, PARALLEL WITH MADISON AVENUE, PART OF THE WAY THROUGH A PARTY WALL STANDING PARTLY ON THE LOT OF LAND HEREBY DESCRIBED AND PARTLY UPON THE LOT OF LAND ADJOINING THE SAME ON THE WEST 100 FEET 5 INCHES TO THE CENTER OF THE BLOCK BETWEEN 56TH AND 57TH STREETS;

THENCE WESTERLY PARALLEL WITH 57TH STREET, AND ALONG SAID CENTER LINE OF THE BLOCK, 24 FEET 6 INCHES;

THENCE SOUTHERLY PARALLEL WITH SAID WESTERLY SIDE OF PARK AVENUE, 100 FEET 5 INCHES TO THE SAID NORTHERLY SIDE OF EAST 56$^{TH}$ STREET;

THENCE EASTERLY ALONG SAID NORTHERLY SIDE OF EAST 56$^{TH}$ STREET, 275 FEET TO THE POINT OR PLACE OF BEGINNING.

**SCHEDULE A-2**
**TO DECLARATION ESTABLISHING**
**CONDOMINIUM OWNERSHIP OF**
**432 PARK CONDOMINIUM**

**DESCRIPTION OF LOT 43 DECLARANT'S LAND**

**PERIMETER OF LOT 43:**

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY AND STATE OF NEW YORK AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET, DISTANT TWO HUNDRED THIRTY-THREE (233) FEET THREE (3) INCHES EASTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF SAID SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET WITH THE EASTERLY SIDE OF MADISON AVENUE; AND

RUNNING THENCE SOUTHERLY AND PARALLEL WITH MADISON AVENUE AND PART OF THE WAY THROUGH A PARTY WALL, ONE HUNDRED (100) FEET FIVE (5) INCHES TO THE CENTER LINE OF THE BLOCK;

THENCE EASTERLY ALONG SAID CENTER LINE OF THE BLOCK, SEVENTEEN (17) FEET, NINE (9) INCHES;

THENCE NORTHERLY AND AGAIN PARALLEL WITH MADISON AVENUE AND PART OF THE WAY THROUGH ANOTHER PARTY WALL, ONE HUNDRED (100) FEET FIVE (5) INCHES TO THE SOUTHERLY SIDE OF EAST FIFTY SEVENTH STREET;

THENCE WESTERLY ALONG THE SAID SOUTHERLY SIDE OF EAST FIFTY-SEVENTH STREET, SEVENTEEN (17) FEET NINE (9) INCHES TO THE POINT AND PLACE OF BEGINNING.

**SCHEDULE B**
**TO DECLARATION ESTABLISHING**
**CONDOMINIUM OWNERSHIP OF**
**432 PARK CONDOMINIUM**

**DESCRIPTION OF THE UNITS**

[SCHEDULE B BEGINS ON THE FOLLOWING PAGE]

[To be annexed prior to recording.]



Schedule B

# EXHIBIT A

CONDOMINIUM BY-LAWS

[See Exhibit 11 in Part II of the Offering Plan]

# EXHIBIT B

RESIDENTIAL BY-LAWS

[See Exhibit 12 in Part II of the Offering Plan]

# EXHIBIT C

COMMERCIAL BY-LAWS

[See Exhibit 13 in Part II of the Offering Plan]

**EXHIBIT 11**

CONDOMINIUM BY-LAWS

# CONDOMINIUM BY-LAWS

# OF

# 432 PARK CONDOMINIUM

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Exhibits

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# CONDOMINIUM BY-LAWS

# OF

# 432 PARK CONDOMINIUM

## ARTICLE 1

## GENERAL

1.1 Defined Terms. All capitalized terms used but which are not separately defined in these Condominium By-Laws shall have the meanings given to such terms in the Declaration or, if not defined in the Declaration, in the Table of Definitions annexed hereto as Exhibit 1 and made a part hereof.

1.2 Purpose. The purpose of these Condominium By-Laws is to set forth the rules and procedures concerning the conduct of the affairs of the Condominium.

1.3 Principal Office of Condominium. The principal office of the Condominium shall be located either within the Property or at such other place in the Borough of Manhattan as may be designated from time to time by the Condominium Board.

## ARTICLE 2

## CONDOMINIUM BOARD

2.1 General Description of Condominium Board.

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"). As more particularly set forth in Sections 2.3 and 2.9, the Condominium Board shall consist of seven (7) members (each, a "Board Member" or "Condominium Board Member") as follows: (i) five (5) Board Members designated by the Residential Board representing and on behalf of all the individual Residential Unit Owners; and (ii) two (2) Board Members, designated pursuant to the Commercial By-Laws (as defined herein).

2.1.2 With respect to the Condominium Board Members: (i) any requirements set forth in the Residential By-Laws as to members of the Residential Board shall apply to the Condominium Board Members designated by the Residential Board, as applicable; and (ii) any requirements set forth in the Commercial By-Laws as to members of the Commercial Board shall apply to the Condominium Board Members designated by the Commercial Board, as applicable.

2.2 Powers and Duties of Condominium Board, Residential Board and Commercial Board.

2.2.1 General. The Condominium 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 or the Condominium Documents may not be delegated to the Condominium Board by the Unit Owners). Subject to the terms of the Condominium Documents, all determinations, which do not (to more than an immaterial extent) relate to or affect or involve the Condominium generally or the General Common Elements, and: (A) do not affect (to more than an immaterial extent) any portion of the Building other than the Residential Section, shall be made by the Residential Board; and (B) do not affect (to more than an immaterial extent) any portion of the Building other than the Commercial Section shall be made by the Commercial Board.

2.2.2 Condominium Board. Subject to, and in accordance with, the provisions of Section 2.2.1, the further provisions of this Section 2.2.2, Sections 2.2.3 through 2.2.9 and Article 6 of these Condominium By-Laws and such other provisions, if any, of the Declaration and these By-Laws as may grant to one or more Unit Owner(s), the Residential Board, the Commercial Board or certain Board Member(s), as the case may be, rights of approval with respect to certain matters, the Condominium Board shall be entitled to make determinations and take actions with respect to all matters relating to the operation and the administration of the affairs of the Condominium, including, without limitation, the following:

(a) (i) Operation, care, upkeep and maintenance of; (ii) the making of alterations, additions and improvements (collectively, "Alterations") to; and (iii) the making of repairs, restorations and replacements (collectively, "Repairs") of, the General Common Elements and, as and to the extent provided in the Condominium Documents, the Limited Common Elements.

(b) Determination and imposition of General Common Charges, preparation and adoption of Budgets as hereinafter provided, and determination and imposition of Special Assessments.

(c) Methods of, and procedures with respect to, collection of General Common Charges and Special Assessments from the General Common Charge Obligors, and the implementation of such methods and procedures.

(d) Employment and dismissal of the personnel necessary for the maintenance and operation of the General Common Elements (and, as and to the extent provided in the Condominium Documents, the Limited Common Elements).

(e) Promulgation (and amendment) of General Rules and Regulations from time to time.

(f) In the name of the Condominium Board or its designee, on behalf of all Unit Owners: (i) acquiring a Unit to the extent one is surrendered to the Condominium Board (to the extent the waiver contained in the Condominium Documents with respect to the right to surrender is inapplicable or unenforceable); (ii) purchasing or otherwise acquiring those Units (subject to any prior right of the Commercial Board or Residential Board with respect thereto) with respect to which liens for real estate taxes may be and are being sold in accordance with the Condominium Documents; and (iii) purchasing or otherwise acquiring

Units at foreclosure or other similar sales (subject to any prior right of the Residential Board or Commercial Board with respect thereto).

(g) Selling, leasing, licensing, mortgaging and otherwise dealing with Units acquired by the Condominium Board or its designee on behalf of all Unit Owners (but not voting the Common Interest appurtenant thereto).

(h) Making Alterations to, and Repairs of, the General Common Elements (and, as and to the extent provided in the Condominium Documents, the Limited Common Elements) or parts thereof damaged or destroyed by fire or other casualty or necessitated as a result of condemnation or eminent domain proceedings.

(i) Enforcing obligations hereunder and under the Declaration and the General Rules and Regulations of the Residential Board and the Commercial Board, including, without limitation, commencing, prosecuting and settling litigation in connection therewith.

(j) Maintaining bank accounts on behalf of the Condominium and designating the signatories required therefor.

(k) Adjusting and settling insurance claims (and executing and delivering releases in connection therewith) if the loss is to be adjusted and settled by the Condominium Board in accordance with Article 11 hereof.

(l) Subject to the provisions of Section 2.2.8 below, borrowing money on behalf of the Condominium.

(m) Organizing (and owning shares of or membership interests in, as the case may be) corporations, limited liability companies and/or other entities to act as designees of the Condominium Board with respect to such matters as the Condominium Board may determine, including, without limitation, in connection with the acquisition of title to, or the leasing of, Units acquired by the Condominium Board on behalf of all Unit Owners.

(n) Subject to the provisions of Section 2.2.7 below, execution, acknowledgment and delivery of, without limitation: (i) any consent, agreement, document, covenant, restriction, easement, declaration or other instrument, or any amendment thereto, affecting the General Common Elements which the Condominium Board deems necessary or appropriate to comply with any Laws applicable to the maintenance, demolition, construction, Alteration or Repair of the Property or the Condominium; or (ii) any consent, agreement, document, covenant, restriction, easement, declaration or other instrument, or any amendment thereto, affecting: (x) the Property or the Condominium which the Condominium Board deems necessary or appropriate; or (y) a Unit, if the owner of such Unit Owner (or the Residential Board on behalf of such Residential Unit Owner, or the Commercial Board on behalf of such Commercial Unit Owner) requests, or under the Condominium Documents is required to request, that the Condominium Board take such action, and/or (except as otherwise provided in the Condominium Documents) the Condominium Board determines that taking such action is appropriate.

(o) Preparation, execution and recording, on behalf of all Unit Owners, as their attorney-in-fact, coupled with an interest, of a restatement of the Declaration and/or these By-Laws whenever, in the Condominium Board's estimation, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the Declaration and/or these By-Laws; preparation, execution and recording, on behalf of the Residential Board and at the Residential Board's expense, as the Residential Board's attorney-in-fact, coupled with an interest, a restatement of the Residential By-Laws, as applicable, whenever, in the Residential Board's estimation, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the Residential By-Laws; and preparation, execution and recording, on behalf of the Commercial Board and at the Commercial Board's expense, as the Commercial Board's attorney-in-fact, coupled with an interest, a restatement of the Commercial By-Laws, as applicable, whenever, in the Commercial Board's estimation, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the Commercial By-Laws.

(p) Commencing, prosecuting and settling litigation and arbitration proceedings against third parties, and defending and settling litigation and arbitration proceedings against the Condominium and/or the Condominium Board.

(q) Obtaining and reviewing insurance in respect of the Property in accordance with the requirements of Article 11 hereof, and changing any of the insurance requirements set forth therein.

2.2.3 Residential Board and Residential Unit Owners. The Residential Section and the Residential Board will be governed by its Residential By-Laws as well as by the Declaration and the applicable provisions of these By-Laws; and subject to, and in accordance with, the provisions of Sections 2.2.1 and 2.2.2 hereof (and without limiting the generality thereof), the Residential Board shall be entitled to make determinations with respect to matters relating exclusively to the Residential Section and to the operation, care, upkeep, maintenance and administration of the affairs thereof, including, without limitation, the making of Repairs of, and performance of Alterations to, the Residential Limited Common Elements, and shall have the powers and duties described in the Residential By-Laws, subject, however, to the rights of the Residential Unit Owners as may be provided in the Residential By-Laws and to those provisions in the Declaration and these Condominium By-Laws that provide otherwise and/or that set forth restrictions on the right to make such determinations. In addition, except as may otherwise be provided in (and subject to) the Condominium Documents, each of the Residential Unit Owners shall have such powers as are permitted by Law, and shall be entitled to make determinations, with respect to all matters relating exclusively to their respective Residential Units.

2.2.4 Commercial Board and Commercial Unit Owners. The Commercial Section and the Commercial Board will be governed by its Commercial By-Laws as well as by the Declaration and the applicable provisions of these By-Laws; and subject to, and in accordance with, the provisions of Sections 2.2.1 and 2.2.2 hereof (and without limiting the generality thereof), the Commercial Board shall be entitled to make determinations with respect to matters relating exclusively to the Commercial Section and to the operation, care, upkeep, maintenance and administration of the affairs thereof, including, without limitation, the making

of Repairs of, and performance of Alterations to, the Commercial Limited Common Elements, and shall have the powers and duties described in the Commercial By-Laws, subject, however, to the rights of the Commercial Unit Owners as may be provided in the Commercial By-Laws and to those provisions in the Declaration and these Condominium By-Laws that provide otherwise and/or that set forth restrictions on the right to make such determinations. In addition, except as may otherwise be provided in (and subject to) the Condominium Documents, each of the Commercial Unit Owners shall have such powers as are permitted by Law, and shall be entitled to make determinations, with respect to all matters relating exclusively to their respective Commercial Units.

2.2.5 Intentionally Deleted.

2.2.6 Agents for the Condominium Board, Residential Board and Commercial Board. (a) Any action required or permitted to be taken by the Condominium Board pursuant to the provisions of the Declaration and/or these By-Laws shall be done or performed by the Condominium Board or on behalf of the Condominium Board and at its direction by the agents, officers, employees or designees of the Condominium Board, and the Condominium Board may employ one or more managing agents and/or managers, at a compensation established by the Condominium Board, to perform such duties and services as the Condominium Board shall authorize, except (unless in specific instances provided in the Declaration and/or these By-Laws otherwise authorized in connection with the actions set forth in subparagraphs 2.2.2(b), (e), (f), (g), (i), (j), (k), (m), (n), (o), (p) and (q) hereof.

(b) Any action required or permitted to be taken by the Residential Board pursuant to the provisions of these By-Laws, the Declaration or the Residential By-Laws, shall be done or performed by the Residential Board or on behalf of the Residential Board and at its direction by the agents, officers, employees or designees of the Residential Board, and the Residential Board may employ one or more managing agents and/or managers, at a compensation established by the Residential Board, to perform such duties and services as the Residential Board shall authorize in accordance with the Residential By-Laws.

(c) Any action required or permitted to be taken by the Commercial Board pursuant to the provisions of these By-Laws, the Declaration or the Commercial By-Laws, shall be done and performed by the Commercial Board or on behalf of the Commercial Board and at its direction by the agents, officers, employees or designees of the Commercial Board, and the Commercial Board may employ one or more managing agents and/or managers, at a compensation established by the Commercial Board, to perform such duties and services as the Commercial Board shall authorize in accordance with the Commercial By-Laws.

(d) Any managing agent designated and/or employed by the Condominium Board, the Residential Section or the Commercial Section, may be an affiliate of Declarant.

2.2.7 Board as Agent. Any action required or permitted to be taken pursuant to the provisions of the Condominium Documents by the Residential Board, the Commercial Board or a Commercial Unit Owner, shall, if required by applicable Laws, be taken by the Residential Board, Commercial Board or such Unit Owner in the name of the Condominium Board which

shall, upon request (at the sole expense of the Board or Commercial Unit Owner, as applicable, making such request or taking such action), execute, acknowledge and deliver any and all instruments, documents or applications in connection therewith; provided, however, that: (i) no such action shall be taken in the name of the Condominium Board except upon at least fifteen (15) Business Days' advance notice delivered to each Condominium Board Member (unless such action is required in connection with an Emergency, in which event only such prior notice as is practicable under the circumstances (which may be, but shall not be presumed to be, none) shall apply and if no prior notice is given, notice shall be given promptly thereafter), which notice shall specify the action proposed to be taken, the grounds upon which such Board or Commercial Unit Owner as the case may be is entitled to take such action, and shall include complete and accurate copies of all documents proposed to be executed or filed in connection with the exercise of the rights provided in this Section; and (ii) the Board or Commercial Unit Owner making such request or taking such action shall, subject to the provisions of Section 2.11, indemnify and hold harmless and all other Unit Owners and Boards from and against all Costs resulting therefrom or incurred in connection therewith.

2.2.8 Borrowing by the Condominium Board.

(a) The Condominium Board shall have the power to borrow money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of, or the making of Repairs or Alterations of, the General Common Elements or otherwise in connection with any permitted action or activity of the Condominium Board, provided, however, that: (i) a sixty-six and two-thirds (66-2/3%) vote of the members of the Condominium Board shall be required for any borrowings for such purposes if such borrowings are in excess of $500,000 (subject to increase by the CPI Increase Factor) in total in any one fiscal year or $1,500,000 (subject to increase by the CPI Increase Factor) in the aggregate (including borrowings from prior periods) at any one time; and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant Common Interest without the prior written consent of the owner of such Unit, or on the General Common Elements without the consent of all Unit Owners. The powers and rights of the Residential Board and the Commercial Board to borrow money pursuant to the provisions of the Residential By-Laws and the Commercial By-Laws, respectively, is not limited or impaired by the foregoing.

(b) All such borrowing by the Condominium Board shall be by and in the name of the Condominium, and shall expressly provide that no individual Unit Owner (or shareholder, member, director or officer thereof) or Board Member shall be liable (primarily or otherwise) therefor in any respect (including, without limitation, for any fees, expenses, or other liabilities or obligations accruing or to be performed thereunder) unless specifically agreed to in writing by such Unit Owner or Board Member.

2.2.9 Insurance Requirements. The Condominium Board shall make all determinations and take all actions necessary to cause the insurance requirements set forth in Article 11 hereof with respect to the Condominium and Condominium Board to be complied with.

2.3 Number and Terms of Office of Board Members. The Condominium Board shall be comprised of seven (7) members: five (5) members designated by the Residential Board

pursuant to the Residential By-Laws; and two (2) members designated by the Commercial Board pursuant to the Commercial By-Laws. Except as otherwise provided in the Condominium Documents, all designations (and substitute and further designations) which are provided for in the Declaration or these By-Laws shall be in writing and shall include an address specified for notice to such designated Board Member. Subject in all events to the provisions of Section 2.4 below, and, as applicable, the provisions of the Residential By-Laws with respect to Condominium Board Members designated by the Residential Board and the provisions of the Commercial By-Laws with respect to the Condominium Board Members designated by the Commercial Board, the term of each Board Member designated from time to time shall expire annually on the anniversary of such Board Member's designation; and, subject to the other provisions of this Section 2.3, the replacement for each such Board Member, which may be the same person, shall be made by such Board Member's Designator. There shall be no limit on the number of terms of office, successive or otherwise, that a Board Member may serve. Notwithstanding the expiration of the term of office of a member of the Condominium Board, such member shall serve until a successor has been elected, or designated, as the case may be, and qualified.

2.3.1 Until the First Annual Residential Meeting, Sponsor reserves the right to designate fewer than five (5) persons to the Residential Board; however, in such case, Sponsor's designees shall be the only members of the Residential Board and such designees shall collectively hold five (5) of the seven (7) votes on the Condominium Board (in addition to the votes of any representatives of the Commercial Section serving on the Condominium Board who may be designated by Sponsor as the owner of a Commercial Unit, as applicable).

2.4 Resignation and Removal.

2.4.1 Any Board Member may resign at any time by notice given to the President or Secretary of the Condominium Board and to such Board Member's Designator. Any such resignation shall take effect at the time specified in such notice and, unless specifically requested, acceptance of such resignation shall not be necessary for the effectiveness thereof.

2.4.2 Any Board Member may be removed from office: (i) for cause, either (x) by the Designator of such Board Member or (y) notwithstanding any protest of such Designator, by a sixty-six and two-thirds (66-2/3%) vote of the Condominium Board; and (ii) without cause, only by the Designator of such Board Member. In the event of any removal described in the immediately preceding sentence, whether with or without cause, the Designator of such Board Member shall have the sole right to designate the replacement of such member.

2.5 Vacancies on Condominium Board. The vacancy of a Board Member's seat on the Condominium Board shall be filled only by designation of the Designator of such member.

2.6 Initial Meeting of Condominium Board; Regular and Special Meetings.

2.6.1 Within no more than ten (10) days following the initial recording of the Declaration in the Register's Office, each Designator shall designate its Board Member(s) by notice given to each other Designator and the first meeting of the Condominium Board shall take place.

2.6.2 Thereafter, regular meetings of the Condominium Board may be held at such time and place in the Borough of Manhattan as shall be determined by the Condominium Board from time to time but at least quarterly. Notice of regular meetings shall be given to each Board Member by the President, Vice President or Secretary of the Condominium Board or by the Condominium's managing agent, at least thirty (30) days prior to the day fixed for such meeting which notice shall state the date, time and place (in the Borough of Manhattan) and shall include an agenda therefor.

2.6.3 Special meetings of the Condominium Board may be called by the President or Vice President of the Condominium or by any two (2) Board Members in Good Standing and having different Designators, in each case by giving at least ten (10) Business Days' prior notice to each Board Member, which notice shall state the date, time, place (in the Borough of Manhattan) and purpose (including the agenda) for the meeting. In addition, the President of the Condominium Board shall, by written notice given in accordance with the last sentence of Section 2.6.2 above, call a meeting of the Condominium Board upon the written request of any four (4) Board Members.

2.7 Principal Offices of Condominium Board. The principal office of the Condominium Board shall be located either within the Property or at such other place in the Borough of Manhattan as may be designated from time to time by the Condominium Board.

2.8 Waiver of Notice. Any Board Member (or his or her proxy) may at any time waive notice of any Condominium Board meeting in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Board Member (or his or her proxy) at any meeting thereof shall constitute a waiver by such member of notice of the time and place thereof. If all the Board Members (or their proxies) are present at any meeting of the Condominium Board, no notice shall be required and any business may be transacted at such meeting.

2.9 Determinations by Condominium Board; Quorum.

2.9.1 Except as otherwise set forth in Section 2.9.3, all determinations of the Condominium Board shall be made at a meeting of the Condominium Board at which a quorum thereof is Present In Person. Only Board Members in Good Standing shall have the right to vote at meetings of the Condominium Board and only such Board Members shall count for purposes of determining whether a quorum is present. Subject to the preceding sentence, the Presence in Person, at any meeting of the Condominium Board, of Board Members sufficient to cast a Majority Member Vote shall constitute a quorum. Except as may otherwise be required by any Law, these By-Laws and/or the Declaration, a Majority Member Vote, shall constitute the decision of the Condominium Board.

2.9.2 If at any Condominium Board meeting a quorum (as defined in Section 2.9.1 hereof) does not exist, a majority of those present may adjourn the meeting from time to time to a time, in each case specified on at least ten (10) Business Days' notice to the Board Members not Present in Person, until a quorum shall exist. At any such adjourned meeting at which a quorum (determined as aforesaid) exists, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.9.3 A Board Member or Members shall be deemed "Present in Person" at a meeting of the Condominium Board if such Board Member(s) or its/their proxy (as described in this Section 2.9) is/are: (i) physically present; or (ii) participating by means of a conference telephone call or similar communications equipment by means of which all persons participating in such meeting can hear one another's voice. Notwithstanding anything to the contrary contained herein, any action permitted or required to be taken at a meeting of the Condominium Board, may be taken without a meeting if all Board Members consent thereto in writing.

2.9.4 In the event the Condominium Board or its designee shall own any Unit which the Owner of which on its own is otherwise entitled to designate a Condominium Board Member, then the Condominium Board shall not designate a Board Member to vote on behalf of (or otherwise in connection with) such Unit.

2.9.5 Board Members shall be entitled to vote by proxy at any meeting of the Condominium Board, and all references herein and in the Declaration and/or these By-Laws to votes by Board Members shall be deemed to be references to votes by Board Members or their properly designated proxies. The designation of any such proxy shall be made in a signed and dated writing to the Secretary of the Condominium and shall be revocable at any time as provided at law or by notice actually delivered to such Secretary by the Unit Owner or Board which had made the designation; provided, however, that no designation to act as a proxy shall be effective for a period in excess of twelve (12) months (except that the designation of a Board Member by a Registered Mortgagee pursuant to clause (i) of the first sentence of Section 13.4(f) hereof shall be effective until the Secretary of the Condominium shall have received written notice from such Registered Mortgagee of the first of the following events to occur: (i) the revocation of such designation by such Registered Mortgagee; (ii) the satisfaction of record of such mortgage; and (iii) the release of the encumbered Unit from the lien of such mortgage).

2.10 Compensation. No Board Member shall receive any compensation from the Condominium or the Condominium Board for acting in the capacity of a Condominium Board Member.

2.11 Liability of Condominium Board and Unit Owners.

2.11.1 (a) To the extent permitted by applicable Law, no Board Member shall have any personal liability with respect to any contract, act or omission of the Condominium, the Condominium Board or its members, or of any Managing Agent or manager, building engineer, superintendent or employee in connection with the affairs or operation of the Condominium (except to the extent arising from such Board Member's own bad faith, gross negligence or willful misconduct).

(b) Every contract made by the Condominium Board or by any managing agent or manager thereof shall state that it is made by the Condominium Board or the managing agent or manager only as agent for the Condominium, and that the Board Members or managing agent or manager shall have no personal liability thereon and may also state the applicable limitations of liability of Unit Owners provided for in Section 2.11.2 below; and the absence of such statement or statements in any such contract shall not be deemed to imply any

personal liability on the part of the Condominium Board, its members, managing agent or manager, or any Unit Owner.

(c) The Condominium shall indemnify each Board Member against all Costs arising out of such Board Member's serving in such capacity except those matters arising out of such Board Member's own bad faith, gross negligence or willful misconduct.

(d) The Condominium Board may contract or effect any other transaction with any Board Member, any member of the Residential Board, any member of the Commercial Board, any Unit Owner, Declarant, Sponsor and/or Affiliates of any of the foregoing without incurring any liability for self-dealing or otherwise (except in the case of bad faith, gross negligence or willful misconduct which shall not be deemed presumed or established by the relationship between or among any such parties), but all such contracts or transactions shall be made only in accordance with the provisions of Section 2.16 hereof.

2.11.2 No Unit Owner, in its capacity as a Unit Owner, shall be personally liable for any contract, act or omission of the Condominium. Nothing in the preceding sentence shall limit a Unit Owner's liability for the payment of Common Charges or Special Assessments.

2.12 Committees. The Condominium Board may, subject to such limitations and exceptions as the Condominium Board may prescribe, appoint such committees as the Condominium Board may deem appropriate, each to consist of two (2) or more members of the Condominium Board. Each such committee, to the extent provided in the resolution which creates it, shall have and may exercise all the powers designated to it by the Condominium Board during the intervals between Condominium Board meetings insofar as may be permitted by applicable Law.

2.13 Status of Boards. In addition to the status conferred upon each of the Boards under or pursuant to the provisions of the New York Condominium Act, each independently 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, as the same may be amended from time to time. In the event of the incorporation or organization of any such Board pursuant to the applicable provisions of Section 2.14, the provisions of this Section 2.13 shall no longer be applicable to such Board.

2.14 Incorporation and Organization of Boards. To the extent and in the manner provided in the New York Condominium Act (or as may otherwise be permitted by Law), each of the Condominium Board, the Residential Board and the Commercial Board may, by action of such Board as provided in Article 2 of the Condominium By-Laws, the Residential By-Laws and the Commercial By-Laws, respectively, be organized as a limited liability company or incorporated under the applicable statutes of the State of New York. In the event that any such Board so organizes or 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 it under or pursuant to the provisions of the New York Condominium Act. The certificate of incorporation and by-laws of any such resulting corporation or the articles of organization and operating agreement of such resulting limited liability company, as the case may be, shall conform as

closely as practicable to the provisions of the Declaration and the applicable set of By-Laws (*i.e.*, for such purpose, the Condominium By-Laws with respect to the Condominium Board, the Residential By-Laws with respect to the Residential Board and the Commercial By-Laws with respect to the Commercial Board) and the provisions of the Declaration and the applicable set of 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 or articles of organization and operating agreement, as applicable, and any such certificate, by-laws, articles and agreement shall in all events be subject and subordinate in all respects to the Declaration, the Condominium By-Laws and, with respect to the Residential Board and the Commercial Board, the Residential By-Laws or the Commercial By-Laws, as applicable.

2.15 Condominium Board as Agent of Unit Owners. In exercising its powers and performing its duties under the Declaration and these By-Laws (and, to the extent applicable, the Residential By-Laws and Commercial By-Laws), the Condominium Board shall act as, and shall be, the agent of the Residential Board (itself the agent of the Residential Unit Owners), and the Commercial Board (itself the agent of the Commercial Unit Owners), subject to and in accordance with the provisions of the Declaration and these By-Laws (and, to the extent applicable, the Residential By-Laws and Commercial By-Laws).

2.16 Affiliate/Prohibited Transactions. Each Condominium Board Member shall perform his or her duties, and shall exercise his or her powers, in good faith and with a view to the interests of the Condominium. To the extent permitted by Law, no contract or other transaction between the Condominium Board and either: (i) any of its members; or (ii) any corporation, partnership, fiduciary, firm, limited liability company, association or other entity in which any of the members of the Condominium Board are officers, directors, shareholders, employees, partners, fiduciaries, beneficiaries, members or principals, or are otherwise interested, pecuniarily or otherwise, shall be deemed either void or voidable because either: (a) any such Condominium Board Member was present at the meeting or meetings of the Condominium Board during which such contract or transaction was discussed, authorized, approved or ratified, or (b) the vote of any such Board Member was counted for such purpose; provided, however, that either: (A) (1) the fact thereof is disclosed to, or known by, the Condominium Board or a majority of the members thereof and noted in the minutes thereof, and the Condominium Board shall authorize, approve or ratify such contract or transaction in good faith by a vote of a majority of the entire Condominium Board, less the number of such members involved in such contract or transaction; or (2) the fact thereof is disclosed to, or known by, a majority of Unit Owners and a majority of Unit Owners, present at a duly constituted meeting, shall in good faith authorize, approve or ratify such contract or transaction less the number of such Unit Owners who are also such members involved in such contract or transaction; and (B) the contract or transaction is commercially reasonable to the Condominium Board at the time the same is authorized, approved, ratified, executed or otherwise consummated. Any such members of the Condominium Board may be counted in determining the presence of a quorum of any meeting of the Condominium Board or of the Unit Owners which authorizes, approves or ratifies any such contract or transaction, but no such member shall be entitled to vote thereat in order to authorize, approve or ratify such contract or transaction. Notwithstanding the foregoing, the Condominium Board shall be authorized to employ an affiliate of Declarant as managing agent for the Condominium pursuant to Section 2.2.6 of the Condominium By-Laws; initially, and then, subject to reasonable market rate increases, for subsequent renewal terms.

## ARTICLE 3

## UNIT OWNERS

3.1 Annual Meetings. No annual meeting of all Unit Owners (a "Unit Owners Meeting") shall be required to be held unless required, in each case, by applicable Law, in which event any such meeting so required to be held shall be held on a date specified by the Condominium Board.

3.2 Place of Meetings. All Unit Owners Meetings required or permitted to be held, if any, shall be held at the principal office of the Condominium or at such other place in the Borough of Manhattan as may be designated from time to time by the Condominium Board.

3.3 Special Meetings. The President or the Vice President of the Condominium shall call a special Unit Owners Meeting if so directed by resolution of the Condominium Board or upon a petition signed and presented to the Secretary of the Condominium by Unit Owners owning Units representing not less than fifty percent (50%) of the aggregate Common Interest of all of Units. Each such resolution or petition shall state, in reasonable detail, the purposes for calling such Unit Owners Meeting.

3.4 Notice of Meetings and Actions Taken. Notice of annual or special Unit Owners Meetings (in each case, if any) shall be given by the Secretary of the Condominium to all Unit Owners of record at their address at the Condominium (or at such other address as any Unit Owner has designated by notice given to the Secretary of the Condominium at least forty-five (45) days prior to the giving of notice of the applicable meeting). Each such notice shall state the purpose(s) of the meeting and the date, time and place (in the Borough of Manhattan) where it is to be held, and no business shall be transacted at such meeting except as stated in the notice. All notices hereunder shall be given at least ten (10) Business Days prior to the date fixed for the meeting. However, if the business to be conducted at any Unit Owners Meeting shall include consideration of a proposed amendment to the Declaration or to these By-Laws which requires a vote of the Unit Owners at such a meeting, the notice of such meeting shall be given to all Unit Owners, Registered Mortgagees, Residential Mortgagee Representatives and Office Mortgagee Representatives at least thirty (30) days prior to the date fixed for such meeting and such notice shall be accompanied by a copy of the text of such proposed amendment. The Condominium Board shall have the exclusive right to vote on the matters and take the actions delegated to it by the Condominium Documents.

3.5 Quorum.

3.5.1 Except as otherwise provided in these By-Laws, the presence in person or by proxy of Unit Owners representing not less than fifty percent (50%) (in Common Interest) of all Unit Owners shall constitute a quorum; provided that the members of the Condominium Board designated by the Commercial Unit Owners shall have the absolute right (except in the case of an Emergency) to require an adjournment of any such Unit Owners Meeting (notwithstanding the presence of a quorum) for a period not longer than thirty (30) days.

3.5.2 Subject to Section 3.5.1, if at any Unit Owners Meeting a quorum does not exist, the Unit Owners who are present at such meeting, either in person or by proxy, may act by majority vote to adjourn the meeting and reconvene at a time (specified on at least ten (10) Business Days' notice to the absent Unit Owners). At any such adjourned and reconvened Unit Owners Meeting at which a quorum (determined as aforesaid) exists, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.6 Order of Business. The order of business at all annual Unit Owners Meetings, if any, shall be as follows:

(a) Call to order.

(b) Proof of notice of meeting.

(c) Reading of minutes of preceding meeting, if any.

(d) Reports of officers, if any.

(e) Reports of Board Members.

(f) Reports of committees, if any.

(g) Election of inspectors of election (when so required).

(h) Unfinished business.

(i) New business.

3.7 Voting at Unit Owners Meetings.

3.7.1 Each Unit Owner, or a person designated by each such Unit Owner to act as proxy on its behalf and who need not be a Unit Owner, shall be entitled to cast the votes appurtenant to such Unit Owner's Unit (determined on a Common Interest basis), as set forth herein and in the Declaration, at all Unit Owners Meetings, if any. The designation of any such proxy shall be made in a signed and dated writing to the Secretary of the Condominium and shall be revocable at any time by notice actually delivered to such Secretary by the Unit Owner which had made the designation; provided, however, that no designation to act as a proxy shall be effective for a period in excess of twelve (12) months. If a Registered Mortgagee is entitled to vote at a Unit Owners Meeting pursuant to clause (ii) of the first sentence of Section 13.4(f) hereof (which vote may be by proxy), such Registered Mortgagee shall continue to so vote until the Secretary of the Condominium shall have received written notice from such Registered Mortgagee of the first of the following events to occur: (i) the revocation of such designation by such Registered Mortgagee; (ii) the satisfaction of record of such mortgage; and (iii) the release of the encumbered Unit from the lien of such mortgage. A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity. Except as otherwise provided herein or in the Declaration or as otherwise required by Law, a majority of votes duly cast at any Unit Owner's Meeting at which a quorum is present or is not required shall be binding.

3.7.2 If two (2) or more Persons own a Unit, they shall designate one (1) Person amongst them to vote the Common Interest appurtenant to their Unit in a writing given to the Secretary of the Condominium, and the vote of such designee shall be binding upon such Persons. Failing such a designation, all of such Persons shall mutually vote such Common Interest under one ballot, without division, and the concurrence of such Persons shall be conclusively presumed if any one of them purports to vote such Common Interest without protest being made contemporaneously to the party presiding over the meeting at which such vote is taken. From and after the day such protest is made until the dispute with respect thereto is resolved (which dispute shall be resolved in Arbitration), the Common Interest of such Unit shall not be voted; provided, however, that (i) such Unit shall be counted solely for determining whether a quorum is present for such voting and (ii) such protest shall not nullify any vote made by any such Person on behalf of such jointly-owned Unit prior to such protest being made.

3.7.3 At Unit Owners Meetings, the Condominium Board (or its designee) shall not be entitled to vote the Common Interest appurtenant to any Unit owned by the Condominium Board (or such designee) on behalf of all Unit Owners; however, for the avoidance of doubt, the Residential Board (or its designee or nominee) as owner of the Club Unit shall be entitled to vote the Common Interest appurtenant thereto.

3.7.4 Except as otherwise set forth herein or in the Declaration, at all Unit Owners Meetings, if any, each Unit Owner (or its proxy) entitled to vote thereat shall be entitled to cast one (1) vote for each .0001% (rounded off to the nearest .0001%) of Common Interest attributable to its Unit or Units. If a matter requires the consent of a Unit Owner prior to its being approved by the Condominium Board, then such action, if and when raised at a Unit Owners Meeting, shall require the consent of such Unit Owner. Notwithstanding any provision of these By-Laws or the Condominium Documents to the contrary, however, a Unit Owner (or his or her or its proxy) shall be entitled and authorized to vote at any Unit Owners Meeting or any other annual, regular or special meeting of any or all Unit Owners if, and only if, such Unit Owner shall be a Unit Owner in Good Standing at the time of such annual, regular or special meeting.

3.8 Voting By Certain Unit Owners or Groups of Units Owners. Whenever a particular percentage of Common Interest must be reached for voting purposes and such required percentage is described in terms of a specified group of Unit Owners (e.g., "fifty percent (50%) in Common Interest of all Residential Unit Owners") as opposed to all Unit Owners as a whole, such required percentage shall mean a percentage in terms of the total Common Interests attributable to all Unit Owners within such specified group and not the percentage of Common Interests attributable to all Unit Owners.

## ARTICLE 4

## OFFICERS

4.1 Designation. (a) The principal officers of the Condominium shall be a President, a Vice President, a Secretary and a Treasurer thereof, all of whom shall be elected by the Condominium Board. The Condominium Board may elect one or more Assistant Vice Presidents, Assistant Treasurers and Assistant Secretaries and such other officers as in its

judgment may be desirable. Nothing herein shall preclude any officer of the Residential Board or the Commercial Board from also being an officer of the Condominium or any officer of the Condominium from also being an officer of the Residential Board or the Commercial Board, if otherwise qualified under the terms of these By-Laws, the Residential By-Laws or the Commercial By-Laws, as the case may be; and any Condominium Board Member may also be an officer of the Condominium.

(b) An officer of the Condominium need not be a Unit Owner or have any interest therein or be a member of the Condominium Board.

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

4.2 Election of Officers. The officers of the Condominium shall each be elected annually by a majority vote of the Condominium Board (including at the first meeting thereof) and at any other meeting as may be required to fill a vacancy, and shall serve at the pleasure of the Condominium Board.

4.3 Resignation and Removal of Officers. Any officer may resign at any time by notice given to the Condominium Board; such resignation shall take effect at the time specified in such notice and, unless specifically requested by the resigning officer, acceptance of such resignation shall not be necessary to make such resignation effective. Upon a majority vote at a regular meeting of the Condominium Board, or at a special meeting of the Condominium Board called for such purpose, at which a quorum is present, any officer may be removed, either with or without cause, and his or her successor shall be elected.

4.4 President. The President of the Condominium shall be the chief executive officer of the Condominium and shall preside at all Unit Owners Meetings and at all meetings of the Condominium 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 (subject to the provisions of Section 2.12) committees from among the Board Members and/or Unit Owners, from time to time as such President, in his or her discretion, may decide are appropriate to assist in the conduct of the affairs of the Condominium.

4.5 Vice President. The Vice President of the Condominium shall take the place of the President under whom he or she serves and shall perform the duties of the President whenever the President shall be absent or unable to act. If both the President and the Vice President of the Condominium are unable to act, the Condominium Board shall appoint some other Condominium Board Member 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, from time to time, shall be imposed by the Condominium Board or by the President.

4.6 Secretary. The Secretary of the Condominium shall keep the minutes of all Unit Owners Meetings, if any, and of all meetings of the Condominium Board. The Secretary shall have charge of such books and papers as the Condominium Board shall direct and, in general, shall perform all of the duties incident to the office of secretary of a stock corporation organized under the Business Corporation Law of the State of New York.

4.7 Treasurer. The Treasurer shall have the care and custody of the funds and securities of the Condominium, and shall be responsible for keeping full and accurate financial records and books of account thereof showing all receipts and disbursements necessary for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all funds and other securities in the name of the Condominium Board (or in the name of the managing agent or manager appointed by the Condominium Board) in such depositories as may from time to time be designated by the Condominium Board and shall in general perform all of the duties incident to the office of treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

4.8 Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by the President or Vice-President, acting alone, or by any other two (2) officers thereof or by such other person or persons as may be designated by the Condominium Board. In addition to the foregoing, the Condominium Board may authorize the managing agent serving on its behalf to execute checks, provided that the expenditures, and the managing agent's paying for same, have been approved in advance by resolution of the Condominium Board or have been authorized by two (2) officers of the Condominium.

4.9 Compensation of Officers. Except as otherwise determined by a unanimous vote of the Condominium Board, no officer of the Condominium shall receive any compensation for acting as such.

4.10 Liability of Officers. To the extent permitted by applicable Law, no officer of the Condominium shall have any personal liability with respect to any contract, act or omission of the Condominium, the Condominium Board or its members or officers, or of any managing agent or manager, building engineer, superintendent or employee in connection with the affairs or operation of the Condominium (except to the extent arising from such officer's bad faith, gross negligence or willful misconduct) including, without limitation: (i) any failure or interruption of any utility or other services to be obtained by, or on behalf of, any such officer or to be paid for as a General Common Expense; or (ii) any injury, loss or damage to any individual or property, occurring in or upon either a Unit or any Common Element, which is either: (a) caused by the elements, by any Unit Owner or by any other individual; (b) resulting from electricity, water, snow or ice that may leak or flow from a Unit or any portion of any Common Element; or (c) arising out of theft or otherwise. The Condominium shall indemnify each officer of the Condominium against all Costs arising out of such officer's service in such capacity, except those matters arising out of such officer's bad faith, gross negligence or willful misconduct.

## ARTICLE 5

## NOTICES

5.1 Notices. Except as otherwise expressly provided in the Declaration or these By-Laws, all requests, notices, reports, demands, approvals and other communications required or desired to be given pursuant to the Declaration and/or the Condominium By-Laws shall be in writing and shall be delivered: (a) if to any of the Boards or Commercial Unit Owners, in person or sent to the principal office of the applicable Board or such Unit Owner, as the case may be (or to such other address as: (i) the applicable Board may designate from time to time, by notice in writing to the other Boards and such other Unit Owners; and (ii) each such Unit Owner may designate from time to time, by notice in writing to each Board and to each other such Unit Owner); and a duplicate shall be sent in like manner to the managing agent of the Condominium, of the Residential Section, of the Commercial Section and of each Commercial Unit having a managing agent, if any; (b) if to a Residential Unit, in person or sent to the address of such Unit Owner at the Building, or to such other address as may have been designated by such Unit Owner from time to time in writing to the Residential Board; and (if such notice is from a Person other than the Residential Board) a duplicate shall be sent in like manner to the Residential Board and managing agent, if any, of the Residential Section; (c) if to a Condominium Board Member, to the address of such Board Member as shall be specified in the written designation thereof by such individual's Designator (provided that, failing such specification, the address of such Designator shall be deemed to be the specified address for such Board Member), or to such other address as may have been designated by such Board Member from time to time in writing to the Secretary of the Condominium Board and to the other Condominium Board Members; and (d) if to the Registered Mortgagees, Residential Mortgagee Representatives or Office Mortgagee Representatives, either delivered in person or sent to their respective addresses, as designated by them from time to time in writing to the Condominium Board, the Residential Board or the Commercial Board, as the case may be. All notices delivered in person (to the extent permitted herein) shall be deemed to have been given when delivered in person. Unless other means of giving certain notices are specifically required or permitted pursuant to the Condominium Documents, all notices which are "sent" shall be sent either (x) by registered or certified mail, return receipt requested, and shall be deemed to have been given three (3) days after deposit in a depository maintained by the U.S. Postal Service in a postage prepaid sealed wrapper or (y) by nationally recognized overnight courier service and shall be deemed to have been given the first Business Day (for domestic delivery) and the third Business Day (for international delivery), after deposit with an overnight courier service, provided that notices of change of address shall in all events be deemed to have been given when received.

5.2 Waiver of Service of Notice; Consent to Other Notices. Whenever any notice is required to be given by applicable Law or the Condominium Documents, a waiver thereof in writing, signed by the Person or Persons entitled to such notice, whether before or after the time stated therein, shall be deemed effective as a waiver thereof and no such notice shall be required. Additionally, any Person may consent (with respect to notices given to it) to additional means of service including, without limitation, transmission by facsimile or electronic means. Such consent, if given, shall in all events be in writing and given and treated as if the same were a change of address (as described in Section 5.1 above). With respect to notices given by facsimile, the transmission shall be to a telephone number designated for such purpose. Notices

sent by facsimile shall be deemed to have been given upon receipt by the sender of a signal from the equipment of the Person served confirming that the transmission was received. A Person may change or rescind a facsimile telephone number by giving notice thereof to the Condominium Board, the Residential Board and the Commercial Board. With respect to notices given by electronic transmission (*e.g.*, e-mail), the transmission shall be in a manner authorized by the Person consenting to such transmission. The foregoing provisions of this Section 5.2 are intended to facilitate additional means of notification and shall not be construed to permit any Person to refuse receipt of any notices given in any of the manners specified in Section 5.1.

5.3 Notices by a Residential Unit Owner to the Residential Board. Notwithstanding anything contained in this Article 5, all notices required or desired to be given by a Residential Unit Owner to the Residential Board or to another Unit Owner within the Residential Section shall be given in the manner prescribed in the Residential By-Laws; however, any additional or duplicate notices required thereunder to be given to any Board and/or any other Unit Owner shall be given in any of the manner herein provided.

5.4 Notices by a Commercial Unit Owner to the Commercial Board. Notwithstanding anything contained in this Article 5, all notices required or desired to be given by a Commercial Unit Owner to the Commercial Board or to another Unit Owner within the Commercial Section shall be given in the manner prescribed in the Commercial By-Laws; however, any additional or duplicate notices required thereunder to be given to any Board and/or any other Unit Owner shall be given in any of the manner herein provided.

5.5 Record of Addresses.

5.5.1 The Condominium Board shall keep and maintain correct, current and complete records containing the names and addresses of all Condominium Board Members (and their proxies, if any), the Residential Board (and its members), the Commercial Board (and its members), Registered Mortgagees, Residential Mortgagee Representatives and Office Mortgagee Representatives. The foregoing records shall be in written form or in any other form capable of being converted into written form within a reasonable time. A Condominium Board Member, a Unit Owner, the Residential Board, the Commercial Board, any Registered Mortgagee or Residential Mortgagee Representative shall have the right to examine in person or by agent or attorney, during usual business hours on Business Days, such records and, at such Person's expense, to make extracts or copies therefrom (including electronic copies to the extent such records are in electronic form) for any purpose reasonably related to such Person's interest in the Condominium.

5.5.2 Each Sub-Board shall keep and maintain correct, current and complete records containing the names and addresses of all of its members, all of its applicable Unit Owners, Registered Mortgagees, as applicable, and Mortgagee Representatives, as applicable. The foregoing records shall be in written form or in any other form capable of being converted into written form within one Business Day. The Condominium Board shall have the right to examine in person or by agent or attorney, during usual business hours on Business Days, such records and, at the Condominium Board's expense, to make extracts or copies therefrom (including electronic copies to the extent such records are in electronic form) for any purpose

reasonably related to the exercise and fulfillment of the Condominium Board's rights and obligations, respectively, under the Condominium Documents.

## ARTICLE 6

## GENERAL COMMON EXPENSES AND CHARGES; BUDGETS; MAINTENANCE OBLIGATIONS AND COSTS; UTILITIES

6.1 Determination of General Common Expenses and Fixing of General Common Charges.

6.1.1 (a) The Condominium Board shall determine and allocate all costs and expenses incurred by the Condominium Board in connection with the operation, care, upkeep and maintenance of, and the making of Alterations to, and Repairs of, the General Common Elements (all such costs and expenses, together with all other items which are provided for in these By-Laws and the Declaration to be General Common Expenses, the "General Common Expenses"). From time to time, but at least once per year, the Condominium Board will prepare a budget ("Budget") for setting forth its projection of General Common Expenses and will allocate the General Common Expenses among the Commercial Section (as a whole) and the Residential Section (as a whole) (each, a "General Common Charge Obligor") and assess charges ("General Common Charges") accordingly to meet the General Common Expenses. General Common Charges shall also be deemed to include any Special Assessment imposed by the Condominium Board. Except as otherwise expressly set forth in the Declaration or the Condominium By-Laws, the allocation of General Common Expenses among the General Common Charge Obligors shall be made as shown in Exhibit 2 annexed hereto and made a part hereof (the "Expense Allocation Schedule"). The Condominium Board shall advise the General Common Charge Obligors promptly in writing of the amount of General Common Charges payable by each of them and shall furnish to such parties copies of each Budget on which such General Common Charges are based.

(b) The allocations methodology for the General Common Charges set forth on the Expense Allocation Schedule shall not change, except pursuant to Article 11 hereof.

(c) Pending the resolution in Arbitration of any dispute with respect to the allocation of General Common Expenses, the allocation to the affected General Common Charge Obligors of the disputed components of the General Common Expenses shall remain as determined by the Condominium Board, provided that upon such resolution, any resulting change in the allocation of such General Common Expenses shall be effective retroactive to the effective date of the allocation or re-allocation that gave rise to the dispute.

6.1.2 The Condominium Board may, at its sole discretion, from time to time increase or decrease the amount of General Common Charges allocated to and payable by the General Common Charge Obligors, and may modify its prior determination of the General Common Expenses for any fiscal year so as to increase or decrease the amount of General Common Charges payable for such fiscal year or portion thereof; however, no such revised determination of General Common Expenses shall have a retroactive effect on the amount of

General Common Charges payable for any period prior to the date of such new determination. However, a prior period's deficit may be included in General Common Charges for a subsequent period or paid from a Special Assessment levied against all General Common Charge Obligors.

6.1.3 The failure or delay of the Condominium Board to prepare or adopt a budget or to determine the General Common Expenses for any fiscal year or portion thereof shall not be deemed a waiver or modification in any respect of the covenants and provisions hereof or a release of any General Common Charge Obligor from the obligation to pay General Common Charges. In such event, the General Common Charges that were computed on the basis of the General Common Expenses last determined for any fiscal year or portion thereof shall continue thereafter to be the General Common Charges payable until a new determination of the General Common Expenses shall be made.

6.1.4 In addition to the foregoing duty to determine the amount of and assess General Common Charges, the Condominium Board shall have the right to levy special assessments ("Special Assessments") to meet the General Common Expenses. All Special Assessments shall be levied against all General Common Obligors equitably in proportion to: (a) their respective Common Interests, or (b) the anticipated benefit(s) to the affected Unit Owners, as determined by the Condominium Board (and in the latter case, all disputes with respect thereto shall be resolved in Arbitration). The Condominium Board shall have all rights and remedies for the collection of Special Assessments as are provided herein for the collection of General Common Charges.

6.1.5 Except as otherwise set forth to the contrary herein or in the Declaration, the excess of all rents, profits and revenues derived from the rental or use of any space or facility forming part of or included in any General Common Element remaining after the deduction of any non-capital expenses paid or incurred in connection therewith shall be collected by the Condominium Board, as agent for and on behalf of the Unit Owners, and shall constitute income of the Unit Owners. Notwithstanding any provision contained in these Condominium 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.

6.1.6 There shall be no right of a General Common Charge Obligor or a Unit Owner to reduce its General Common Charges by opting out of any services or waiving any benefits provided by the Condominium Board.

6.1.7 Except as otherwise provided herein, all costs and expenses in connection with the operation, care, upkeep and maintenance of, and the making of Alterations to, and Repairs of, the Residential Limited Common Elements and the Residential Section generally (the "Residential Common Expenses") shall be determined and incurred and paid by the Residential Board, and borne by the Residential Unit Owners in the manner determined by the Residential Board, but in all events in accordance with the Residential By-Laws. The Residential Board shall be the sole holder of any lien for unpaid General Common Charges, Residential Common Charges or Special Assessments that may be allocated to and/or assessed individually against Residential Unit Owners.

6.1.8 The Residential Common Charges collected by the Residential Board shall, in all instances, first be payable by the Residential Board to the Condominium Board in payment of the Residential Section's allocated share of General Common Charges and before application for any other purpose. If such priority of payment fails to occur, the Condominium Board shall have the right, without limitation, and in addition to all other remedies available at Law, to avail itself of the remedy of specific performance with respect to the obligations of the Residential Board.

6.1.9 Except as otherwise provided herein, all costs and expenses in connection with the operation, care, upkeep and maintenance of, and the making of Alterations to, and Repairs of, the Commercial Limited Common Elements and the Commercial Section generally (the "Commercial Common Expenses") shall be determined and incurred and paid by the Commercial Board, and borne by the Commercial Unit Owners in the manner determined by the Commercial Board, but in all events in accordance with the Commercial By-Laws. The Commercial Board shall be the sole holder of any lien for unpaid General Common Charges, Commercial Common Charges or Special Assessments that may be allocated to and/or assessed individually against the Commercial Unit Owners.

6.1.10 The Commercial Common Charges collected by the Commercial Board shall, in all instances, first be payable by the Commercial Board to the Condominium Board in payment of the Commercial Section's allocated share of General Common Charges and before application for any other purpose. If such priority of payment fails to occur, the Condominium Board shall have the right, without limitation, and in addition to all other remedies available at Law or otherwise set forth in the Condominium Documents, to avail itself of the remedy of specific performance with respect to the obligations of the Commercial Board.

6.1.11 Except as otherwise provided herein, all costs and expenses in connection with the operation, care, upkeep and maintenance of, and the making of Alterations to, and Repairs of the Main Lobby ("Main Lobby Common Expenses") shall be determined by the Residential Board, as agent for the Condominium Board (with exclusive control, and decision-making authority, over and with respect to the staffing, insuring, operation, management, maintenance, repair and restoration, etc. of the Main Lobby), and charges therefor (the "Main Lobby Common Charges") shall be an expense of and paid by the Residential Board and the Commercial Board, and borne by the Residential Owners and Commercial Owners in proportion to their respective Common Interests or as otherwise set forth on the Expense Allocation Schedule, although each of the Residential Board and Commercial Board may allocate such expenses among the Unit Owners in its applicable Section in its discretion, but in all events subject to the terms of its applicable Sub-By-Laws. The Main Lobby Common Charges shall include all costs and expenses in connection with the operation, care, upkeep and maintenance of, and the making of Alterations to, and Repairs of, the Main Lobby (including a reasonable fee for the Residential Board's administration of the Main Lobby and any management fee paid by the Residential Board to the Residential Managing Agent).

6.2 Payment of General Common Charges. All General Common Charge Obligors shall be obligated to pay General Common Charges assessed by the Condominium Board pursuant to the provisions of Section 6.1 at such time or times (but not less than monthly) as the

Condominium Board determines. Unless otherwise determined by the Condominium Board, General Common Charges shall be payable monthly, in advance, on the first day of each month.

6.3 Maintenance Obligations; Costs of Same.

6.3.1 General. Except as otherwise provided in the Declaration or these By-Laws (including, without limitation, Section 6.3.2 and Article 8 hereof), all operation, care, upkeep, maintenance, insurance, Repairs and Alterations, painting and decorating, whether structural or non-structural, ordinary or extraordinary, including, without limitation, with respect to the building systems and other plumbing, heating, ventilating, electrical (including emergency power systems), air-conditioning and telecommunications systems, fixtures, Equipment and appliances:

(a) in or of the Residential Section (but excluding any General Common Elements that may be included therein, as and to the extent provided in these By-Laws) shall be made or performed in the manner, and by and at the sole cost and expense of the Residential Unit Owners, as is provided for, described and allocated within the Residential By-Laws;

(b) in or of the Commercial Section (but excluding any General Common Elements that may be included therein, as and to the extent provided in these By-Laws) shall be made or performed in the manner, and by and at the sole cost and expense of the Commercial Unit Owners, as is provided for, described and allocated within the Commercial By-Laws;

(c) in or of and exclusively relating to a Unit (but excluding any Common Elements that may be included therein, as and to the extent provided in these By-Laws) shall be made or performed by the Unit Owner thereof at its sole cost and expense; and

(d) in or of the General Common Elements shall be made or performed by the Condominium Board and the cost and expense thereof shall be charged as a General Common Expense to the General Common Charge Obligors as and in the manner provided in these By-Laws.

6.3.2 Exceptions. Notwithstanding the provisions of Section 6.3.1:

(a) Negligence; Fault. In the event and to the extent that any operation, care, upkeep, maintenance, Repair and Alteration, painting and decorating, whether structural or non-structural, ordinary or extraordinary (collectively, any "Necessary Work"), is required to be made or performed, or any increase in insurance premiums is required to be paid, the entire cost thereof (the "Resulting Cost") with respect to the General Common Elements as a result of the negligence, misuse, neglect or abuse of: (i) the Residential Board or its Occupants or Permittees (including, for the purposes of this Section, the Residential Unit Owners), the Resulting Cost shall be borne by the Residential Board as an obligation of such Board (but the Residential Board may for its own purposes allocate such cost to one or more Residential Unit Owners if such cost is attributable to such Unit Owner(s), or as otherwise provided in the Residential By-Laws); or (ii) the Commercial Board or its Occupants or Permittees (including, for purposes of this Section, the Commercial Unit Owners), the

Resulting Cost shall be borne by the Commercial Board as an obligation of such Board (but the Commercial Board may for its own purposes allocate such cost to one or more Commercial Unit Owners if such cost is attributable to such Unit Owner(s), or as otherwise provided in the Commercial By-Laws); except, with respect to all of the foregoing in each case, to the extent that the Resulting Cost is covered by the proceeds of any insurance actually maintained, or would have been so covered had the insurance that was required to be maintained pursuant to the provisions of these Condominium By-Laws, the Residential By-Laws or the Commercial By-Laws actually been maintained. The Resulting Cost shall not be deemed covered by insurance proceeds pursuant to the preceding sentence to the extent of any applicable deductibles. The foregoing shall not give rise to any claim on the part of any Person for consequential, special, exemplary or punitive damages.

(b) Cleaning of Windows. The washing and cleaning of interior glass surfaces of the exterior windows of the Building shall be the responsibility of the respective Unit Owner(s) (or the Sub-Board(s), as applicable) into whose Unit(s) (or Limited Common Element(s), as applicable) such windows face. All window interiors shall be cleaned a minimum of four (4) times per calendar year. The Condominium Board may from time to time enforce the responsibility of Unit Owners (or Sub-Boards) to wash and clean the interior surfaces of windows as aforesaid. The exterior glass surfaces of the exterior windows of the Building will be washed and cleaned at the direction of the Condominium Board and the cost thereof charged as a General Common Expense of all General Common Charge Obligors.

(c) Repair or Replacement of Windows. Any repair or replacement of exterior glass windows in the Building, because of breakage or otherwise, shall be made, by, subject to the provisions of the Condominium Documents (*e.g.*, regarding consents required in connection with Alterations and/or Repairs) and at the expense of the Person charged (as set forth in subsection (b) above) with the exterior cleaning thereof (although each of the Residential Board and the Commercial Board may allocate and assess the cost thereof in accordance with the terms of the applicable Sub-By-Laws). The cost of any window replaced by the Condominium Board shall be charged to the General Common Charge Obligors as a General Common Expense, on an allocated basis (as shown on the Expense Allocation Schedule), unless such breakage is caused by or attributable to the negligence, misuse or abuse of a Board or a Unit Owner or its Occupants or Permittees, in which event such replacement of glass windows shall be made by the Condominium Board and the cost thereof shall be allocated as described in subsection 6.3.2(a) above.

(d) Certain General Common Elements. Subject to the foregoing terms of this Section 6.3.2 and Article 8 of these By-Laws and Article 15 of the Declaration, all operation (including the cost of any utilities), care, upkeep, maintenance, Repairs and Alterations (subject to the next sentence), and painting and decorating, of any General Common Element over which any Unit Owner has exclusive control and an exclusive right to use, shall be made by the applicable Unit Owner having such control and right (as provided in Article 15 of the Declaration) at its/their sole cost and expense, but in each case subject to the reasonable approval of the Condominium Board. Subject to Sections 6.3.2(a) and 8.3 hereof, any structural or extraordinary Repairs or Alterations of or to such category of General Common Elements shall be made by the Condominium Board and charged to the General Common

Charge Obligors as a General Common Expense and allocated as shown on the Expense Allocation Schedule.

(e) Roofs; Roof Telecom Platforms. Although maintenance and Repairs of the roof, as General Common Elements, shall be made by the Condominium Board and chargeable to the General Common Charge Obligors as a General Common Expense, if Project Declarant or its designee having such right exercises its right under Article 15 of the Declaration to install and erect, use, lease, license, maintain, repair, replace, and operate a platform and other facilities for the purpose of erecting, using, leasing, licensing, maintaining, repairing, replacing and operating antennae, satellite dishes and other communications equipment on the roof of the Building, which shall be the property of Project Declarant on the roof of the Condominium, then the maintenance and Repair of any such platform and other facilities, whether ordinary or extraordinary in nature, shall be the obligation of, and the expense thereof shall be borne by Project Declarant or its designee.

6.3.3 Manner of Performing Maintenance and Repairs. All maintenance and Repairs by any Unit Owner or Board shall be made in accordance with the applicable provisions of Article 8 hereof as if the references therein to Alterations were references to maintenance and Repairs.

6.3.4 Standard of Maintenance. Each Unit (and all portions thereof), each Residential Limited Common Element, Commercial Limited Common Element and the General Common Elements shall be kept and maintained in a good and proper manner, consistent with standards of maintenance and appearance as are commensurate with other similar properties in the vicinity of the Building, by whichever Person is responsible for the maintenance and Repair thereof under the Condominium Documents; and each such Unit Owner or Board shall promptly make or perform, or cause to be made or performed, all maintenance work, Repairs, Alterations, painting or decoration as are necessary in connection therewith and to ensure that such Unit, Residential Limited Common Element, Commercial Limited Common Element and General Common Element meets or exceeds such standards.

6.4 Utility Services. Utilities are provided and supplied to the Property and are distributed within the Building to each Utility Service Area and to the General Common Elements, and shall be paid for, as hereinafter set forth. For purposes of this Section 6.4, a "Utility Service Area" means the Commercial Section and the Residential Section.

6.4.1 Electricity.

(a) General. Electricity service for the Building will be provided by Consolidated Edison Company of New York, Inc. ("Con Edison") or other utility company/ies or supplier(s) from time to time serving the Property and distributed to and for each Utility Service Area. Electricity usage in the Building will be measured through one or more direct electric meters; and then submetered to each of the Commercial Section and Residential Section. Each of the Commercial Board and Residential Board shall be required to make payment for electricity usage in its applicable portion of the Property in accordance with such submeters to the Condominium Board which shall be responsible for paying the utility company/ies or supplier(s) supplying such electricity.

(b) Direct Metering. Notwithstanding the foregoing, in the event and to the extent that any General Common Charge Obligor shall at any time have or arrange to have all or some of its electricity service supplied directly and exclusively to and for all or any portion of its Utility Service Area, by Con Edison or another utility or supplier, the cost of such electricity shall be paid by such General Common Charge Obligor directly to such supplier and the Condominium Board shall not be obligated to pay any part of any cost required for such direct electric service.

6.4.2 Gas. Gas for the Building will be supplied by Con Edison or other utility company/ies or supplier(s) from time to time serving the Property. Each General Common Charge Obligor having or arranging to have gas service supplied and metered directly to all or any portion of its Utility Service Area shall pay the cost of such gas service directly to the applicable utility company or supplier and the Condominium Board shall not be obligated to pay any part of any cost required for such direct gas service.

6.4.3 Domestic Water; Sewer Rents. Domestic water and sewer services for the Building shall be supplied by The City of New York or other utility servicing the Property. Domestic water supplied to each Utility Service Area for the benefit of the applicable General Common Charge Obligor will be sub-metered by the Condominium Board; and each General Common Charge Obligor shall be required to make payment therefor to the Condominium Board, which shall be responsible for paying the domestic water and sewer charges to The City of New York (or other utility).

6.4.4 Chilled Water. Chilled water (for air conditioning) will be provided by the Condominium Board throughout the Building. Chilled water supplied to each Utility Service Area for the benefit of the applicable General Common Charge Obligor will be sub-metered by the Condominium Board; and each General Common Charge Obligor shall be required to make payment to the Condominium Board in respect of the allocated costs and charges therefor.

6.4.5 Steam. Steam for the Building will be supplied by Con Edison or other utility company/ies or supplier(s) from time to time serving the Property. Steam for the Building shall be purchased by the Condominium Board from Con Edison in bulk. The charges for any other steam utilized at the Residential Section shall be paid by the Residential Board as a Residential Common Expense and allocated to the Residential Units on the basis of percentage of Common Interests, and the charges for any other steam utilized at the Commercial Section shall be paid by the Commercial Board as a Commercial Common Expense and allocated to the Commercial Units on the basis of percentage of Common Interests. The steam charges in respect of the General Common Elements shall be allocated among the General Common Charge Obligor as set forth in the Expense Allocation Schedule.

6.4.6 Utilities for General Common Elements. The usage and consumption of electricity, gas, domestic water, sewer service, chilled water, steam and any other utility by, for or in respect of the General Common Elements will be separately metered, submetered or otherwise determined and the costs and charges therefor will be allocated among the General Common Charge Obligors as a General Common Expense as set forth in the Expense Allocation Schedule.

6.4.7 Utility Costs Payable as General Common Charges. The Condominium Board may require each General Common Charge Obligor to pay monthly in advance to the Condominium Board the charges reasonably estimated or anticipated as being attributable to each such General Common Charge Obligor with respect to the aforementioned utilities. All such estimated charges shall be subject to periodic adjustment based upon actual usage.

6.4.8 Meter Readings.

(a) The Condominium Board shall, as necessary, engage the services of a reputable meter reading and/or billing company to act on its behalf in properly billing and accounting for each General Common Charge Obligor's share of utility costs reimbursable to the Condominium Board.

(b) All such billings to General Common Charge Obligors by or on behalf of the Condominium Board with respect to metered or submetered utilities shall be at the Building's and/or Condominium Board's cost; except that the allocable cost of reading the meters or submeters of each General Common Charge Obligor may be added to the charges payable to the Condominium Board by each such General Common Charge Obligor.

6.4.9 Further Submetering. Each General Common Charge Obligor shall have the right to sub-submeter or allocate, as applicable and as determined in its sole discretion, all or any portion of the utilities within its Utility Service Area and, to bill or otherwise collect amounts from its Occupants, Residential Unit Owners or Commercial Unit Owners, as the case may be, with respect thereto. The individual Residential Unit Owners shall pay their share of their Residential Section's utility costs to the Residential Board in the manner provided in the Residential By-Laws. The Commercial Unit Owners shall pay their share of the Commercial Section utility costs to the Commercial Board in the manner provided in the Commercial By-Laws. No such sub-submetering or other allocations or arrangements made by a General Common Charge Obligor, however, shall affect or diminish the primary obligation of such General Common Charge Obligor to the Condominium Board with respect to any such charges, as applicable.

## ARTICLE 7

## REAL ESTATE TAXES; TAX CERTIORARI PROCEEDINGS

7.1 Real Estate Taxes; Impositions.

7.1.1 Until the Units are separately assessed and billed for real estate tax purposes, the Condominium Board will pay all real estate taxes with respect to the Property to the Department of Finance of The City of New York (or directly to Declarant if and to the extent Declarant has paid such taxes) and allocate the cost thereof (and all refunds thereof) among all the Units on the basis of the Common Interest. Such taxes will be paid by the Condominium Board in a timely manner so that no lien will be placed on the Property or on any Unit. 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 or allocated to any other Unit(s). Each Unit Owner shall be responsible for the Impositions payable in respect of its Unit.

7.2 Tax Certiorari Proceedings. The Commercial Board, on behalf of and as agent for the Commercial Unit Owners or the Residential Board for the benefit and on behalf of the Residential Unit Owners, shall (or shall cause the Condominium Board on its behalf to) commence, pursue and settle certiorari proceedings to obtain reduced real estate tax assessments with respect to such Unit Owners' Units as and to the extent set forth in the Residential By-Laws or Commercial By-Laws.

## ARTICLE 8

## ALTERATIONS

8.1 Alterations to Units.

8.1.1 Except as otherwise provided in the Declaration, no Unit Owner (other than Project Declarant or its designee as the owner of Unsold Units, or Sponsor or its designee as the owner of Unsold Residential Units or Unsold Office Units) shall make any Alteration or Repair in or to its Unit if the same would affect the structure or systems of the Building, without the prior written approval of the Condominium Board, which approval will not be unreasonably withheld. Prior to, and as a condition of, the granting of its consent to the making of any such Alteration or Repair in or to a Unit (to the extent such consent is required), the Condominium Board, at its option, may 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 may be made.

8.1.2 All Repairs which would affect the structure or systems of the Building and all Alterations to any Unit shall be made in accordance with plans and specifications, which plans and specifications shall be subject to review and approval by the Condominium Board. All Alterations shall be performed: (i) at the Unit Owner's sole cost and expense; (ii) in a manner which will not interfere with, or cause any labor disturbances or stoppages in, the work of Condominium employees or other contractors or subcontractors employed in the Units or the Building; (iii) during only such days and hours as may be specified by the Condominium Board in its reasonable judgment; (iv) only after obtaining such insurance, naming the Condominium Board and its managing agent, the Residential Board and its managing agent, and the Commercial Board and its managing agent as additional insureds, as the Condominium Board may require; (v) employing such architects, engineers, contractors, subcontractors, suppliers and other laborers who are on the managing agent's then approved list, as such list may change from time to time, in the sole discretion of the Condominium Board; and (vi) in compliance with the Declaration, these By-Laws, the Residential By-Laws (including the Residential Rules and Regulations), as applicable, the Commercial By-Laws (including the Commercial Rules and Regulations, if any), as applicable, and the General Rules and Regulations, if any, the overall Building standards and all Laws.

8.1.3 The Unit Owner performing or causing, permitting or suffering such Alterations to be performed shall, if required by the Condominium Board, pay the cost of (x) any necessary amendment of the Declaration and the floor plans of the Condominium, if appropriate, to reflect any such Alterations, (y) obtaining all necessary governmental permits, authorizations, certificates and licenses for the commencement and completion of any Alterations (and copies

thereof shall be delivered to the Condominium Board promptly after the issuance thereof and prior to the commencement of any Alterations or Repairs), and obtaining any amendment to the Certificate of Occupancy for such Unit, if necessary, and (z) any architectural, engineering and legal fees incurred by the Condominium Board in connection with such work. Neither the Condominium Board nor any Unit Owner (other than the Unit Owner making or causing, permitting or suffering any Alterations to be made in or to its Unit) shall incur any liability, cost, or expense either: (a) in connection with the preparation, execution, or submission of the applications referred to above; (b) to any contractor, subcontractor, supplier, architect, engineer or laborer on account of any Alterations made or caused, permitted or suffered to be made by any Unit Owner; (c) to any person or entity asserting any claim for personal injury or property damage arising therefrom; or (d) arising out of a Unit Owner's failure to obtain any permit, authorization, certificate or license, or to comply with the Declaration, these By-Laws, the Residential By-Laws (including the Residential Rules and Regulations), as applicable, the Commercial By-Laws (including the Commercial Rules and Regulations, if any), as applicable, and the General Rules and Regulations, if any, and all Laws insofar as the same relate to Alterations. A Unit Owner making or causing, permitting or suffering any tenant or occupant to make, any Alteration shall be deemed to have agreed to indemnify and hold the Condominium Board and its managing agent, the Residential Board and its managing agent, the Commercial Board and its managing agent and all other Unit Owners harmless from and against any liability, loss, cost, or expense arising therefrom, and from and against all Costs resulting from, arising out of, or in any way connected with, any of the foregoing.

8.1.4 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 an Alteration in or to any Unit so approved by the Condominium Board shall, if required by Law or such department or authority, be executed by the Condominium Board, provided that the Condominium Board shall not incur any liability, cost or expense in connection with such application or to any contractor, subcontractor, supplier, architect or engineer on account of such Alteration or to any person having any claim for injury to person or damage to property arising therefrom.

8.1.5 Notwithstanding anything to the contrary contained in this Section 8.1 (but subject to all Laws), however, Project Declarant, Sponsor and their designees shall have the right pursuant (and subject) to the terms of the Declaration, without the approval of any Board, to: (i) make any Alterations and Repairs in or to any Unsold Units, whether structural or non-structural, interior or exterior, ordinary or extraordinary; and (ii) subdivide, combine and change the boundary walls of Unsold Units, including the right to create additional Units by, among other things, subdividing and reconfiguring the Unsold Units and, in connection with such subdivision and reconfiguration, redesignating in an amendment to the Declaration, among other things, a portion of a subdivided Unsold Unit of one type as a Unit of another type (specifically including the right to create additional Office Units by, among other things, subdividing and reconfiguring the Retail Units and, in connection with such subdivision and reconfiguration, redesignating in an amendment to the Declaration a portion of a subdivided Retail Unit's space as an additional Office Unit). Additionally, an initial purchaser of an Unsold Unit shall have the right, without the approval of the Board, to make any Alterations in or to its Unit, provided that Project Declarant, Sponsor or their designee has consented to the same in writing at or prior to

the initial closing of title to such Unit, and that such purchaser complies with all of the other requirements of this Article 8.

8.1.6 In addition to the requirements set forth above in this Section 8.1, until a permanent Certificate of Occupancy is obtained for the Building, no Unit Owner shall make any Alterations in or to its Unit without first notifying Project Declarant and Sponsor of the same in writing and complying with Project Declarant's and Sponsor's reasonable requirements with respect to the same. Such requirements may include, but need not be limited to, the requirements that:

(a) such work not include any change that would result in a delay in obtaining a temporary or permanent Certificate of Occupancy for the Building, or any amendment to, or extension of, the same if theretofore issued;

(b) the Unit Owner posts a bond or other similar security that is reasonably acceptable to the Board, Project Declarant or Sponsor in an amount sufficient (in Project Declarant or Sponsor's reasonable judgment) to insure the diligent completion of the work and the filing of any required notices or certificates with respect to such work and the completion of the same with all Governmental Authorities having jurisdiction;

(c) such work not be commenced until the Unit Owner causes all required plans, specifications, notices and/or certifications to be filed with all Governmental Authorities having jurisdiction, procures all required permits and licenses with respect to the same, and delivers copies of all such plans, specifications, notices, certifications, permits and licenses to the Board, Project Declarant and Sponsor;

(d) such work be diligently prosecuted to completion in compliance with all plans, specifications, notices and/or certifications and in conformity with all permits and licenses;

(e) the Board, Project Declarant and Sponsor and their representatives shall be given reasonable opportunity, from time to time, to inspect such work as it progresses;

(f) promptly after the completion of such work, all necessary inspections and approvals of the same shall be obtained, all necessary notices and/or certifications shall be filed with the appropriate Governmental Authorities and the Board, Project Declarant and Sponsor shall be given a copy of all such inspections, approvals, notices and certifications;

(g) the Unit Owner shall indemnify and hold the Board, Project Declarant and Sponsor harmless from any cost, expense, claim, or liability arising, directly or indirectly, from such work, including, without limitation, any cost, expense, claim, or liability incurred or suffered by the Board, Project Declarant and Sponsor due to any violation of a Law or due to any delay in obtaining a temporary or permanent Certificate of Occupancy for the Building (or any amendment to, or extension of, the same if theretofore issued) as a result of such work or the failure to make all appropriate governmental filings in connection with the same; and

(h) all contractors shall be duly licensed to the extent required by applicable Laws and, if required under any contract with any union whose members are performing services at the Building (including, without limitation, services directly or indirectly at the behest, for the benefit, or for the account of Project Declarant or Sponsor, any other Unit Owner, or Board), such work shall be performed solely by union members.

8.1.7 If any Unit Owner commences any such Alterations in violation of the foregoing terms and conditions, or fails to comply with the reasonable requirements of the Board, Project Declarant or Sponsor in connection with the same, the Board, Project Declarant or Sponsor, as the case may be, shall be entitled to cause such work by the Unit Owner to be halted, including, without limitation, to cause the managing agent to deny access to the Building to the Unit Owner's workers and suppliers, until the Unit Owner complies with the same. During the period until such Unit Owner is permitted hereunder to resume its work, the Board, Declarant and Sponsor shall have the right to perform any and all work in and to such Unit Owner's Unit as shall be necessary, in the Board, Declarant or Sponsor's sole judgment, in order to avoid any delay in obtaining a temporary or permanent Certificate of Occupancy for the Building (or any amendment to, or extension of, the same if theretofore issued), whether or not such work shall be in compliance with the plans and specifications for the work theretofore performed by, or on behalf of, such Unit Owner. The cost and expense of any such work performed by the Board, Declarant or Sponsor, as the case may be, shall be borne by such Unit Owner and shall be paid to the Board, Declarant or Sponsor, as applicable, within fifteen (15) days of written demand therefor.

8.2 Alterations to Residential Units and Residential Limited Common Elements. Unless otherwise provided in the Residential By-Laws, the Residential Board shall have the exclusive right to make Alterations to the Residential Limited Common Elements (other than those appurtenant to a Residential Unit Owner's Unit, if any). In addition, subject in all events to the provisions hereof regarding conflicting terms, Alterations to the Residential Units and the Residential Limited Common Elements shall be further subject to such additional terms, conditions and requirements as may be contained in the Residential By-Laws from time to time or as shall be imposed by the Residential Board (including, without limitation, requiring that any approvals or consents required or permitted to be obtained by a Residential Unit Owner from the Condominium Board, a Unit Owner other than another Residential Unit Owner or the Commercial Board be obtained by the Residential Board on the Residential Unit Owner's behalf). Any of the foregoing requirements and authority of the Condominium Board set forth in Section 8.1 may be delegated by the Condominium Board to the Residential Board with the agreement of the Residential Board.

8.3 Alterations to Commercial Units and Commercial Limited Common Elements. Unless otherwise provided in the Commercial By-Laws, the Commercial Board shall have the exclusive right to make Alterations to the Commercial Limited Common Elements (other than those appurtenant to a Commercial Unit Owner's Unit, if any). In addition, subject in all events to the provisions hereof regarding conflicting terms, Alterations to the Commercial Units and the Commercial Limited Common Elements shall be further subject to such additional terms, conditions and requirements as may be contained in the Commercial By-Laws from time to time or as shall be imposed by the Commercial Board (including, without limitation, requiring that any approvals or consents required or permitted to be obtained by a Commercial Unit Owner

from the Condominium Board, a Unit Owner other than another Commercial Unit Owner or the Residential Board be obtained by the Commercial Board on the Commercial Unit Owner's behalf). Any of the foregoing requirements and authority of the Condominium Board set forth in Section 8.1 may be delegated by the Condominium Board to the Commercial Board with the agreement of the Commercial Board.

8.4 Alterations to General Common Elements.

8.4.1 Cost and Approval. Alterations in or to any General Common Element may be made only by the Condominium Board, authorized in accordance with the provisions hereof and the cost thereof shall be charged to the General Common Charge Obligors in accordance with Article 6 hereof.

8.4.2 Without Consent of Affected Unit Owner(s) or Board(s). Notwithstanding any other provision of the Condominium Documents, to the extent that any Alteration (including Repair) of the General Common Elements is necessary to comply with Laws or Insurance Requirements, or for the health or safety (but not the general comfort or welfare) of the Unit Owners or their Occupants or Permittees or in the case of an Emergency, the Condominium Board may make and perform the same without the consent of any Unit Owner(s) or any other Board that would, or whose Unit(s) or Limited Common Elements would, be affected thereby.

8.5 Subdivision and Combination of Commercial Units other than Office Units. Each of the Commercial Unit Owners (other than Office Unit Owners) will have the right to alter, divide, subdivide and combine portions of its Unit subject to the provisions of all applicable Laws, the Declaration and these By-Laws.

## ARTICLE 9

## MECHANIC'S LIENS, VIOLATIONS; COMPLIANCE WITH LAWS AND INSURANCE REQUIREMENTS; HAZARDOUS MATERIALS

9.1 Mechanic's Liens. In the event that any mechanic's lien is filed against any Unit or other portion of the Property as a result of services provided or materials furnished to, or Alterations or Repairs or other work performed for: (a) a Commercial Unit Owner (or such Unit Owner's Occupants or Permittees) with respect to all or any portion of its Unit, or any Commercial Limited Common Elements over which it exercises exclusive control pursuant to the Declaration or the Commercial By-Laws; or a Residential Unit Owner (or such Unit Owner's Occupants or Permittees) with respect to its Unit, or any Residential Limited Common Elements over which it exercises exclusive control pursuant to the Declaration or the Residential By-Laws (each such Unit Owner, for purposes of this Section 9.1, being referred to as the "Lien-Causing Unit Owner"); (b) the Residential Board (or its managing agent or such Board's Occupant's or Permittees) with respect to the Residential Limited Common Elements (other than those over which one or more Residential Unit Owners exercises exclusive control pursuant to the Declaration or the Residential By-Laws) or any Unit owned by the Residential Board or its designee; or (c) the Commercial Board (or its managing agent or such Board's Occupant's or Permittees) with respect to the Commercial Limited Common Elements (other than those over which one or more Commercial Unit Owners exercises exclusive control pursuant to the

Declaration or the Commercial By-Laws); (d) the Condominium Board (or its managing agent or such Board's Occupants or Permittees) with respect to the General Common Elements or any Unit owned by the Condominium Board or its designee (in each such case (b), (c) or (d), for purposes of this Section, such Board being referred to as the "Lien-Causing Board"), or alleged to have been provided or furnished to, or performed for, any such Lien-Causing Unit Owner or Lien-Causing Board, as the case may be, then such Lien-Causing Unit Owner or Lien-Causing Board shall promptly notify the Condominium's managing agent (or, if there is no managing agent, the Condominium Board) of same, and shall cause such lien to be released and discharged of record, either by paying the indebtedness which gave rise to such lien or by posting a bond or other security as shall be required by law to obtain such release and discharge, in each case within sixty (60) days after receiving from the Residential Board, Commercial Board or Unit Owner whose Unit (and/or Residential Limited Common Element or Commercial Limited Common Element, as applicable) has been adversely affected by such mechanic's lien, or from the Condominium Board if any General Common Elements have been adversely affected by such mechanic's lien, a notice (a "Lien Notice") identifying the lien and requesting that the same be released or discharged, failing which: (y) the Condominium Board (in the case of a Lien-Causing Unit Owner or the Residential Board or Commercial Board that is a Lien-Causing Board), or (z) each of the Unit Owners, the Residential Board or the Commercial Board (if the Condominium Board is the Lien-Causing Board), shall have the rights set forth in Article 12 of these By-Laws. For purposes of this Section 9.1, the Residential Board, Commercial Board or Unit Owner shall be deemed to be "adversely affected" by a mechanic's lien (which is the responsibility of a Lien-Causing Unit Owner or Lien-Causing Board to remove, as aforesaid) if: (i) in the case of the Residential Board or Commercial Board that is affected, any of the Residential Units within its Residential Section, or any of the Commercial Units within its Commercial Section, any Residential Limited Common Elements within the Residential Section or any Commercial Limited Common Elements within the Commercial Section, or (ii) in the case of a Unit Owner that is affected, such Unit Owner's Unit and/or any Limited Common Elements over which such Unit Owner exercises exclusive control pursuant to the Condominium Documents, as applicable, is/are reasonably purportedly (whether or not actually) encumbered by or subjected to the mechanic's lien (provided such mechanic's lien arises from services provided or materials furnished to, or Alterations or Repairs or other work performed for or alleged to have been provided or furnished to, or performed for, the Lien-Causing Unit Owner or the Lien-Causing Board, and not by, to or for the putatively "adversely affected" Unit Owner or Board or its/their Occupants or Permittees). In all events, the Lien-Causing Unit Owner or Board shall defend, protect, indemnify and hold harmless all other Unit Owners and Boards (and their Occupants) from and against any and all Costs arising out of or resulting from the applicable mechanic's lien. Copies of all Lien Notices sent by the Residential Board, Commercial Board or Unit Owner shall be simultaneously sent to the Condominium Board.

9.2 Violations. In the event that any violation shall be noted or noticed against any Unit or other portion of the Property as a result of any condition at the Property created or suffered by or existing with respect to: (a) a Commercial Unit Owner (or such Unit Owner's Occupants or Permittees) with respect to all or any portion of its Unit, or any Commercial Limited Common Elements over which it exercises exclusive control pursuant to the Declaration or the Commercial By-Laws; or a Residential Unit Owner (or such Unit Owner's Occupants or Permittees) with respect to its Unit, or any Residential Limited Common Elements over which it exercises exclusive control pursuant to the Declaration or the Residential By-Laws (each such

Unit Owner, for purposes of this Section 9.2, being referred to as the "Violation-Causing Unit Owner"); (b) the Residential Board (or its managing agent or such Board's Occupant's or Permittees) with respect to the Residential Limited Common Elements (other than those over which one or more Residential Unit Owners exercises exclusive control pursuant to the Declaration or the Residential By-Laws) or any Residential Unit owned by the Residential Board or its designee; or (c) the Commercial Board (or its managing agent or such Board's Occupant's or Permittees) with respect to the Commercial Limited Common Elements (other than those over which one or more Commercial Unit Owners exercises exclusive control pursuant to the Declaration or the Commercial By-Laws) or any Commercial Unit owned by the Commercial Board or its designee; (d) the Condominium Board (or its managing agent or such Board's Occupants or Permittees) with respect to the General Common Elements or any Unit owned by the Condominium Board or its designee (in each such case (b), (c) or (d), for purposes of this Section, such Board being referred to as the "Violation-Causing Board"), the Violation-Causing Unit Owner or the Violation-Causing Board, as the case may be, shall promptly notify the Condominium's managing agent (or, if there is no managing agent, the Condominium Board) of same, and shall cause the violation to be removed and the condition giving rise to the violation to be cured, in each case within sixty (60) days after receiving, from the Residential Board, Commercial Board or Unit Owner whose Unit or Residential Limited Common Element or Commercial Limited Common Element, as applicable, has been adversely affected by such violation, or from the Condominium Board if any General Common Elements have been adversely affected by such violation, a notice (a "Violations Notice") identifying the violation and requesting that the same be removed and the condition giving rise to it be cured (provided that if such violation cannot, notwithstanding diligent efforts, be removed and/or such condition cured within such sixty (60) day period, the Violation-Causing Unit Owner or the Violation Causing Board, as the case may be, commences the removal of such violation and/or the curing of such condition as promptly as practicable within such sixty (60) day period and thereafter proceeds with diligence and continuity to complete such removal and/or cure); failing which: (y) the Condominium Board (in the case of a Violation-Causing Unit Owner or the Residential Board or Commercial Board that is a Violation-Causing Board), or (z) each of the Unit Owners and the Sub-Boards (if the Condominium Board is the Violation-Causing Board), shall have the rights set forth in Article 12 of these By-Laws. For purposes of this Section 9.2, a Board or a Unit Owner shall be deemed to be "adversely affected" by a violation or condition giving rise to a violation (which is the responsibility of a Violation-Causing Unit Owner or Violation-Causing Board to remove or cure, as aforesaid) if: (i) in the case of the Residential Board or Commercial Board that is affected, any of the Residential Limited Common Elements or Commercial Limited Common Elements, as applicable; or (ii) in the case of a Unit Owner that is affected, any of such Unit Owner's Unit or appurtenant Limited Common Elements over which such Unit Owner exercises exclusive control pursuant to the Condominium Documents, as applicable, in each case, is/are reasonably purportedly (whether or not actually) subjected to the violation or the violation is noted against same (provided such violation arises from a condition at the Property created or suffered by the Violation-Causing Unit Owner or the Violation-Causing Board, and not by the putatively "adversely affected" Unit Owner, Residential Board or Commercial Board or its/their Occupants or Permittees). In all events, the contesting Unit Owner or Board shall defend, protect, indemnify and hold harmless all other Unit Owners and Boards (and their Occupants) from and against any and all Costs arising out of or resulting from any proceeding undertaken pursuant to this Section 9.2 or the underlying violation or non-compliance related

thereto. Copies of all Violations Notices sent by the Residential Board, Commercial Board or Unit Owner shall be simultaneously sent to the Condominium Board.

9.3 Compliance With Laws, Insurance Requirements. Each Unit Owner and each Board, without cost or expense to the other Unit Owner(s) and Boards (except that costs and expenses incurred by the Condominium Board pursuant to this sentence are General Common Expenses), shall promptly comply and/or cause its Occupants or Permittees to comply with all Laws and Insurance Requirements applicable to such Unit Owner's or Board's Unit, Limited Common Elements or General Common Elements, as applicable; provided, however, that each Unit Owner and each Board shall have the right to contest, by appropriate legal or administrative proceedings diligently conducted in good faith, the validity or applicability to it of any such Law or Insurance Requirement and may delay compliance until a final decision has been rendered in such proceedings and appeal is no longer possible, unless such delay is reasonably likely to (1) render the other Unit(s) or any portion of any of the Common Elements liable to forfeiture, involuntary sale or loss, (2) result in involuntary closing of any business conducted thereon or therein, (3) subject another Unit Owner or Board to potential or real civil or criminal liability, (4) impair or prohibit any insurance required to be maintained hereunder or under any of the other Condominium Documents, or (5) subject any other Unit or Common Element to any lien or encumbrance, in which case (with respect to any of the foregoing clauses (1)-(5)) the contesting Unit Owner or Board shall immediately take such steps as may be necessary to prevent any of the foregoing, including posting bonds or security for complying with such Law or Insurance Requirement. If such alternate measures shall not be effective to prevent any of the foregoing, then such contesting Person shall comply with the applicable requirements pending the resolution of any such contest. Each non-contesting Unit Owner and Board shall cooperate to the fullest extent necessary with any contesting Unit Owner or Board in any proceeding undertaken pursuant to this provision, including executing necessary documents or consents to such contest, provided all costs and expenses incurred with respect thereto are paid by the contesting Unit Owner or Board, as the case may be. In all events, the contesting Unit Owner or Board shall defend, protect, indemnify and hold harmless all other Unit Owners and Boards (and their Occupants) from and against any and all Costs arising out of or resulting from any proceeding undertaken pursuant to this Section 9.3 or the underlying violation or non-compliance related thereto.

9.4 Hazardous Materials. No Unit Owner (or its Occupants or Permittees) or Board shall store, use or permit the storage or use of Hazardous Materials on, about, under or in its Unit, Limited Common Element or otherwise in or on the Property, except to the extent that such Hazardous Materials are necessarily and customarily used in the ordinary course of usual business operations conducted thereon (in the case of the Commercial Units), and any such storage and/or use shall at all times be in compliance with all applicable Environmental Laws. Each Unit Owner and Board shall defend, protect, indemnify and hold harmless each other Board and each other Unit Owner (and the Occupants of each of the foregoing) from and against any and all claims or demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including, but not limited to, costs of investigation, remedial response, and reasonable attorneys' fees and cost of suit, arising out of or resulting from any Hazardous Material stored, used, maintained, released, or otherwise introduced by such Unit Owner or Board (including its Occupants and Permittees) under or in its Unit, Residential Section, Commercial Section, Residential Limited Common Elements,

Commercial Limited Common Elements and General Common Elements or otherwise in or on the Property.

## ARTICLE 10

## RECORDS AND AUDITS

10.1 The Condominium Board. The Condominium Board (or its managing agent) shall keep detailed records of the actions of the Condominium Board, minutes of the meetings of the Condominium Board, minutes of the meetings of the Unit Owners, if any, and financial records and books of account with respect to the activities of the Condominium Board, including a listing of all receipts and expenditures. In addition, the Condominium Board shall keep a separate account for each General Common Charge Obligor which, among other things, shall contain the amount of each assessment of General Common Charges and other amounts required by the Condominium Board to be paid by such Person, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid.

10.1.1 Within four (4) months after the end of each fiscal year, an annual report of receipts and expenditures, prepared and certified by an independent certified public accountant or an independent certified public accounting firm, shall be submitted by the Condominium Board to all Unit Owners, Registered Mortgagees and Permitted Mortgagees who have requested the same in writing. The cost of such report submitted by the Condominium Board shall be a General Common Expense.

10.2 Availability of Documents. Copies of the Declaration, these By-Laws, the General Rules and Regulations (if any), the Residential By-Laws and Residential Rules and Regulations, the Commercial By-Laws and Commercial Rules and Regulations (if any), and the Floor Plans, as the same may be amended from time to time, shall be maintained at the office of the Condominium Board and shall be available for inspection by Unit Owners and their authorized agents during reasonable business hours and upon reasonable prior notice.

## ARTICLE 11

## INSURANCE; CASUALTY; CONDEMNATION

11.1 Condominium Board's Insurance Requirements. The Condominium Board shall exercise best efforts to obtain and maintain, to the extent obtainable and maintainable at commercially reasonable rates, the following insurance with respect to the General Common Elements:

11.1.1 Insurance against loss customarily included in so-called Special Causes of Loss or Special Form Perils property insurance written with Replacement Costs and Agreed Amount Endorsements, including building collapse and such other insurable hazards as, under good insurance practices from time to time, are insured against for other property and buildings similar to the Building in use, location, height, and type of construction. Such insurance policy shall also insure costs of demolition and increased cost of construction, including, without limitation, increased costs arising out of changes in applicable laws and codes regulating

reconstruction following a loss (which insurance for demolition and increased cost of construction shall be in an amount not less than $25,000,000), insuring the General Common Elements, and covering the interests of the Condominium, the Boards, all Unit Owners, all Permitted Mortgagees (as a group) and all Registered Mortgagees, as their respective interests may appear. In addition, the Special Causes of Loss property insurance shall also provide flood (including sewer backup) and earth movement coverage, which flood and earthquake coverages may contain a sublimit per occurrence and in the annual aggregate. The amount of such "All Risk" insurance shall be not less than 100% of the aggregate replacement cost value of the General Common Elements (without deduction for depreciation), and such insurance shall include Extra Expense and Expediting Expense coverage in such amounts as the Condominium Board, from time to time, may determine. Each such insurance policy shall contain a removal or waiver of the co-insurance provisions and a replacement cost endorsement. Such coverage shall not include any Unit, or any fixtures, improvements, furnishings, betterments and improvements, decorations, appliances and other personal property within any Unit;

11.1.2 Workers' Compensation insurance and New York State Disability benefits insurance as required by law and Employer's Liability coverage with limits of not less than $1,000,000, covering any employees of the Condominium (provided, however, that if the Condominium Board does not have any direct employees, such insurance shall be purchased on an "if any" basis);

11.1.3 If not included in the coverage described in Section 11.1.1 hereof, Comprehensive Boiler & Machinery coverage on a replacement cost basis with the limits specified for in the Building's casualty policy (but in any event with a $20,000,000 minimum limit), covering all physical damage to the General Common Elements, and such insurance shall include Extra Expense and Expediting Expense coverage in such amounts as the Condominium Board, from time to time, may determine, and covering the interests of the Condominium, the Boards and all Unit Owners and Registered Mortgagees, as their respective interests may appear. Each such insurance policy shall contain a removal or waiver of the co-insurance provisions and a replacement cost endorsement;

11.1.4 Crime insurance covering the Condominium Board and all officers, directors and employees of the Condominium and of any Managing Agent(s) of the Condominium with limits of not less than $5,000,000, and with such deductible as is commercially reasonable and maintained by owners of properties similar in type, location and quality as the Building;

11.1.5 Directors' and Officers' Errors and Omissions insurance with respect to the Condominium Board with limits of no less than $5,000,000;

11.1.6 Commercial General Liability policy of insurance form ISO CG 001 07 98 (which includes water damage insurance), or equivalent liability coverage, with limits of not less than $1,000,000 per occurrence and $2,000,000 annual aggregate per location, and an Umbrella Liability policy, including, Cross Liability coverage (if available) covering one insured against another, Owned, Hired and Non-Owned Auto Liability, Notice and Knowledge of Occurrence, Unintentional Errors and Omissions, elevators, escalators, independent contractors, and Contractual Liability (covering, to the maximum extent permitted by law, obligations to

indemnify the holder of any mortgage covering the General Common Elements) Products and Completed Operations Liability coverage, with limits of not less than $100,000,000 per occurrence and annual aggregate per location, or in such higher limits as the Condominium Board, from time to time, may determine. The policy or policies described in this subsection shall cover the following entities as follows:

(a) The Condominium, Condominium Board, the Managing Agent(s) of the Condominium, the members of the Condominium Board and each officer and employee of the Condominium shall be the named insured on such Commercial General Liability policy;

(b) The Residential Board, together with its subsidiaries, affiliates, directors, officers, members, managers, partners, agents, employees, servants and assignees, Managing Agents and Permitted Mortgagees, if any, and such other entities as shall reasonably be requested shall be included as additional insured(s) on a primary basis, except that such policy will not cover the liability of the Residential Board arising from occurrences within or about the Residential Section;

(c) The Commercial Board, together with its subsidiaries, affiliates, directors, officers, members, managers, partners, agents, employees, servants and assignees, Managing Agents and Registered Mortgagees or Permitted Mortgagees, if any, and such other entities as shall reasonably be requested shall be included as additional insured(s) on a primary basis, except that such policy will not cover the liability of the Commercial Board arising from occurrences within or about the Commercial Section; and

(d) Each of the Unit Owners, together with its subsidiaries, affiliates, directors, officers, members, managers, partners, agents, employees, servants and assignees, Managing Agents and Registered Mortgagees or Permitted Mortgagees, if any, and such other entities as shall reasonably be requested shall be included as additional insured(s) on a primary basis, except that such policy will not cover the liability of a Unit Owner arising from occurrences within or about its own Unit or the Limited Common Elements appurtenant thereto.

11.1.7 If required by the holder of any mortgage covering the General Common Elements, Business Income and/or Rental Income due to an occurrence or accident insured under the policy described in Section 11.1.1 hereof in an amount not less than twenty-four (24) months of General Common Charges payable by the Commercial Unit Owners, the Residential Board and the Commercial Board at the time of purchase or renewal of such policy. The Insurance Trustee shall be named as loss payee as respects this coverage;

11.1.8 At all times prior to completion of the Building:

(a) In lieu of the insurance described in Section 11.1.1 hereof, the Condominium Board shall carry, or cause the owners of the Building or portions thereof (collectively, the "Owners") to carry, "Builder's Risk" insurance or an installation floater in such amount as Lender shall require but in no event less than 100% of the replacement cost value of the completed Improvements (including, without limitation, 100% of the replacement cost value of all tenant improvements and betterments (other than those that are owned by tenants and not required to be insured or replaced by the landlord under the applicable lease, but excluding

foundations and any other improvements not subject to physical damage). Such policy shall be written on a Builder's Risk Completed Value Form (100% non-reporting) or its equivalent and shall include, without limitation, coverage for loss by testing, collapse, theft, flood, and earth movement. Such insurance policy shall also include coverage for:

(i) Loss suffered with respect to materials, equipment, heating and air conditioning machinery, machinery, and supplies, in each case owned by the Condominium Board or by the applicable Owner or required to be insured by the Condominium Board or an Owner, whether on-site, in transit, or stored offsite and with respect to temporary structures, hoists, sidewalks, retaining walls, and underground property in each case owned by the Condominium Board or an Owner or required to by insured by the Condominium Board or an Owner;

(ii) Soft costs that are recurring costs, which shall include, without limitation, delayed opening loss of income/revenue coverage for a period of recovery of not less than twelve (12) months commencing from the date the Building was to be completed as agreed to by the holder of the mortgage on the General Common Elements, or such improvements and betterments, as the case may be, as well as costs to reproduce plans, specifications, blueprints and models in connection with any restoration following a casualty;

(iii) Demolition, debris removal and increased cost of construction, including, without limitation, increased costs arising out of changes in applicable laws and codes; and

(iv) Operation of building laws (which insurance under this clause (iv) may contain a sublimit of $5,000,000).

(b) The Condominium Board (or the Owner of the Building) shall cause the Construction Manager responsible for the completion of the Building to obtain and maintain Commercial General Liability coverage, including, without limitation, products and completed operations and containing no "X", "C", "U" exclusion if excavation and/or demolition is to be provided, and Automobile Liability insurance with no less than $50,000,000 in limits per occurrence and in the aggregate per project through primary and umbrella liability coverages. Such insurance shall name the Condominium Board (or all Owners) as the insured and the holder of any mortgage on the Building or portion thereof as additional insured. The Condominium Board (or the Owner of the Building) shall also require that all trade contractors cause all of their respective subcontractors to maintain similar coverage with limits of no less than $3,000,000 per occurrence and shall include the Condominium Board, all Owners, and the holder of any mortgage on the Building or portion thereof as additional insureds. All Persons engaged in work on improvements to the Building shall maintain statutory Workers Compensation and Disability insurance in force for all workers on the job.

(c) In lieu of the insurance described in Sections 11.1.2, 11.1.6 and 11.1.8(b) hereof, the Condominium Board (or the Owner of the Building) may provide such insurance through the purchase of a Wrap-up or Owner Controlled Insurance Program. This program shall provide coverage for all Persons engaged in construction operations at the Building, with limits of no less than $100,000,000 per occurrence and shall include the

Condominium Board, all Owners, and the holder of any mortgage on the Building or portion thereof as additional insureds.

11.1.9 The Condominium Board shall, in the exercise of good business judgment and good insurance practices, as it shall determine, obtain and maintain terrorism insurance to the extent available at commercially reasonable rates, covering the General Common Elements, with limits, deductibles and terms as the Condominium Board, from time to time, may determine; and

11.1.10 Such other insurance as the Condominium Board may determine advisable or necessary from time to time (the insurance referred to in Sections 11.1.1 through 11.1.10, collectively, the "Condominium Board Insurance"). The Condominium Board Insurance shall have deductibles in such amounts as the Condominium Board, from time to time, may reasonably determine, taking into account market conditions, or as may be required by the holder of any mortgage covering the General Common Elements. The Condominium Board shall review the limits of Condominium Board Insurance at least once each year.

11.2 Commercial Unit Owner's Insurance Requirements. Each of the Commercial Unit Owners shall obtain and maintain the following insurance in such amounts and in such limits as described below, or in such higher amounts and in such higher limits as the Condominium Board, from time to time, may determine:

11.2.1 Commercial General (Public) Liability policy of insurance form ISO CG 001 07 98 (which includes water damage insurance), or equivalent liability coverage, with limits of not less than $1,000,000 per occurrence and $2,000,000 annual aggregate per location, and an Umbrella Liability policy, including, Cross Liability coverage (if available) covering one insured against another, Owned, Hired and Non-Owned Auto Liability, Notice and Knowledge of Occurrence, Unintentional Errors and Omissions, elevators, escalators, independent contractors, and Contractual Liability Products and Completed Operations Liability coverage, with limits of not less than $100,000,000 per occurrence and annual aggregate per location. The Commercial Unit Owner purchasing such Commercial General Liability policy shall be the named insured. Each of the Boards and the other Unit Owners, together with its or their respective subsidiaries, affiliates, directors, officers, members, managers, partners, agents, employees, servants and assignees, Managing Agents and mortgagees, and such other entities as shall reasonably be requested shall be included as additional insured(s) on a primary basis.

11.2.2 Insurance against loss customarily included in so-called Special Causes of Loss or Special Form Perils property insurance (including Comprehensive Boiler & Machinery coverage), on a replacement cost basis, covering the interests of the Commercial Unit Owner and its Registered Mortgagee or Permitted Office Mortgagee, as applicable, in the applicable Commercial Unit, as their respective interests may appear including the full replacement cost of the Unit and any improvements and betterments made to the Commercial Unit, and otherwise in amounts reasonably sufficient to undertake and complete any Unit Restoration Work and otherwise comply with Section 11.11.4 below.

11.2.3 Business Income and/or Rental Income due to an occurrence or accident insured under the policies described in Section 11.2.2 hereof. The coverage shall be provided on

"Actual Loss Sustained" forms in amounts of not less than twenty-four (24) months of the then annual General Common Charges payable by the applicable Commercial Unit Owner at the time of purchase or renewal of such policy. Such policy of Business Income and/or Rental Income shall have a maximum deductible of no more than six (6) months of the then annual General Common Charges payable by the applicable Commercial Unit Owner at the time of purchase or renewal of such policy. Each Commercial Owner shall use commercially reasonable efforts to name the Condominium Board as "loss payee", as its interest may appear, under such policy. This requirement shall not apply to the Office Units or the Club Unit.

11.2.4 If the applicable Commercial Unit Owner is engaged in the sale of alcoholic beverages, so-called "dramshop" or other liability insurance required in connection therewith.

11.2.5 The owner of the Garage Unit shall maintain or cause to be maintained Garage Legal Liability & Garagekeepers Liability insurance coverage, including owned, hired, and non-owned contractual liability, products and completed operations liability, broad form property damage, personal and advertising injury liability, written on an occurrence form, with a combined single limit of no less than $10,000,000 each occurrence, and $10,000,000 general aggregate per location. The policy will be on the most current Insurance Services Office Garage Liability & Garagekeepers Coverage Form or its equivalent. Such insurance shall provide coverage for "Any Auto".

11.2.6 In lieu of Section 11.2.1 hereof, and notwithstanding the foregoing, each Office Unit Owner shall obtain and maintain the following insurance in such amounts and in such limits as described below, or in such higher amounts and in such higher limits as the Commercial Board, from time to time, may determine, including personal liability policy if such Office Unit Owner is an individual, or commercial general liability insurance if such Office Unit Owner is a corporate entity, with a limit of not less than $1,000,000 per occurrence against claims for personal injury, death or property damage occurring in, on or about such Office Unit Owner's Office Unit and the Limited Common Elements, if any, exclusive and/or appurtenant to his or her Office Unit, and an Umbrella Liability Policy with limits of not less than $4,000,000 per occurrence and annual aggregate per location, covering the interests of the Office Unit Owner and its Permitted Mortgagee in the applicable Office Unit as their respective interests may appear. The Office Unit Owner purchasing such policy shall be the named insured.

11.3 Commercial Board's Insurance Requirements. The Commercial Board (on behalf of the applicable Commercial Section) shall obtain and maintain the following insurance in such amounts and in such limits as described below, or in such higher amounts and in such higher limits as the Condominium Board, from time to time, may determine:

11.3.1 Commercial General Liability policy of insurance form ISO CG 001 07 98 (which includes water damage insurance), or equivalent liability coverage, with limits of not less than $1,000,000 per occurrence and $2,000,000 annual aggregate per location, and an Umbrella Liability policy, including Cross Liability coverage (if available) covering one insured against another, Owned, Hired and Non-Owned Auto Liability, Notice and Knowledge of Occurrence, Unintentional Errors and Omissions, elevators, escalators, and independent contractors, and Contractual Liability Products and Completed Operations Liability coverage, with limits of not

less than $100,000,000 per occurrence and annual aggregate per location. The Commercial Board purchasing such Commercial General Liability policy shall be the named insured. The Condominium Board and the other Unit Owners, together with its or their respective subsidiaries, affiliates, directors, officers, members, managers, partners, agents, employees, servants and assignees, Managing Agents and mortgagees, and such other entities as shall reasonably be requested shall be included as additional insured(s) on a primary basis.

11.3.2 Insurance against loss customarily included in so-called Special Causes of Loss or Special Form Perils property insurance (including Comprehensive Boiler & Machinery coverage), on a replacement cost basis, covering the interests of, as the case may be, the Commercial Unit Owners, Registered Mortgagees and the Permitted Mortgagees in the Commercial Limited Common Elements, as their respective interests may appear, in amounts reasonably determined by the Condominium Board.

11.3.3 So-called "dramshop" or other liability insurance required in connection with the sale of alcoholic beverages.

11.4 Residential Unit Owner's Insurance Requirements. Each Residential Unit Owner shall obtain and maintain the following insurance in such amounts and in such limits as described below, or in such higher amounts and in such higher limits as the Residential Board, from time to time, may determine:

11.4.1 A personal liability policy if such Residential Unit Owner is an individual, or commercial general liability insurance if such Residential Unit Owner is a corporate entity, with a limit of not less than $1,000,000 per occurrence against claims for personal injury, death or property damage occurring in, on or about such Residential Unit Owner's Residential Unit and the Limited Common Elements, if any, exclusive and/or appurtenant to his or her Residential Unit, and an Umbrella Liability Policy with limits of not less than $4,000,000 per occurrence and annual aggregate per location, covering the interests of the Residential Unit Owner and its Permitted Mortgagee in the applicable Residential Unit as their respective interests may appear. Such insurance may, at the option of the Residential Unit Owner, be effected by a Homeowners HO-6 form (or its equivalent). The Residential Unit Owner purchasing such policy shall be the named insured.

11.5 Residential Board's Insurance Requirements. The Residential Board (on behalf of the applicable Residential Section) shall obtain and maintain the following insurance in such amounts and in such limits as described below, or in such higher amounts and in such higher limits as the Condominium Board, from time to time, may determine:

11.5.1 Commercial General Liability policy of insurance form ISO CG 001 07 98 (which includes water damage insurance), or equivalent liability coverage, with limits of not less than $1,000,000 per occurrence and $2,000,000 annual aggregate per location, and an Umbrella Liability policy, including Cross Liability coverage (if available) covering one insured against another, Owned, Hired and Non-Owned Auto Liability, Notice and Knowledge of Occurrence, Unintentional Errors and Omissions, elevators, escalators and independent contractors, and Contractual Liability Products and Completed Operations Liability coverage, with limits of not less than $100,000,000 per occurrence and annual aggregate per location. The Residential Board

purchasing such Commercial General Liability policy shall be the named insured. The Condominium Board and the other Unit Owners, together with its or their respective subsidiaries, affiliates, directors, officers, members, managers, partners, agents, employees, servants and assignees, Managing Agents and mortgagees, and such other entities as shall reasonably be requested shall be included as additional insured(s) on a primary basis.

11.5.2 Insurance against loss customarily included in so-called Special Causes of Loss or Special Form Perils property insurance (including Comprehensive Boiler & Machinery coverage), on a replacement cost basis, covering the interests of, as the case may be, the Residential Unit Owners and the Permitted Mortgagees in the Residential Limited Common Elements, as their respective interests may appear, in amounts reasonably determined by the Condominium Board.

11.6 Insurance Requirements During the Course of Alterations and/or Repairs. The Condominium Board shall promulgate, as part of the General Rules and Regulations, rules and regulations specifying, with respect to the performance of Alterations and/or Repairs by any Person, whether insurance is required to be carried with respect to such Alteration and/or Repair and if so, the type of insurance required, the amount thereof, the Person required to carry any such insurance and such other related matters as the Condominium Board shall deem appropriate. Notwithstanding anything to the contrary contained in these By-Laws, provisions consistent with Section 11.7 hereof shall be part of such rules and regulations only to the extent, if any, deemed appropriate by the Condominium Board.

11.7 Insurance as a General Common Charge.

11.7.1 The premiums for all insurance referred to in Section 11.1 above shall be a General Common Expense and shall be borne by each of the General Common Charge Obligors as a General Common Charge as set forth in the Expense Allocation Schedule. Any General Common Charge Obligor may request the Condominium Board to obtain and maintain for its benefit any additional coverages and any changes or amendments to the terms and conditions of existing coverages as such requesting General Common Charge Obligor sees fit (collectively, the "Additional Insurance Coverage") and may require that all proceeds of any such Additional Insurance Coverage (to the extent that it can be determined with reasonable certainty that such proceeds relate to such Additional Insurance Coverage and not to insurance purchased by the Condominium Board on its own behalf) be payable to such General Common Charge Obligor (and if, notwithstanding such requirement, proceeds are paid to the Condominium Board or the Insurance Trustee, then notwithstanding any other provision of these By-Laws to the contrary, such proceeds shall be turned over to such General Common Charge Obligor); provided, however, that (A) the cost of such Additional Insurance Coverage shall be borne entirely by the Person requesting it and such Person shall indemnify the Condominium Board from any loss, cost and expense (including reasonable attorney's fees) in connection therewith and (B) the Additional Insurance Coverage shall not (i) preclude the Condominium Board from purchasing, for itself, insurance coverage similar to such Additional Insurance Coverage, (ii) preclude the Condominium Board from receiving proceeds from any Condominium Board Insurance, (iii) cause the Condominium Board Insurance to be less protective or (iv) adversely affect the interests of the Unit Owners or Boards.

11.7.2 If the use of all or any portion of any portion of the Building in violation of these By-Laws or the Declaration causes an increase in the premium for the insurance which the Condominium Board or any Unit Owner is required to obtain and maintain as set forth herein or otherwise, then the General Common Charge Obligor responsible for such portion of the Building shall be obligated to pay to the Condominium Board, as an additional General Common Charge, or to pay to such Unit Owner, as the case may be, a sum equal to the amount of such increase attributable to such use. If the use of any Residential Unit or Commercial Unit is in violation of these By-Laws or the Declaration causes an increase in General Common Charges payable by the Sub-Board of such Unit Owner in accordance with the preceding sentence of this subsection, then the owner of such Residential Unit or Commercial Unit, as the case may be, shall be obligated to pay to the affected Sub-Board, as a Common Charge of such Section under the applicable Sub-By-Laws, a sum equal to the amount of such increase attributable to such use.

11.8 General Insurance Matters.

11.8.1 Self-Insurance. Notwithstanding anything in these By-Laws to the contrary, no Person may provide the insurance coverages required under these By-Laws pursuant to any plan of self-insurance, provided, however, that the Condominium Board, in the exercise of good business judgment and good insurance practices, may permit a Unit Owner to self insure on the following terms and conditions: (a) any self-insured exposure shall be deemed to be an insured risk under these By-Laws; (b) the beneficiaries of such insurance shall be afforded no less insurance protection as if such self-insured portion was fully insured by an insurance company of the quality and caliber required under these By-Laws (including, without limitation, the protection of a legal defense, by attorneys reasonably acceptable to beneficiaries, and the payment of claims within the same time period that a third party insurance carrier of the quality and caliber otherwise required hereunder would have paid such claims); (c) waiver of subrogation pursuant hereunder shall be applicable to any self-insured exposure; and (d) the self-insurance retention can be no greater than an amount specified by the Condominium Board and the insurance required under these By-Laws must be maintained in excess of such self- insurance retention.

11.8.2 Blanket Policy. The insurance coverage required of any Person under this Article 11, at the option of such Person, may be offered under a blanket policy or policies, provided that any such blanket policy shall otherwise comply with the provisions of these By-Laws. With respect to blanket property polices covering the applicable property to be insured pursuant to these By-Laws (the "Insured Property") and other properties and assets not constituting a part of such Insured Property, such blanket policies shall be without possibility of co-insurance or reduction below the limits required by this Article 11 by reason of, or damage to, any other property (real or personal) named therein. If the insurance required by these By-Laws shall be effected by any such blanket policy, such Person shall furnish to the Person or Persons specified in Section 11.8.4 hereof (when and as such deliveries would be required for the insurance regularly required by these By-Laws not constituting blanket coverage) valid certificates of insurance evidencing such policy, with schedules thereto attached (with respect to property or building insurance) showing the amount of insurance afforded by such policies applicable to the Insured Property.

11.8.3 Policy Requirements. (a) All policies required to be obtained pursuant to these By-Laws shall:

(b) be purchased from and maintained with financially sound and responsible insurance companies duly authorized, and preferably admitted to do business in the State of New York, which are rated at the time of purchase or renewal of such policy in the then most current A.M. Best Key Rating Guide with a claims paying ability rating of A-5 or better (or the equivalent of such rating if there is a change in the basis of the rating, or any successor publication of comparable standing) and are also rated "A" or better (and the equivalent thereof) by at least two (2) of the rating agencies rating any mortgage covering the General Common Elements (one of which shall be Standard & Poor's if they are rating such mortgage and one of which will be Moody's if they are rating such mortgage), or if only one (1) rating agency is rating such mortgage, then only by such rating agency, with respect to policies required to be obtained by the Condominium Board, the Commercial Board, the Residential Board and the Commercial Board pursuant to Sections 11.1, 11.3 and 11.5 of these By-Laws, respectively. The foregoing shall not apply to the Residential Unit Owners, and the insurance companies furnishing the policies required to be obtained by the Residential Unit Owners pursuant to these By-Laws shall be rated pursuant to and in accordance with applicable standards, if any, to be determined by the Residential Board.

(c) with respect to Special Causes of Loss or other property coverage, contain a waiver of the insurer's right of subrogation against the Unit Owners, the Boards, any Registered Mortgagee and all Occupants.

(d) provide that before any lapse, cancellation, non-renewal, or material modification of a policy for which an additional insured or loss payee is required to be named pursuant to this Article 11, at least thirty (30) days' advance written notice (or ten (10) days' advance written notice, in the event of a lapse, cancellation, non-renewal, or material modification due to non-payment of a premium) shall be given in the case of insurance required to be maintained by (v) the Condominium Board, to the Commercial Board, the Residential Board and each Registered Mortgagee, (w) the Commercial Board, to the Condominium Board, the Residential Board and each Registered Mortgagee, (x) a Commercial Unit Owner, to the Commercial Board, (y) the Residential Board, to the Condominium Board, the Commercial Board and each Registered Mortgagee, and (z) a Residential Unit Owner to the Residential Board.

(e) be primary as to the named insured and not be entitled to contribution from any other insurance that may be maintained by any other party.

(f) contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of the policy holder.

(g) All policies of "All Risk" and Comprehensive Boiler & Machinery property coverage required to be obtained by any Person pursuant to these By-Laws shall name its Registered Mortgagee, if any, as a "mortgagee" under a standard New York State mortgagee clause or its equivalent which shall provide that the loss, if any, thereunder shall be payable to

such Registered Mortgagee, as its interest may appear, subject, however, to the provisions of Sections 11.11.1 and 11.11.2 with respect to insurance maintained by the Condominium Board and subject to the provisions of Sections 11.11.4, 11.11.5 and 11.11.6 with respect to insurance required to be maintained by the Unit Owners, the Residential Board and the Commercial Board, respectively.

(h) All policies of "All Risk" and Comprehensive Boiler & Machinery property coverage required to be obtained by the Condominium Board shall (A) provide that adjustment of loss shall be made by the Condominium Board on behalf of all Unit Owners and Registered Mortgagees, if applicable, and (B) name the Insurance Trustee (as hereinafter defined) as "loss payee" as agent for the insured in the event the proceeds payable are in excess of $2,000,000.

(i) Prior to the Condominium Board obtaining any policy of property insurance, and at three (3) year intervals thereafter (or more often, if deemed appropriate by the Condominium Board), the Condominium Board shall obtain an appraisal of the full replacement value of the General Common Elements (including the General Common Elements which are underground), without deduction for depreciation, for the purpose of determining the amount of property insurance to be obtained pursuant to Section 11.1. The cost of any such appraisal shall be borne by the General Common Charge Obligors as a General Common Charge in the same proportion as each such party bears under the Budget with respect to insurance.

(j) Except as otherwise herein provided, unless otherwise required of the Residential Unit Owners or Residential Board by the Residential By-Laws, or the Commercial Unit Owners or Commercial Board by the Commercial By-Laws, the Boards and the Unit Owners shall not be required to obtain or maintain any insurance with respect to any personal property contained in the respective Limited Common Elements or Units, except as is mandated under any "All Risk" or Comprehensive Boiler & Machinery property coverage required under these By-Laws. The Unit Owners and the Sub-Boards shall not be prohibited from carrying other insurance for their own benefit in addition to the insurance required to be carried by such Unit Owners and Sub-Board(s) under these By-Laws.

11.8.4 Condominium as Additional Insured. All policies required to be obtained pursuant to these By-Laws, the Residential By-Laws and/or the Commercial By-Laws shall name the Condominium as an additional insured.

11.8.5 Evidence of Insurance. (a) Condominium Board Insurance. The Condominium Board shall deliver to the Commercial Unit Owners, the Residential Board and the Commercial Board, and all Registered Mortgagees, a certificate of insurance evidencing the insurance required to be maintained by the Condominium Board under Section 11.1 above and all renewals thereof, evidencing same, and promptly after issuance of any renewal or replacement policy, together with proof of payment of premiums. Renewals shall be obtained at least twenty (20) days prior to the expiration of the then current policies.

(b) Commercial Unit Owner Insurance. Each Commercial Unit Owner shall deliver to the Condominium Board and Commercial Board a certificate of insurance evidencing the insurance required to be maintained by such Unit Owner under Section 11.2

above and all renewals thereof, evidencing same, and promptly after issuance of any renewal or replacement policy, together with proof of payment of premiums. Renewals shall be obtained at least twenty (20) days prior to the expiration of the then current policies.

(c) Commercial Board Insurance. The Commercial Board shall deliver to the Commercial Unit Owners and the other Boards a certificate of insurance evidencing the insurance required to be maintained by the Commercial Board under Section 11.3 above and all renewals thereof, evidencing same, and promptly after issuance of any renewal or replacement policy, together with proof of payment of premiums. Renewals shall be obtained at least twenty (20) days prior to the expiration of the then current policies.

(d) Commercial Board Monitoring of Commercial Unit Owner Insurance. The Commercial Board shall take commercially reasonable steps to enforce the obligations of its Commercial Unit Owners under Section 11.2 and Article 12 of these By-Laws, and shall, on a semi-annual basis upon request, provide to the Condominium Board a report detailing those Commercial Unit Owners that have not so complied, but the Commercial Board shall have no liability for the failure of such Commercial Unit Owners to so comply. Nothing contained in this Section 11.8.5(d) shall be deemed to limit the obligations of Commercial Unit Owners under Section 11.2 and Article 12 of these By-Laws.

(e) Residential Unit Owner Insurance. Each Residential Unit Owner shall deliver to the Residential Board a certificate of insurance evidencing the insurance required to be maintained by such Unit Owner under Section 11.4 above and all renewals thereof, evidencing same, and promptly after issuance of any renewal or replacement policy, together with proof of payment of premiums. Renewals shall be obtained at least twenty (20) days prior to the expiration of the then current policies.

(f) Residential Board Insurance. The Residential Board shall deliver to the Condominium Board, the Commercial Unit Owners and the Commercial Board a certificate of insurance evidencing the insurance required to be maintained by the Residential Board under Section 11.5 above and all renewals thereof, evidencing same, and promptly after issuance of any renewal or replacement policy, together with proof of payment of premiums. Renewals shall be obtained at least twenty (20) days prior to the expiration of the then current policies.

(g) Residential Board Monitoring of Residential Unit Owner Insurance. The Residential Board shall take commercially reasonable steps to enforce the obligations of its Residential Unit Owners under Section 11.4 and Article 12 of these By-Laws, and shall, on a semi-annual basis upon request, provide to the Condominium Board a report detailing those Residential Unit Owners that have not so complied, but the Residential Board shall have no liability for the failure of such Residential Unit Owners to so comply. Nothing contained in this Section 11.8.5(g) shall be deemed to limit the obligations of Residential Unit Owners under Section 11.4 and Article 12 of these By-Laws.

(h) Certificates of Insurance; Policies. The certificates of insurance required to be obtained by any Person pursuant to this Section 11.8.5 shall be kept at the offices of such Person at the Property or at such other reasonably proximate location(s) in The City of

New York. In the event that any certificate of insurance shall fail to contain detail reasonably sufficient enough to enable the Person(s) who are entitled to a copy of such certificate to reasonably determine if the insurance covered by such certificate complies with the provisions of this Article 12, then such Person or Persons shall have the right, upon reasonable notice to the Person maintaining such insurance, to inspect the policy or policies underlying such certificate.

11.9 Waiver of Subrogation. Each of the Boards and the Unit Owners (and their Occupants) (the "Releasing Party") hereby releases and waives for itself, and each Person claiming by, through or under it, each other Unit Owner and all Boards and their respective Occupants (the "Released Party") from any liability for any loss or damage to all property of such Releasing Party located upon any portion of the Property, which loss or damage is of the type covered by "All-Risk" or Comprehensive Boiler & Machinery property insurance policies required to be carried under these By-Laws, irrespective either of any negligence on the part of the Released Party which may have contributed to or caused such loss, or of the amount of such insurance required or actually carried, including any deductible. The Releasing Party agrees to obtain, if needed, appropriate language in its policies of insurance, and to the policies of insurance carried by its Occupants, with respect to the foregoing release.

11.10 Indemnification.

11.10.1 Indemnification by Unit Owners. Subject to the waiver of claims and waiver of subrogation set forth in this Article 11, each Unit Owner covenants to indemnify, defend and hold each other Unit Owner (and such other Unit Owner's Occupants) and each Board harmless (except for loss or damage resulting from the gross negligence, willful misconduct or bad faith of any such other Unit Owners or Boards, or their respective Occupants, directors, officers, agents, tenants, contractors, employees, servants, licensees (collectively, the "Related Parties")) from and against any and all claims, actions, suits, judgments, damages, liabilities and expenses (including, without limitation, reasonable attorneys' fees) in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon the Unit (or any Limited Common Element appurtenant to such Unit) owned by such Unit Owner, or occasioned wholly, or in part, by any gross negligence, willful misconduct or bad faith of such Unit Owner, or its respective Related Parties.

11.10.2 Indemnification by Boards. Subject to the waiver of claims and waiver of subrogation set forth in this Article 11, each of the Boards covenants to indemnify, defend and hold each Unit Owner (and each Unit Owner's Occupants) and each other Board harmless (except for loss or damage resulting from the gross negligence, willful misconduct or bad faith of such Unit Owner or any such other Board, or their respective Related Parties) from and against any and all claims, actions, suits, judgments, damages, liabilities and expenses (including, without limitation, reasonable attorneys' fees) in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon (i) with respect to the Condominium Board, the General Common Elements, (ii) with respect to the Residential Board, the Residential Limited Common Elements, and (iii) with respect to the Commercial Board, the Commercial Limited Common Elements or occasioned wholly or in part by any gross negligence, willful misconduct or bad faith of the Boards, or their respective Related Parties.

11.11 Casualty and Condemnation.

11.11.1 General Common Element Restoration Funds. All insurance proceeds under all policies required to be obtained by the Condominium Board with respect to any property loss (the "GCE Restoration Insurance Proceeds") and all condemnation awards, if any, with respect to the General Common Elements (such sums, together with any interest or income earned thereon, but net of the reasonable fees, compensation and expenses incurred by the Insurance Trustee hereunder, collectively, the "GCE Restoration Funds") shall be payable to the Condominium Board, except that if the GCE Restoration Funds shall exceed $2,000,000, all GCE Restoration Funds shall be payable to the Insurance Trustee.

11.11.2 Use of GCE Restoration Funds. The Condominium Board shall (i) hold in trust on behalf of all Unit Owners any GCE Restoration Funds it receives, (ii) subject to the provisions of Sections 11.11.3 and 11.11.7 of these By-Laws, use the GCE Restoration Funds only for GCE Restoration Work and (iii) not commingle the GCE Restoration Funds with other funds being held by the Condominium Board.

11.11.3 Casualty to or Condemnation of General Common Elements; Repair by Condominium Board; GCE Restoration Work.

(a) GCE Restoration Work. Except as provided herein, in the event of (i) the casualty of all or any part of the General Common Elements, (ii) the taking in condemnation or by eminent domain of all or any part of the General Common Elements, or (iii) the taking in condemnation or by eminent domain of all or any part of a Unit, then, subject to the provisions set forth below, the Condominium Board will arrange for the prompt repair and restoration of the part of the General Common Elements affected by such casualty or impaired by such taking which, pursuant to the provisions of the Declaration or By-Laws, are required to be maintained by the Condominium Board (the "GCE Restoration Work"). In the event of a casualty, such GCE Restoration Work shall restore the General Common Elements so that they are the same type and quality as existed immediately prior to such casualty; provided, however, that alterations to such General Common Elements may be made in accordance with Article 8 of these By-Laws. In the event of a taking, such GCE Restoration Work shall take into account the physical constraints imposed by such taking, and accordingly the General Common Elements may be altered (in accordance with Article 8 of these By-Laws) to account for such physical constraints; provided, however, that in no event shall the Condominium Board have the right to utilize additional space in any Unit in connection with such restoration, unless such right has otherwise been granted under these By-Laws or the Declaration or in connection with such taking. Notwithstanding anything herein to the contrary, in no event shall the Condominium Board be obligated to restore any Unit Owner's fit-out or personal property contained within such Unit Owner's Unit or any Residential Limited Common Elements or Commercial Limited Common Elements contained therein.

(b) Disbursement of GCE Restoration Funds; GCE Restoration Funds Request. In the event of any GCE Restoration Funds held by the Insurance Trustee, (a) the Condominium Board shall apply to the Insurance Trustee for disbursement of the GCE Restoration Funds and (b) the Insurance Trustee shall disburse the GCE Restoration Funds to the Condominium Board in installments as the GCE Restoration Work progresses and in accordance

with the provisions hereof and the provisions of the Insurance Trustee Agreement. Each request for GCE Restoration Funds (each such request, together with all supporting documentation, herein called a "GCE Restoration Funds Request") shall also be sent to the Commercial Unit Owners, the Residential Board, the Commercial Board and all Registered Mortgagees. Advances by the Insurance Trustee shall be made not more than once a month, after the Insurance Trustee's receipt of a written request therefor from the Condominium Board, addressed to the Insurance Trustee, provided that:

(i) such GCE Restoration Funds Request shall be accompanied by a certificate of a Certifying Professional (as defined below) in charge of the GCE Restoration Work (A) requesting payment of specified amounts of the GCE Restoration Funds equal to the amounts then due and owing to contractors or other parties (less any retainage amounts, if any, as determined by the Condominium Board) for performance of all or a portion of the GCE Restoration Work under specific contracts or agreements in respect of the GCE Restoration Work, or to the Condominium Board as reimbursement for a cost of the GCE Restoration Work paid by the Condominium Board, (B) describing in reasonable detail the GCE Restoration Work performed or materials provided under such contracts or agreements, for which GCE Restoration Funds are then being requested, (C) stating that such payment does not exceed the amount then due and owing (or reimbursable) in respect of the GCE Restoration Work completed to date and materials supplied under such contracts or agreements, (D) stating that all GCE Restoration Work has been performed substantially in accordance with the plans and specifications for such GCE Restoration Work, and that all such materials have theretofore been incorporated as General Common Elements into the Building (except for such materials specifically delineated as not yet being so incorporated into the Building, and with respect to such materials, stating the status of such materials (if such materials are being fabricated) or stating the location of such materials (if such materials are stored off-site)), (E) stating that the cost to complete the GCE Restoration Work does not exceed the amount of the remaining funds held by the Insurance Trustee and (F) stating that the cost of such GCE Restoration Work and materials has not been previously made the basis of any GCE Restoration Funds Request (such certificate being herein called the "Certificate"); and

(ii) the Insurance Trustee receives waivers of all mechanic's and other similar liens (or title endorsements or other satisfactory evidence) with respect to all of the GCE Restoration Work for which a GCE Restoration Funds Request has previously been made and funded (if and only to the extent that such lien waivers have not been previously provided).

Upon compliance with subsections (i) and (ii) above, the amount requisitioned for such GCE Restoration Work shall be paid to the Condominium Board or the Persons designated in the Certificate. "Certifying Professional" shall mean an architect or a licensed professional engineer or engineering or construction consulting firm retained by the Condominium Board in connection with the GCE Restoration Work, which is experienced in the design and operation in the City of New York of structures similar to the Building and has provided services comparable to those being requested hereunder within not less than three (3) of the immediately preceding ten (10) years, and which is selected by the Condominium Board.

(c) GCE Restoration Funds Deficiency. If, as part of the Certificate accompanying the GCE Restoration Funds Request, or prior to the commencement of (and also at any time during the prosecution of) the GCE Restoration Work, the Certifying Professional or the Condominium Board reasonably estimates that the cost to complete the GCE Restoration Work exceeds the GCE Restoration Funds then being held by the Insurance Trustee or the Condominium Board, as the case may be, then the Condominium Board shall be required to notify each General Common Charge Obligor of the amount of such estimated deficiency and each General Common Charge Obligor's pro rata allocation thereof (which such allocation shall be determined consistent with the Common Interest of each General Common Charge Obligor), and shall be payable by each General Common Charge Obligor as a Special Assessment (hereinafter referred to as a "Special GCE Restoration Assessment"; all such Special GCE Restoration Assessments received by the Condominium Board, the "Special GCE Restoration Assessment Proceeds"). At the election of the Condominium Board, each General Common Charge Obligor shall then pay its respective Special GCE Restoration Assessment either: (i) in a lump sum, to be paid as a Special Assessment pursuant to and in accordance with Section 6.1.4 of these By-Laws or (ii) in installments, as may be necessary, in the determination of the Condominium Board, to pay for the GCE Restoration Work. The Special GCE Restoration Assessment Proceeds shall be treated as if such monies were GCE Restoration Funds.

(d) Excess GCE Restoration Insurance Proceeds. To the extent not drawn upon and/or applied to the GCE Restoration Work, the Insurance Trustee and/or the Condominium Board, as the case may be, shall, after the completion of the GCE Restoration Work, return all excess GCE Restoration Insurance Proceeds to the General Common Charge Obligors according to the Common Interest of such General Common Charge Obligors (after deducting from the amount to be distributed to each General Common Charge Obligor the amount, if any, of any General Common Charges or Special Assessments (and other charges related thereto imposed under Section 12.1.4 of these By-Laws)) then due and owing from such General Common Charge Obligor (such deducted amount, a "Delinquency Charge").

(e) Excess Special GCE Restoration Assessment Proceeds. To the extent not drawn upon and/or applied to the GCE Restoration Work, the Insurance Trustee and/or the Condominium Board, as the case may be, shall, after the completion of the GCE Restoration Work, return all excess Special GCE Restoration Assessment Proceeds it receives to each General Common Charge Obligor according to the pro rata share of such General Common Charge Obligor's contribution to such Special GCE Restoration Assessment Proceeds, after deducting any Delinquency Charge. If any General Common Charge Obligor fails to pay its Special GCE Restoration Assessment in accordance with the provisions of Section 11.11.3(c) of these By-Laws, then the Special GCE Restoration Assessment of such General Common Charge Obligor still due and payable (the "Delinquent Special GCE Restoration Assessment") shall be subject to late charges, interest, expenses and fees, all pursuant to and in accordance with Section 12.1.4 of these By-Laws (such charges, the "Special GCE Restoration Assessment Penalties"). Upon payment to the Condominium Board of the Delinquent Special GCE Restoration Assessment, and to the extent not drawn upon and/or applied to such completed GCE Restoration Work, then the Insurance Trustee and/or the Condominium Board, as the case may be, shall distribute the Delinquent Special GCE Restoration Assessment to each General Common Charge Obligor, after deducting any Delinquency Charge, according to the pro rata share of such General Common Charge Obligor's contribution to the Special GCE Restoration

Assessment Proceeds. The Special GCE Restoration Assessment Penalties shall be distributed to each General Common Charge Obligor (excluding the General Common Charge Obligor paying such Special GCE Restoration Assessment Penalties) according to the pro rata share of such General Common Charge Obligor's contribution to the Special GCE Restoration Assessment Proceeds (taking into account any prior distribution of any excess Special GCE Restoration Assessment Proceeds and after deducting any Delinquency Charge) prior to the payment of the Delinquent Special GCE Restoration Assessment.

11.11.4 Casualty to or Condemnation of Units; Repair by Unit Owners; Unit Restoration Work. Except as provided herein, in the event a Unit is damaged or destroyed by casualty or impaired by a partial taking by condemnation or eminent domain, the affected Unit Owner(s) shall immediately remove any rubble and debris resulting from such event and, within a reasonable time thereafter, shall (at its election) either repair and restore the Unit (and the appurtenant Limited Common Elements, if applicable) so damaged or destroyed by casualty, or such of the Unit (and the appurtenant Limited Common Elements, if applicable) as shall remain following the taking: (i) to a complete, independent and self-contained architectural whole; and/or (ii) to a safe and secure "core and shell" condition, with complete and sightly demising walls, doors and exterior visible surfaces separating such Unit (or any appurtenant Limited Common Elements) from any other Unit (or any appurtenant Limited Common Elements) or General Common Element visible from outside of the applicable Unit, having no adverse effect on any other Unit or the Common Elements (either of the foregoing (i) or (ii), the "Unit Restoration Work"). Notwithstanding anything herein to the contrary, the Unit Restoration Work with respect to any Residential Unit shall be performed by the Residential Board (on behalf of the Residential Unit Owner) and the Unit Restoration Work with respect to any Commercial Unit shall be performed by the Commercial Board (on behalf of the Commercial Unit Owner).

11.11.5 Casualty to or Condemnation of Residential Limited Common Elements; Repair by Residential Board; Residential LCE Restoration. Except as provided herein, if any portion of the Residential Limited Common Elements are damaged or destroyed by casualty or impaired by a partial taking by condemnation or eminent domain, the Residential Board (on behalf of the affected Residential Unit Owner(s)), shall immediately remove any rubble and debris resulting from such event and, within a reasonable time thereafter, shall (at its election) either repair and restore the Residential Limited Common Elements so damaged or destroyed by casualty, or such of the Residential Limited Common Elements as shall remain following the taking, (i) to a condition substantially similar to the condition of such Residential Limited Common Elements as existed immediately prior to such casualty or taking or (ii) to a safe and secure "core and shell" condition, with secure, complete and sightly demising walls, doors and exterior visible surfaces separating such Residential Limited Common Elements from any other Unit (or from any Residential Limited Common Elements, if any) or General Common Element visible from outside of the Residential Limited Common Elements, having no adverse effect on any other Unit or the Common Elements (either of the foregoing (i) or (ii), with respect to a casualty or taking of the Residential Limited Common Elements, the "Residential LCE Restoration Work").

11.11.6 Casualty to or Condemnation of Commercial Limited Common Elements; Repair by Commercial Board; Commercial LCE Restoration. Except as provided

herein, if any portion of the Commercial Limited Common Elements are damaged or destroyed by casualty or impaired by a partial taking by condemnation or eminent domain, the Commercial Board (on behalf of the affected Commercial Unit Owners), shall immediately remove any rubble and debris resulting from such event and, within a reasonable time thereafter, shall (at its election) either repair and restore the Commercial Limited Common Elements so damaged or destroyed by casualty, or such of the Commercial Limited Common Elements so damaged or destroyed by casualty, or such of the Commercial Limited Common Elements as shall remain following the taking, (i) to a condition substantially similar to the condition of such Commercial Limited Common Elements as existed immediately prior to such casualty or taking or (ii) to a safe and secure "core and shell" condition, with secure, complete and sightly demising walls, doors and exterior visible surfaces separating such Commercial Limited Common Elements from any other Unit (or from any Commercial Limited Common Elements, if any) or General Common Element visible from outside of the Commercial Limited Common Elements, having no adverse effect on any other Unit or the Common Elements (either of the foregoing (i) or (ii), with respect to a casualty or taking of the Commercial Limited Common Elements (the "Commercial LCE Restoration Work").

11.11.7 Casualty to Seventy-Five Percent (75%) or More of the Building. Notwithstanding any provision of the Declaration or these By-Laws to the contrary, if seventy-five percent (75%) or more of the Building is destroyed or damaged by fire or casualty (a "Significant Casualty") and if, at any time prior to the execution and delivery of any construction contract relating to the GCE Restoration Work, Unit Restoration Work, Residential LCE Restoration Work or Commercial LCE Restoration Work (other than a construction contract relating solely to Safety Work (as defined below) or other minor construction work not constituting restoration work), more than seventy-five percent (75%) in Common Interest duly vote not to proceed to make the necessary GCE Restoration Work or require the necessary Unit Restoration Work, Residential LCE Restoration Work or Commercial LCE Restoration Work, as the case may be, then: (i) the Condominium Board shall secure and fence in the Property boundary, and shall raze the Building, if necessary, and put the Building and Property into compliance with applicable Laws, and otherwise make the Property and Building safe (all of the activities described in this clause (i), the "Safety Work"); and (ii) the GCE Restoration Insurance Proceeds, net of the costs and expenses of the Condominium Board hereunder and the cost of any Safety Work, shall be divided among all Unit Owners in accordance with their respective Common Interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of its share of such fund all liens of Registered Mortgagees holding mortgages against such Unit Owner's respective Unit, and all unpaid charges, liens and Delinquency Charges applicable to such Unit.

11.11.8 Partial Condemnation. Notwithstanding anything in the Declaration or these By-Laws to the contrary, if the Building is partially taken by condemnation or eminent domain (a "Partial Condemnation"), then (i) the Condominium Board shall be required to restore only those General Common Elements necessary for the Units remaining after such Partial Condemnation and (ii) any Unit Owner whose Unit has been partially taken and irrespective of any condemnation award therefor, shall contribute to the Condominium Board the cost for any applicable GCE Restoration Work relating to such Unit Owner's Unit, and such funds shall be deemed to be GCE Restoration Funds; provided, however, that any excess GCE Restoration

Funds shall, after the completion of the applicable GCE Restoration Work, be returned to such Unit Owner (after deducting any Delinquency Charges).

11.11.9 Total Condemnation. Notwithstanding any provision of the Declaration or By-Laws to the contrary, if all or substantially all of the Building is taken by condemnation or eminent domain (a "Total Condemnation") (a) the Condominium Board shall perform any Safety Work which it deems appropriate, (b) any award received by a Unit Owner with respect to the taking of its Unit as part of the Total Condemnation shall be payable to the applicable Unit Owner, after deducting any Delinquency Charges and (c) the Condominium Board shall have no obligation to restore the General Common Elements.

11.11.10 Restoration Work; Plans. All GCE Restoration Work, Unit Restoration Work, Residential LCE Restoration Work and Commercial LCE Restoration Work hereunder shall be performed in accordance with the applicable provisions of the Declaration and these By-Laws regarding the performance of Alterations and/or Repairs, including without limitation the approval provisions of Section 8.1.1 of these By-Laws.

11.11.11 Reallocation of Percentage Interests. (a) If, as a result of a taking or casualty, the gross square footage of any Unit changes, the Condominium Board shall promptly (x) adjust, as of the date of such taking or casualty, the Unit Owner's Common Interest percentage in a manner consistent with the allocation of the Common Interests in existence immediately preceding such casualty or taking and in accordance with the then applicable Real Property Law, (y) equitably adjust, as of the date of such taking or casualty, the then effective budget to take into account the casualty or taking, and (z) subject to the provisions of Article 17 of the Declaration and Article 16 of these By-Laws, prepare and record in the Register's office an amendment to the Declaration, confirming such reallocation. If the Condominium Board shall not agree on any of the matters referred to in the foregoing clauses (x), (y) and (z) within ninety (90) days following completion of the reconstruction, they shall submit such issue to Arbitration.

(b) If a Unit Owner or Board does not (in the course of restoring its Unit or Section, including any Residential Limited Common Elements or Commercial Limited Common Elements) restore the number of gross square feet existing immediately preceding the fire or other casualty, then, notwithstanding such reduction in the number of gross square feet, such Unit Owner's/s' Common Interest(s) and allocation(s) of General Common Charges shall not be diminished. Likewise, each Unit Owner's Common Interest and allocation of General Common Charges shall not be adjusted or diminished if a Unit Owner chooses to restore its Unit to a "core and shell" condition rather than to a fully operational condition (as each such condition is described in Section 11.11.4 above).

## ARTICLE 12

## EVENTS OF DEFAULT; RIGHTS OF CURE; CONDOMINIUM BOARD'S LIEN; GRANTEES LIABLE FOR UNPAID GENERAL COMMON CHARGES

12.1 Failure to Pay General Common Charges.

12.1.1 The Condominium Board shall take prompt action to collect any General Common Charges or Special Assessments which remain unpaid following notice and the expiration of applicable grace periods, including, without limitation, the institution of such actions and the recovery of interest and expenses as are provided in this Article 12.

12.1.2 The Condominium Board shall have a lien (the "Condominium Board's Lien") for all unpaid General Common Charges, Special Assessments, other sums payable to it as if part of General Common Charges or amounts otherwise due to the Condominium Board (together with interest thereon as provided in this Article) from a Retail Unit Owner or the Garage Unit Owner. Such lien(s) shall be subordinate only to liens for real estate taxes and other assessments by taxing authorities and, to the extent required or permitted by applicable Law, to prior recorded mortgages on the Unit(s) of such delinquent Unit Owner(s), which are first mortgages of record. Such lien shall also be superior to any lien on such Units in favor of the Commercial Board as provided in the Commercial By-Laws. Without limiting any of the foregoing, the Condominium Board may: (w) bring an action to foreclose the Condominium Board's Lien in accordance with Section 339-aa of the Real Property Law; (x) purchase the interest of the owner of such Unit at a foreclosure sale resulting from any such action; (y) proceed by appropriate judicial proceedings to enforce the specific performance or observance by the defaulting General Common Charge Obligor or Unit Owner of the applicable provisions of the Declaration or these By-Laws from which default arose; or (z) exercise any other remedy available at Law or in equity. Each of the remedies herein described as well as any other remedy available at Law or in equity may be exercised concurrently or sequentially. Any Registered Mortgagee may bid in a foreclosure sale of any Unit.

12.1.3 The Condominium Board shall not record any notice of any Condominium Board's Lien prior to the date on which all applicable notice and grace periods (including cure periods to which any Registered Mortgagee may be entitled) in respect of the default(s) giving rise to the Condominium Board's Lien have expired. Subject to the requirements with respect to notice, grace and cure periods set forth in the preceding sentence, the pendency of an Arbitration with respect to the obligations giving rise to any such lien shall not serve to prevent the Condominium Board from recording any Condominium Board's Lien; however, no proceedings or filings in furtherance thereof (other than as may be required in order to preserve the validity and priority of the lien so recorded) shall be had or made, as the case may be, until the resolution of the Arbitration with respect thereto, and to the extent it shall be determined in Arbitration that the Condominium Board was not entitled to record all or any portion of such Condominium Board's Lien, the Condominium Board shall, as promptly as practicable following such determination and at the Condominium Board's expense, cause its Condominium Board's Lien (or portion thereof) to be released and discharged. The Condominium Board's Lien shall be effective from and after the time of recording in the public records of New York County of a

claim of lien stating the description of the Unit, the name, if any, and the address of the Unit, the City Register's File Number (or other identifying recording information) of record of the Declaration, the name of the record owner, the amount due and purpose of such amount and the date when due. Subject to the penultimate sentence of Section 12.1.4 hereof, such claim of lien shall include only sums which are due and payable when the claim of lien is recorded and shall be signed and verified by an officer or agent of the Condominium Board. Upon full payment of all sums evidenced by the lien including, without limitation, interest at the Default Rate, the party making payment shall be entitled to a recordable satisfaction of lien to be recorded at its expense. Liens for unpaid General Common Charges may also be reduced to a personal money judgment against the Unit Owner or may be foreclosed by suit brought in the name of the Condominium Board or the Unit Owner asserting the lien in the same manner as a contract or other action (and without waiving the lien securing the same); provided, however, that no Unit Owner shall be liable to the Condominium Board for any deficiency with respect to a Unit owned by such Unit Owner and upon which the Condominium Board has foreclosed its Condominium Board's Lien. In the event of the foreclosure of such lien, the Condominium Board shall have the power to bid on the Unit at foreclosure sale and to acquire, hold, lease, mortgage and convey such Unit.

12.1.4 The Condominium Board shall charge any delinquent General Common Charge Obligor (or Unit Owner who or which has any direct payment obligation to the Condominium Board): (i) a late charge of $.04 for each dollar of such amounts which remain unpaid for more than ten (10) days from their initial due date (although nothing herein shall be deemed to extend the period within which such amounts are to be paid); (ii) interest at the Default Rate on such unpaid amounts (exclusive of any "late charges" theretofore collected on such amounts) computed from the due date thereof to the date payment is actually received from the delinquent General Common Charge Obligor; and (iii) if the Condominium Board institutes a suit or other proceeding to collect sums due hereunder, all expenses, including, without limitation, attorneys' fees and expenses paid or incurred by the Condominium Board or by any managing agent in any proceeding brought to collect such unpaid General Common Charges or in an action to foreclose a Condominium Board's Lien with respect to such delinquent Person's Unit(s). All such late charges, interest, expenses and fees shall be added to and shall constitute General Common Charges payable by such General Common Charge Obligor (and the Condominium Board's Lien, as applicable, shall also secure the payment of such additional sums). A suit to recover a money judgment for unpaid General Common Charges shall be maintainable without foreclosing or waiving the lien securing such charges.

12.2 Other Defaults Under the Condominium Documents.

12.2.1 The violation of any of the General Rules and Regulations or the breach of any provision of these Condominium By-Laws, or the breach of any provision of the Declaration, shall give the Condominium Board the right, in addition to any other rights set forth in these By-Laws or the Declaration, (i) to enter any Unit, General Common Elements or Limited Common Elements in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition resulting in such violation or breach and the Condominium Board shall not thereby be deemed guilty or liable in any matter of trespass, and/or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at Law or in equity, the continuance of any such violation

or breach, provided that the Condominium Board gives the Unit Owner notice (which may be by telephone) that such violation exists, that repairs or replacements are necessary and that the Condominium Board will complete such repairs or replacements in the event the Unit Owner does not promptly act or complete the repairs or replacements, and/or (iii) to levy such fines and penalties as the Condominium Board may deem appropriate, and the Condominium Board shall have the same remedies for non-payment of such fines and penalties as for non-payment of General Common Charges.

12.2.2 The violation or breach of any of the provisions of these By-Laws, any of the General Rules and Regulations or the Declaration with respect to any rights, easements, privileges or licenses granted to Declarant and Sponsor or their designees shall give to Declarant, Sponsor or their designees, as the case may be, 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.

12.2.3 In the event that any Unit Owner, after receipt of written notice from the Condominium Board, fails or neglects in any way to perform any of its obligations with respect to the maintenance, repair or replacement of its Unit as provided in the Condominium Documents or of any Common Element for which such Unit Owner is responsible under the Declaration or these By-Laws, the Condominium Board may perform or cause to be performed such obligation unless such Unit Owner, within five (5) days after receiving notice of such default by the Condominium Board, cures such default, or in the case of a default not reasonably susceptible to cure within such period, commences and thereafter prosecutes to completion, with due diligence, the curing of such default. All sums expended and all costs and expenses incurred in connection with the making of any such painting, decorating, maintenance, repair or replacement in such Unit Owner's Unit or to any such Common Element for which such Unit Owner is responsible as aforesaid, together with interest thereon at the Default Rate, shall be immediately payable by such Unit Owner to the Board and shall, for all purposes hereunder, constitute General Common Charges payable by such Unit Owner.

12.2.4 Without limiting the preceding provisions of this Section 12.2:

(a) in the event a Unit Owner, the Residential Board or the Commercial Board shall fail to obtain and maintain any insurance required to be obtained and maintained by it under such of the Condominium Documents as may be applicable, or fails to effect the renewal or substitution of any such policy at least fifteen (15) days prior to the date set forth in any notice received by any such Person from its insurance company or the Condominium Board as the date (the "Insurance Termination Date") on or as of which any such policy is being terminated, is expiring or will otherwise not be renewed (unless such notice is received by such Person with fewer than fifteen (15) days remaining prior to such Insurance Termination Date, in which case such renewal or substitution shall be required in all events prior to the Insurance Termination Date of the required coverage); and any such failure continues for a period of one (1) business day following receipt by the defaulting Unit Owner or Residential Board or Commercial Board, from the Condominium Board (and/or, in the case of a Residential Unit Owner, the Residential Board, and/or in the case of a Commercial Unit Owner, the Commercial Board), of a notice of default with respect thereto specifying the policy and coverage amount (as applicable) required to be obtained, maintained, or renewed (as the case may be) and stating in

bold print: "THIS IS YOUR FINAL NOTICE THAT YOU ARE IN DEFAULT WITH RESPECT TO THE CONDOMINIUM'S INSURANCE REQUIREMENTS AS SPECIFIED HEREIN. FAILURE TO OBTAIN, MAINTAIN OR RENEW SUCH REQUIRED POLICY/IES OF INSURANCE WITHIN ONE (1) DAY AFTER THE DATE OF THIS NOTICE SHALL CONSTITUTE AN EVENT OF DEFAULT UNDER ARTICLE 12 OF THE CONDOMINIUM BY-LAWS AND THE PROVISIONS OF ANY OTHER APPLICABLE BY-LAWS."; or

(b) in the event a Unit Owner, the Residential Board or the Commercial Board shall fail (whether due to its action or inaction, or the action or inaction of any Permittee or Occupant of any such Unit Owner or Board) to bond or obtain the release or discharge of any mechanic's lien, or to remove of record, and cure the condition resulting in, any violation required to be released, discharged, removed or cured, as the case may be, in accordance with the provisions of (and within the time periods set forth in) Sections 9.1 and 9.2 of these By-Laws, and such failure continues after notice from the person "adversely affected" by such lien or violation (as such term is used in Section 9.1 or 9.2, as applicable), and beyond the expiration of the cure periods therein, provided that such notice shall specify and identify in reasonable detail the mechanic's lien or violation or condition in question and state in bold print: "THIS IS YOUR FIRST AND ONLY REQUIRED NOTICE THAT YOU ARE OBLIGATED TO [RELEASE OR DISCHARGE A MECHANIC'S LIEN and/or REMOVE A VIOLATION AND CURE THE CONDITION GIVING RISE THERETO] [the inapplicable phrase(s) to be deleted], AS REQUIRED BY ARTICLE 9 OF THE CONDOMINIUM BY-LAWS. FAILURE TO EFFECT SUCH [RELEASE, DISCHARGE, REMOVAL OR CURE] [the inapplicable phrase to be deleted] WITHIN [insert applicable cure period] AFTER RECEIPT OF THIS NOTICE SHALL CONSTITUTE AN EVENT OF DEFAULT UNDER ARTICLE 12 OF THE CONDOMINIUM BY-LAWS.";

either of such cases (each, a "Special Non-Monetary Event of Default"), then upon such occurrence and for so long as such Special Non-Monetary Event of Default continues, the Condominium Board may (without the consent of the defaulting Board or defaulting Unit Owner (notwithstanding any other provision of the Condominium Documents which might otherwise require such consent and without notice other than as provided in this Article 12), subject to Section 12.5 below), but shall not be obligated to, pay the amount or perform or cause to be performed the obligation or otherwise cure or effect the cure of the default which is the basis for such Special Non-Monetary Event of Default (including, for example, by means of causing Repairs or Alterations, or curing violations or removing or bonding mechanic's liens or otherwise as the Condominium Board shall deem appropriate), if the defaulting Unit Owner or Board, as the case may be, shall after receiving a further notice from the Condominium Board specifying the nature of the Special Non-Monetary Event of Default, and stating "YOU ARE HEREBY NOTIFIED THAT THE CONDOMINIUM BOARD SHALL BE ENTITLED TO EXERCISE ITS RIGHTS TO CURE THE EVENT OF DEFAULT DESCRIBED HEREIN IF YOU DO NOT CURE OR (AS APPLICABLE UNDER SECTION 9.2) COMMENCE THE CURE OF SAME, IN ACCORDANCE WITH ARTICLE 12 OF THE CONDOMINIUM BY-LAWS, WITHIN ___ DAYS [to be specified by the Condominium Board but which shall not be less than seven (7) Business Days] AFTER YOUR RECEIPT OF THIS NOTICE, WHICH MAY ENTAIL, WITHOUT LIMITATION, ENTRY BY THE CONDOMINIUM BOARD OR ITS AGENTS UPON YOUR UNIT AND/OR LIMITED COMMON ELEMENTS. AMONG

OTHER THINGS, YOU WILL BE RESPONSIBLE FOR ALL COSTS INCURRED BY OR ON BEHALF OF THE CONDOMINIUM BOARD IN CONNECTION THEREWITH." fail to cure such circumstances giving rise to such Special Non-Monetary Event of Default, or, if the condition giving rise to a Special Non-Monetary Event of Default is of a nature such that it cannot reasonably be cured within the period specified in such further notice and after so notifying the Condominium Board within such period, fail, as promptly as practicable within such period, to commence such cure and thereafter proceed with diligence and continuity to complete such cure (unless, notwithstanding the foregoing requirements, such condition giving rise to the Special Non-Monetary Event of Default constitutes an Emergency, in which event only such prior notice as is practicable under the circumstances (which may be, but shall not be presumed to be, none) shall apply and if no prior notice is given, notice shall be given promptly thereafter). Such right on behalf of the Condominium Board to cure any such matters includes, without limitation, the right: (i) to enter the Unit and/or the Limited Common Elements of the defaulting Unit Owner or Board, as the case may be, 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 or Board, any structure, thing or condition resulting in such violation or breach and the Condominium Board shall not thereby be deemed guilty or liable in any matter of trespass; and/or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach. Any funds expended by the Condominium Board, together with interest at the Default Rate from the date of expenditure to the date of repayment, shall be reimbursed by the defaulting Unit Owner or Board to the Condominium Board on demand and, as applicable, the same shall, for all purposes hereunder, constitute part of the General Common Charges payable by such Person.

(c) Any Repairs or Alterations performed by the Condominium Board in accordance with the terms of this Section 12.2 shall be the sole responsibility of the Condominium Board with respect to the quality and the proper completion thereof, but the responsibility thereafter for maintenance and related obligations for such item or area shall remain with the Person who had that responsibility prior to such performance by the Condominium Board.

12.3 Default by Condominium Board; Performance by Commercial Unit Owners, Commercial Board or Residential Board. In the event that the Condominium Board fails or neglects (other than to a de minimis extent) to perform any obligations (for which appropriate provision has been made in the then applicable Budget or for which an expenditure is otherwise specifically approved by the Condominium Board) with respect to the operation, maintenance, care, upkeep, Alteration or Repair of any part of the Building required to be operated, maintained, cared for, Altered or Repaired by the Condominium Board under the Condominium Documents, any Commercial Unit Owner (other than an Office Unit Owner) or the Residential Board or the Commercial Board, if adversely affected by such failure or neglect (in such case, a "Performing Party"), may, but shall not be obligated to, perform or cause to be performed, all such obligations (in accordance with any applicable provisions of the Condominium Documents with respect to consents and approvals, etc.), if the Condominium Board shall fail: (i) within a period of time not less than thirty (30) days after notice is given to the Secretary of the Condominium Board and to each Condominium Board Member specifying the precise nature and scope of such obligation and default, making demand for performance and/or cure thereof and stating in bold print: "YOU ARE HEREBY NOTIFIED THAT THE CONDOMINIUM

BOARD HAS FAILED TO FULFILL ITS OBLIGATIONS WITH RESPECT TO THE OPERATION, MAINTENANCE, CARE, UPKEEP, ALTERATION OR REPAIR OF THE BUILDING AS SET FORTH IN DETAIL IN THIS NOTICE. THE CONDOMINIUM BOARD'S FAILURE TO: (a) CURE THIS DEFAULT OR (AS APPLICABLE) TO COMMENCE THE CURE OF SAME, IN ACCORDANCE WITH ARTICLE 12 OF THE CONDOMINIUM BY-LAWS, OR (b) COMMENCE AN ARBITRATION DISPUTING THE DEFAULT HEREIN DESCRIBED, IN EACH CASE WITHIN __ DAYS [to be specified by the Person giving notice but which shall not be less than thirty (30) days] AFTER YOUR RECEIPT OF THIS NOTICE, SHALL ENTITLE US TO PERFORM SUCH OBLIGATION IN THE NAME OF THE CONDOMINIUM BOARD" (unless, notwithstanding the foregoing requirements, such alleged default constitutes an Emergency, in which case only such prior notice as is practicable under the circumstances (which may, but shall not be presumed to be, none) shall apply and if no prior notice is given, notice shall be given promptly thereafter), to either: (x) cure (or if the default is of a nature such that it cannot reasonably be cured within the stated period (except in the case of an Emergency), commence to cure and thereafter proceed with diligence and continuity to complete such cure of) the alleged default; or (y) dispute the existence of such alleged default and submit such dispute to Arbitration (and if the Condominium Board does not comply with either clause (x) or clause (y) of this sentence, it shall not have any further right to commence an Arbitration disputing the alleged default). All reasonable sums expended and costs and expenses incurred by the Performing Party in connection with the making or performing of any such operation, maintenance, care, upkeep, Alteration or Repair (to the extent within the scope of nature and scope of the work described in the notices provided to the Condominium Board as set forth above), together with interest thereon (at the Prime Rate for the first twenty (20) days after demand for payment, and at the Default Rate thereafter), shall be immediately payable upon demand by the Condominium Board to the Performing Party; and shall otherwise be allocated to the Unit Owners, as a General Common Expense in the manner set forth in these Condominium By-Laws. The Performing Party shall have a right of offset against sums due to the Condominium Board with respect to amounts due from the Condominium Board as described in the preceding sentence.

12.4 Emergencies Caused by Unit Owners or Board(s).

12.4.1 In the event that an Emergency exists as a result of: (i) the failure or neglect by a Unit Owner (or its Occupants or Permittees) or any Board to perform any obligation with respect to the operation, maintenance, care, upkeep or Repair of its Unit or Common Elements (under its control and for which it is, under the Condominium Documents, responsible), as the case may be; (ii) a condition existing or an occurrence within a Unit or a Common Element, as the case may be; or (iii) the violation by a Unit Owner or a Board (or any Occupants or Permittees of a Unit Owner or a Board) of any of the Declaration, these By-Laws, the Residential By-Laws, the Commercial By-Laws or any Rules and Regulations, all the other Unit Owners and the Boards that are, or that have (or that have Occupants or Permittees that are or that have) Units, Common Elements, property or operations that are threatened or affected by such Emergency, shall have the right, but not the obligation, to enter that portion of the Property in or from which, or as to which, such Emergency exists and to perform or cause to be performed any such operation, maintenance, care, upkeep or Repair or otherwise take any reasonable action under the circumstances to summarily abate and remove, at the expense of the defaulting Unit Owner or Board, as the case may be, such Emergency, but in all events only to the extent

reasonably and immediately necessary to do so (*i.e.*, until the Emergency no longer exists), and the party effecting such performance shall not thereby be deemed guilty or liable in any manner of trespass, provided that such party gives the defaulting Unit Owner or Board, as the case may be, such notice as is practicable under the circumstances (which may be, but shall not be presumed to be, none), which notice, to the fullest extent possible, shall describe the Emergency and the actions the party intending to effect performance intends to take, is taking, or has taken to abate such Emergency and further provided that such actions were taken only to the extent reasonably and immediately necessary to cause the Emergency no longer to exist. The foregoing right shall be exercised only by the Residential Board or its managing agent in the case of an Emergency affecting a Residential Unit or its appurtenant Residential Limited Common Elements (or its Occupants). The reasonable costs and expenses incurred in connection with the making of any such maintenance, repair or replacement or the taking of any such action for which such applicable Unit Owner or Board, as the case may be, is or would be otherwise responsible, together with interest thereon (at the Prime Rate for the first twenty days after demand for payment, and at the Default Rate thereafter), shall be immediately payable upon demand by such Unit Owner or Board, as the case may be, to the Person effecting such performance (the "Curing Person"). The Condominium Board shall have a Condominium Board's Lien (hereinafter described) in respect of amounts owed pursuant to the preceding sentence as if the same were payable to the Condominium Board as part of the General Common Charges payable by such applicable Unit Owner or Board, but such lien shall be held (and enforced) by the Condominium Board for the benefit of the Curing Person.

12.4.2 Any operation, maintenance, Repair or other action taken to abate and remove any such Emergency in accordance with the terms of subsection 12.4.1, shall be the sole responsibility of the Person taking such action (including, in the case of any Repair, with respect to the quality and the proper completion thereof) and such Person shall be liable for any and all Costs or damage caused thereby or in the course thereof and shall indemnify and hold the affected Board(s), managing agents, and Unit Owner(s) harmless with respect to the same; except that, in the case of any repair or physical maintenance performed during or as the result of an Emergency, the responsibility thereafter for maintenance and related obligations for the item or area repaired or replaced shall remain with the Person who had that responsibility prior to the Emergency.

12.5 Priority of Recourse Against Residential Unit Owners.

12.5.1 Notwithstanding anything to the contrary contained in this Article 12 and without limiting the rights of the Residential Board as set forth in the Residential By-Laws, the Residential Board shall in the first instance have the exclusive right of enforcement with respect to, and to exercise any remedy or recourse as against, a Residential Unit Owner as to whom or which any default under the Declaration, these By-Laws, the General Rules and Regulations, the Residential By-Laws and/or the Residential Rules and Regulations exists. The Residential Board shall, upon demand by the Condominium Board, use commercially reasonable efforts (and shall promptly, diligently and continuously attempt) to cause such defaulting Residential Unit Owner to cure such default (including, without limitation, through the exercise of all remedies available to the Residential Board under the Residential By-Laws). However, a default shall in no event be deemed to exist with respect to the Residential Board by reason of any action or inaction by,

or a default existing with respect to, a Residential Unit Owner (or such Board's action or inaction with respect to the enforcement or cure of the same).

12.5.2 In the event the Residential Board fails, within forty-five (45) days after demand is made by the Condominium Board to cause the Residential Unit Owner in question to cure its non-monetary default under the Declaration or these By-Laws (or, if such default is such that the Residential Board cannot reasonably cause the Residential Unit Owner in question to cure the same within such forty-five (45) day period, the Residential Board fails, as promptly as practicable within such forty-five (45) day period, to commence, and thereafter to proceed with diligence and continuity, to cause such Residential Unit to cure its default), then the Condominium Board shall be entitled to exercise its right to cure any such default in accordance with the applicable provisions of the Declaration or these By-Laws.

12.6 Priority of Recourse Against Commercial Unit Owners.

12.6.1 Notwithstanding anything to the contrary contained in this Article 12 and without limiting the rights of the Commercial Board as set forth in the Commercial By-Laws (except to the extent of the priority of lien in favor of the Condominium Board as set forth in Section 12.1.2 hereof), the Commercial Board shall in the first instance have the exclusive right of enforcement with respect to, and to exercise any remedy or recourse as against, a Commercial Unit Owner as to whom or which any default under the Declaration, these By-Laws, the General Rules and Regulations (if any), the Commercial By-Laws and/or the Commercial Rules and Regulations exists. The Commercial Board shall, upon demand by the Condominium Board, use commercially reasonable efforts (and shall promptly, diligently and continuously attempt) to cause such defaulting Commercial Unit Owner to cure such default (including, without limitation, through the exercise of all remedies available to the Commercial Board under the Commercial By-Laws). However, a default shall in no event be deemed to exist with respect to the Commercial Board by reason of any action or inaction by, or a default existing with respect to, a Commercial Unit Owner (or such Board's action or inaction with respect to the enforcement or cure of the same).

12.6.2 In the event the Commercial Board fails, within forty-five (45) days after demand is made by the Condominium Board to cause the Commercial Unit Owner in question to cure its default under the Declaration or these By-Laws (or, if such default is such that the Commercial Board cannot reasonably cause the Commercial Unit Owner in question to cure the same within such forty-five (45) day period, the Commercial Board fails, as promptly as practicable within such forty-five (45) day period, to commence, and thereafter to proceed with diligence and continuity, to cause such Commercial Unit Owner to cure its default), then the Condominium Board shall be entitled to exercise its right to cure any such default in accordance with the applicable provisions of the Declaration or these By-Laws.

12.6.3 Without limiting the provisions set forth in Section 12.6.1 hereof, the Condominium Board shall in the first instance have the exclusive right of enforcement with respect to, and to exercise any remedy or recourse as against, the Retail Unit Owners and Garage Unit Owner as to whom or which any default under the Declaration, these By-Laws, the General Rules and Regulations (if any), the Commercial By-Laws and/or the Commercial Rules and Regulations exists. The Condominium Board shall use commercially reasonable efforts (and

shall promptly, diligently and continuously attempt) to cause such defaulting Unit Owner to cure such default (including, without limitation, through the exercise of all remedies available to the Condominium Board under these By-Laws).

12.7 Grantee Liable for Unpaid General Common Charges; Statement of Defaults.

(a) To the extent applicable, upon any voluntary conveyance of any Unit, the grantee of such Unit shall (subject to the proviso clause of the penultimate sentence of Section 12.1.3 above) be liable for all unpaid General Common Charges pertaining to such Unit (which Unit shall continue to be subject to any Condominium Board's Lien existing as of the date of such conveyance), whether accrued and in respect of the period up to and including the date of such conveyance or in respect of the period following conveyance, but without prejudice to any right of the grantee to recover from the grantor any amounts paid by the grantee. To the extent permitted by law, a Permitted Mortgagee acquiring title to a Unit at a foreclosure sale shall not be liable for, and such Unit shall not be subject to, a lien by the Condominium Board for the payment of General Common Charges assessed against such Unit (or the Section of which such Unit is a part) subsequent to the recording of such Permitted Mortgage and prior to the acquisition of title of such Unit by such Permitted Mortgagee.

(b) Any General Common Charge Obligor may request from the Condominium Board for the benefit of a prospective purchaser, lender or Occupant, or otherwise, a statement: showing the amount of unpaid General Common Charges pertaining to such General Common Charge Obligor; stating whether there exists any known default under the Declaration or these By-Laws by the requesting Person, and if there are known defaults, specifying the nature thereof; stating the date and recording information of any amendments to the Declaration and these By-Laws, and stating whether the Declaration and these By-Laws are in full force and effect; and the Condominium Board shall provide such statement within ten (10) Business Days after request therefor. The Condominium Board shall be entitled to charge the requesting General Common Charge Obligor a reasonable fee for preparing and rendering said statement. Any Registered Mortgagee may request a similar statement with respect to a Unit upon which it holds a Registered Mortgage, with any reasonable charge therefor to be paid by the applicable Unit Owner. From time to time, the Condominium Board may request a statement from each General Common Charge Obligor, that, except as may be otherwise specified, the Condominium Board is not in default under any of its obligations under the Declaration or these By-Laws, and such other reasonable information as may be reasonably requested. The addressee of any such statement shall be entitled to rely thereon; and each statement delivered pursuant to this Section 12.7 shall act as a waiver of any claim between the addressee and the Condominium Board or Person furnishing such statement to the extent such claim is based upon facts contrary to those asserted in the statement and to the extent the claim is asserted against a bona fide encumbrancer or purchaser for value without knowledge of facts to the contrary of those contained in the statement, and who has acted in reasonable reliance upon the statement provided, however, that: (i) the issuance of such statement shall in no event subject the Condominium Board to any liability for the negligent or inadvertent failure of the Condominium Board to disclose correct and/or relevant information and (ii) such issuance shall not be construed to waive any rights of the issuer with respect to any audit of or adjustments to General Common Charges as provided for in the Declaration and/or these By-Laws, or to challenge acts

committed by a Unit Owner for which approval by or consent of the Condominium Board was required but not sought or obtained.

12.8 Title of Condominium Board on Foreclosure. Subject to Section 13.5 of these Condominium By-Laws, in the event of the Condominium Board's purchase of any Unit at a foreclosure sale, or in the event that any Unit Owner (to the extent permitted in the Condominium Documents) shall convey its Unit to the Condominium Board in accordance with Section 339-x of the Real Property Law, title to such Unit shall be held by the Condominium Board or its designee on behalf of all Unit Owners, and the Condominium Board shall have the power to hold, lease, mortgage, sell or otherwise deal with (but not vote the Common Interest appurtenant to) such Unit.

12.9 Residential Unit Owners. The provisions of the Residential By-Laws provide for the remedies of the Residential Board in the event of a failure by a Residential Unit Owner to pay the Residential Common Charges assessed against its Residential Unit (which Residential Common Charges include a portion of the General Common Charges allocated to the Residential Section by the Condominium Board).

12.10 Commercial Unit Owners. Subject and subordinate to the rights and remedies of the Condominium Board set forth herein, the provisions of the Commercial By-Laws provide for the remedies of the Commercial Board in the event of a failure by a Commercial Unit Owner to pay the Commercial Common Charges assessed against its Commercial Unit (which Commercial Common Charges include a portion of the General Common Charges allocated to the Commercial Section by the Condominium Board).

## ARTICLE 13

## SALES, LEASES AND MORTGAGES OF UNITS

13.1 Sales, Leases and Mortgages of Residential Units. The provisions of the Residential By-Laws, to the extent not in conflict with the Declaration and these By-Laws, shall govern the sale, leasing and mortgaging of the Residential Units; except that, notwithstanding the foregoing, Project Declarant and/or Sponsor, shall have the right, at any time, in its sole discretion and without the consent of any Person, to sell, assign or otherwise transfer, lease or encumber any Unsold Residential Unit(s), whether by merger, consolidation, sale, lease, mortgage, assignment or otherwise.

13.2 Sales, Leases and Mortgages of the Commercial Units. The provisions of the Commercial By-Laws, to the extent not in conflict with the Declaration and these By-Laws, shall govern the sale, leasing and mortgaging of the Commercial Units; except that, notwithstanding the foregoing, Project Declarant (with respect to Unsold Commercial Units) and/or Sponsor (with respect to Unsold Office Units), shall have the right, at any time, in its sole discretion and without the consent of any Person, to sell, assign or otherwise transfer, lease or encumber any Unsold Commercial Unit(s) or Unsold Office Units, as the case may be, whether by merger, consolidation, sale, lease, mortgage, assignment or otherwise.

13.2.1 Notwithstanding the foregoing, the Condominium Board shall have a right of first refusal with respect to the sale or lease of an Office Unit, in accordance with the terms and conditions set forth in Article 8 of the Commercial By-Laws.

13.3 Registered Mortgages; Rights of Registered Mortgagees.

(a) The term "Registered Mortgage" as used herein shall mean a mortgage, as the same may be amended, modified or restated from time to time, given to secure the repayment of money or other obligation owed by a Non-Office Commercial Unit Owner: (i) which shall comply with the provisions of this Article 13; and (ii) a true and correct copy of such mortgage has been delivered to the Secretary of the Condominium Board, together with a certification by the indebted Unit Owner or the mortgagee confirming that such copy is a true and correct copy of the mortgage in question. Such defined term shall also include the mortgages encumbering the Property as of the date of recording of the Declaration, as each mortgage may be increased, amended, restated, modified, split, severed and assigned from time to time (each, a "Construction Loan Mortgage"). In the event of any assignment of a Registered Mortgage or in the event of a change of address of a Registered Mortgagee or of an assignee of such Registered Mortgage, notice of the new or changed name and address shall be provided to the Secretary of the Condominium Board. The term "Registered Mortgagee" as used herein shall mean the record holder of a Registered Mortgage from time to time (subject to the preceding sentence). All Registered Mortgages shall be deemed to include (whether or not such mortgage in fact includes) an express provision acknowledging: (y) that the lien of such mortgage is and shall be subordinate to the Declaration, these By-Laws and the Commercial By-Laws (and the provisions thereof and hereof) but superior to the Condominium Board's Lien to the extent set forth in Section 12.1.2 above; and (z) that the mortgagee (and its successors and assigns) will take title (whether by foreclosure, deed-in-lieu of foreclosure or otherwise) subject to the Declaration, these By-Laws, the Commercial By-Laws, any General Rules and Regulations, and Commercial Rules and Regulations, and the Floor Plans.

(b) If a Commercial Unit Owner or its Registered Mortgagee shall have served on the Secretary of the Condominium Board, as described in the preceding subparagraph, a notice ("RM Notice") specifying the name and address of such Registered Mortgagee, such Registered Mortgagee shall be given a copy of each and every notice of the occurrence of a default or an Event of Default (including, without limitation, all notices (including notices that the Condominium Board or another Person intends to cure an Event of Default) described in Sections 12.1, 12.2 and 12.4 hereof) required or permitted to be given to such Registered Mortgagee's mortgagor pursuant to the Declaration or these By-Laws at the same time as and whenever such notice shall thereafter be given thereunder or hereunder, at the address last furnished by the applicable Commercial Unit Owner, or Registered Mortgagee. After receipt of an RM Notice from a Commercial Unit Owner or Registered Mortgagee, no notice of the occurrence of a default or an Event of Default thereafter given with respect to such Registered Mortgagee's mortgagor under the Declaration or these By-Laws by the Condominium Board or any other party entitled to give such notice shall be effective as to such Registered Mortgagee unless and until a copy thereof shall have been so given to the Registered Mortgagee(s). If a Registered Mortgage so provides or otherwise requires, then any insurance proceeds or condemnation award payable to a Commercial Unit Owner pursuant to the provisions hereof shall, upon notice from a Registered Mortgagee of such mortgagor, be

delivered instead to such Person's Registered Mortgagee but applied as provided in the applicable provisions hereof and of the Declaration.

(c) If more than one Registered Mortgagee having a lien on any Non-Office Commercial Unit has exercised any of the rights afforded by this Section 13.3, only that Registered Mortgagee, to the exclusion of all other Registered Mortgagees, whose Registered Mortgage is most senior in priority of lien with respect to such Commercial Unit (the "Senior RM") shall be recognized by the other Unit Owner(s), the Residential Board, the Commercial Board and the Condominium Board as having exercised such right, for so long as such Registered Mortgagee shall be diligently exercising its rights hereunder with respect thereto; provided, however, that by written notice to the Condominium Board, such Registered Mortgagees may designate one of them which is not most senior in priority to be deemed the Senior RM for purposes of this Section 13.3(c).

(d) Each Registered Mortgagee shall have the right, but not the obligation, to cure any Event of Default by such Registered Mortgagee's mortgagor. The Condominium Board, the Residential Board, Commercial Board and all Unit Owners shall accept performance by a Registered Mortgagee (or its designee or nominee) of any covenant, condition or agreement on the part of a Commercial Unit Owner to be performed hereunder with the same force and effect as though performed by such Registered Mortgagee's mortgagor, even if such performance is after the applicable time period set forth in clause (e) below.

(e) Notwithstanding any other provision of the Declaration or these By-Laws to the contrary, upon the occurrence of an Event of Default by a Commercial Unit Owner, no remedies contemplated under the Condominium Documents (other than (y) the remedies set forth in Section 12.4.1 hereof; and (z) unless clause (2) of this sentence applies and the applicable Non-Monetary Event of Default is not an Event of Default under Section 12.2.4(a) or Section 12.2.4(b) hereof, the remedies set forth in Section 12.2.4(a) hereof) shall be exercised by any Board or Unit Owner with respect thereto if a Registered Mortgagee of such Commercial Unit Owner shall (1) with respect to a Monetary Event of Default, within thirty (30) days following its receipt of any notice to the effect that a Monetary Event of Default has occurred with respect to its mortgagor, cure (or cause to be cured) such Monetary Event of Default, (2) with respect to any Non-Monetary Event of Default that is reasonably capable of being cured without owning or controlling the applicable Unit, within thirty (30) days following its receipt of any notice to the effect that such Non-Monetary Event of Default has occurred with respect to its mortgagor (a "Default Notice"), cure (or cause to be cured) such Non-Monetary Event of Default, or (3) with respect to any Non-Monetary Default in respect of which ownership or control of the applicable Unit is reasonably necessary to cure the Non-Monetary Event of Default in question, within ninety (90) days following its receipt of a Default Notice with respect thereto, commence to cure (or cause to be cured) the applicable Non-Monetary Event of Default, which cure may consist solely of exercising diligent efforts to obtain ownership or control of the applicable Units, and then diligently and continuously pursue such cure until completion.

(f) In addition, notwithstanding any provision hereof to the contrary, if one or more Events of Default have occurred with respect to a Commercial Unit Owner, but such defaulting Person's Registered Mortgagee is taking the actions described in the preceding

subparagraph (e) (as and when provided therein) with respect to, and/or has cured, each such Event of Default, then: (i) the Registered Mortgagee shall be entitled to replace and designate the Condominium Board Members that such defaulting Commercial Unit Owner would otherwise have been entitled to designate, as if such Registered Mortgagee were the Designator thereof; (ii) the Registered Mortgagee shall be entitled to vote at all Unit Owners Meetings the Common Interest that the Commercial Unit Owner would otherwise have been entitled to vote thereat and to give any consent or approval that its mortgagor could have given, which shall be granted or withheld under the same terms as are applicable to its mortgagor, as if such Registered Mortgagee were its mortgagor; and (iii) the Condominium Board shall rely (and be entitled to rely) on the votes of or actions taken by the Registered Mortgagee or the Condominium Board Member (or member(s) of the Commercial Board, as applicable) designated by it in determining the appropriateness of any action to be taken. The rights of a Registered Mortgagee under the preceding sentence shall remain in effect until the Secretary of the Condominium receives the written notice described in the last sentence of Section 2.9.5 hereof and the third sentence of Section 3.7.1 hereof. Payment or performance of any obligation of a Commercial Unit Owner by a Registered Mortgagee (prior to the date on which such Registered Mortgagee or its assignee or designee or nominee shall take title to the defaulting Unit Owner's Unit) shall not give rise to any obligation on the part of the Registered Mortgagee to continue to pay or perform in the future.

13.4 No Severance of Ownership. No Commercial Unit Owner shall execute any mortgage or other instrument conveying or mortgaging title to its Commercial Unit without including therein its entire Common Interest appurtenant to such Unit. Any such mortgage or deed 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. Nothing in this Section 13.4 shall prohibit the lease of all or any portion of a Commercial Unit without the simultaneous lease of its appurtenant Common Interest.

13.5 Waiver of Right of Partition with Respect to Units Acquired on Behalf of Unit Owners as Tenants-in-Common; Waiver of Right of Surrender.

(a) In the event that a Commercial Unit Owner shall convey its Unit to the Condominium Board (to the extent permitted under the Condominium Documents) in accordance with Section 339-x of the Real Property Law, or any Commercial Unit shall be acquired by the Condominium Board or its designees (either at a foreclosure sale 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 as herein provided.

(b) To the extent permitted by Law, each of the Commercial Unit Owners shall be deemed to have waived any and all right to surrender its Commercial Unit (in each case, together with its Appurtenant Interests), to the Condominium Board.

## ARTICLE 14

## ARBITRATION

14.1 General Procedure. Except as may otherwise be expressly provided in these By-Laws or the Declaration, any arbitration provided for in these By-Laws or the Declaration ("Arbitration") shall be conducted before one arbitrator (having ten (10) or more years of experience in the field of Manhattan mixed use developments) by the American Arbitration Association or any successor organization thereto, in accordance with its rules then in effect. 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 New York City before one 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 10 days after his or her appointment.

14.2 Costs and Expenses. The fees, costs and expenses of the arbitrator shall be borne by the losing party in the Arbitration or, if the position of neither party to a dispute shall be substantially upheld by the arbitrator, such fees, costs and expenses shall be borne equally by the parties to the dispute. Each disputant shall also bear the fees and expenses of its counsel and expert witnesses. Subject to the foregoing, all costs and expenses paid or incurred by the Condominium Board in connection with any Arbitration held hereunder (including, without limitation, the fees and expenses of counsel and expert witnesses) shall constitute General Common Expenses.

14.3 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 14.1 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 15

## GENERAL RULES AND REGULATIONS

All General Rules and Regulations adopted from time to time by the Condominium Board shall be non-discriminatory and uniformly applied. None of the General Rules and Regulations shall be in conflict with these By-Laws or the Declaration. Notice and a copy of any newly adopted General Rules and Regulations or any modifications, amendments or additions thereto shall be given by the Condominium Board to each Unit Owner not less than thirty (30) days prior to the effective date thereof.

## ARTICLE 16

## AMENDMENTS TO DECLARATION AND/OR BY-LAWS

16.1 General. Except as specifically provided herein and in the Declaration with respect to amendments, modifications, additions or deletions (each, an "Amendment") to the Declaration and/or these By-Laws: (i) solely for the purpose of, and to the extent required for, effecting the permitted subdivision and/or combination of Units; and/or (ii) affecting Project Declarant, Sponsor (or its designee(s) or other owner of Unsold Residential Unit(s) or Unsold Office Unit(s)), or the Commercial Units or any Commercial Unit Owner: (a) any provision of the Declaration and/or these By-Laws benefiting, protecting or otherwise affecting the General Common Elements or all Unit Owners, may be added to, amended, modified or deleted ("Amended") by the affirmative vote of at least sixty-six and two-thirds (66-2/3%) in number and in Common Interest of all Unit Owners; provided, however, that the permitted use(s) of a Unit or the Common Interest appurtenant to each Unit as expressed in the Declaration shall not be altered without the written consent of all Unit Owners (and their Registered Mortgagee(s) (in the case of any Non-Office Commercial Unit) or Permitted Mortgagee(s) (in the case of any Residential Unit(s) or Office Unit(s)) directly affected; (b) any provision of the Declaration and/or these By-Laws benefiting, protecting or otherwise affecting only the Residential Section or the Residential Unit Owners may be Amended by the affirmative vote of at least sixty-six and two-thirds (66-2/3%) in number and in Common Interest of all Residential Unit Owners taken in accordance with the provisions of these By-Laws and the Residential By-Laws; and (c) any provision of the Declaration and/or these By-Laws benefiting, protecting or otherwise affecting only the Commercial Section or the Commercial Unit Owners may be Amended by the affirmative vote of at least sixty-six and two-thirds (66-2/3%) in Common Interest of all Commercial Unit Owners taken in accordance with the provisions of these By-Laws and the Commercial By-Laws. Notwithstanding the foregoing, but subject to the provisions of the Declaration and/or these By-Laws with respect to Amendments to the Declaration and/or these By-Laws: (i) solely for the purpose of, and to the extent required for, effecting the permitted subdivision and/or combination of Units; and/or (ii) affecting Project Declarant, Sponsor (or its designee(s) or other owner of Unsold Residential Unit(s) or Unsold Office Unit(s)), or the Commercial Units or any Commercial Unit Owner: (1) no Amendment pursuant to the provisions of clause (a) above which would: (A) adversely affect the lien of any mortgagee under the Condominium Documents; (B) amend any enumerated rights, privileges, liabilities or obligations of a mortgagee of any Unit(s); or (C) subject to subsection 16.3 below, adversely affect any enumerated rights, privileges, liabilities or obligations of any Unit Owner; shall be effective without the written consent (which consent shall not be unreasonably withheld, conditioned or delayed) of the applicable Registered Mortgagee (in the case of any Non-Office Commercial Unit(s)) or Permitted Mortgagee (in the case of any individual Residential Unit(s) or Office Unit(s)) or majority of the applicable Mortgagee Representatives, if any (in the case of all Residential Units or Office Units); (2) no Amendment pursuant to the provisions of clause (b) above shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of a majority of the Residential Mortgagee Representatives, if any; (3) no Amendment pursuant to the provisions of clause (c) above shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of the applicable Registered Mortgagee (in the case of any Non-Office Commercial Unit(s)) or Permitted Office Mortgagee or majority of the Office Mortgagee Representatives, if any; and (4) the provisions of

this Section 16.1 may not be Amended unless eighty percent (80%) in Common Interest of all Unit Owners affected thereby duly approve such Amendment.

16.2 Amendments Affecting Commercial Unit Owners, Declarant or Sponsor. Notwithstanding any provision contained in the Declaration and/or these By-Laws to the contrary, no Amendment to the Condominium Documents shall be effective in any way: (a) without the prior written consent of the affected Commercial Unit Owner(s), with respect to any Amendment thereto modifying the permitted uses of any Commercial Unit or affecting the rights, privileges, easements, licenses or exemptions granted to any Commercial Unit Owner; (b) without the prior written consent of Project Declarant, Sponsor or their designees or the owner of any Unsold Residential Unit with respect to any amendment, modification, addition or deletion of or to the Condominium Documents modifying the permitted uses of the Residential Section or any portion thereof or affecting the rights, privileges, easements, licenses or exemptions granted to Project Declarant, Sponsor or their designees or the owner of any Unsold Residential Unit, or otherwise adversely affecting Project Declarant, Sponsor or their designees or the owner of any Unsold Residential Unit; (c) without the prior written consent of Project Declarant, Sponsor or their designees or the owner of any Unsold Office Unit with respect to any amendment, modification, addition or deletion of or to the Condominium Documents modifying the permitted uses of the Office Units or any portion thereof or affecting the rights, privileges, easements, licenses or exemptions granted to Project Declarant, Sponsor or their designees or the owner of any Unsold Office Unit, or otherwise adversely affecting Project Declarant, Sponsor or their designees or the owner of any Unsold Office Unit; or (d) without the prior written consent of the holder of any present or future mortgage, pledge, or other lien or security interest covering any Unsold Unit with respect to any amendment, modification, addition or deletion of or to the Condominium Documents modifying the permitted uses of such Unsold Unit or affecting the rights, privileges, easements, licenses or exemptions granted to the owner of such Unsold Unit.

16.3 Special Amendments. Project Declarant and Sponsor shall have the right to amend the Declaration and these By-Laws, without the consent of any Board or any other Unit Owner, to effectuate the rights otherwise granted to such party under the terms of the Declaration and these By-Laws.

16.4 Intentionally Omitted.

16.5 Intentionally Omitted.

16.6 Recording of Amendments. No Amendment to the Declaration, Condominium By-Laws, Residential By-Laws and/or Commercial By-Laws shall be effective until approved in accordance with the applicable provisions of the Condominium Documents and recorded in the Register's Office.

16.7 Execution and Delivery of Amendments. Subject to the provisions contained herein or in the Declaration with respect to Amendments affecting Declarant, Sponsor, their respective designees or the holder of any Unsold Units, any Amendment to the Declaration and/or Condominium By-Laws, Residential By-Laws or Commercial By-Laws may be executed: (i) if on behalf of the applicable Board, by the President or Vice President and the Secretary or

an Assistant Secretary of such Board; and (ii) if on behalf of a Commercial Unit Owner, by any general partner, managing member, officer or other authorized person of such owner.

16.8 Review and Approval by Mortgagees. Each Non-Office Commercial Unit Owner, the Residential Board and the Commercial Board shall submit a draft of any proposed Amendment to the Declaration and/or Condominium By-Laws to its Registered Mortgagee (or, in the case of the Residential Board, to the Residential Mortgagee Representatives, if any, or, in the case of the Commercial Board, to the Office Mortgagee Representatives, if any) only in the event such proposed Amendment is of a materially adverse nature to such mortgagee, and each such Registered Mortgagee whose mortgage grants it such right, and each such Residential Mortgagee Representative or Office Mortgagee Representative, shall have the right to approve or disapprove such Amendment prior to the Board Member designated by its mortgagor (if any) or the Residential Board or Commercial Board, as the case may be, being entitled to vote for the adoption of such Amendment by the Condominium Board. Any approval or disapproval of a proposed Amendment to the Declaration and/or Condominium By-Laws shall be given by each Registered Mortgagee entitled to give the same within fifteen (15) Business Days after such Registered Mortgagee's receipt of a written request therefor (or, with respect to a Residential Mortgagee Representative or Office Mortgagee Representative, within sixty (60) calendar days after such Residential Mortgagee's receipt of a written request therefor), and each such Registered Mortgagee's, Residential Mortgagee Representative's or Office Mortgagee Representative's failure to timely respond to any such request (i.e., within such fifteen (15) Business Day period (for a Registered Mortgagee) or within such sixty (60) calendar day period (for a Residential Mortgagee Representative or Office Mortgagee Representative)) shall constitute (and be deemed to constitute) such Registered Mortgagee's, Residential Mortgagee Representative's or Office Mortgagee Representative's approval of the proposed Amendment. The approval of a Registered Mortgagee, Residential Mortgagee Representative or Office Mortgagee Representative, as the case may be, shall (if required pursuant to the foregoing provisions of this Section 16.8) continue to be required notwithstanding that an Event of Default exists and is continuing with respect to such mortgagee's mortgagor or such representative's Residential Board or Commercial Board, as the case may be.

## ARTICLE 17

## MISCELLANEOUS

17.1 Approvals and Consents.

17.1.1 Wherever the consent or approval of Declarant, Project Declarant or Sponsor is required under these By-Laws or the Declaration, such consent or approval shall not be required when such Person (either directly or through its affiliates) no longer owns any Units.

17.1.2 Any approval or consent of a Board, Declarant, Project Declarant, Sponsor or any Unit Owner or Board Member required under the Declaration or these By-Laws may, except to the extent expressly provided to the contrary in the Declaration or these By-Laws, be granted or withheld in such Person's sole discretion. Whenever the approval or consent of a Board, Sponsor, or any Unit Owner or Board Member is required under the Declaration or these

By-Laws not to be unreasonably withheld, such approval shall also not be unreasonably conditioned or delayed.

17.1.3 Notwithstanding that the consent and/or approval of any Board or Unit Owner may be required for or with respect to any particular matter, there shall be no separate or further requirement to obtain the consent or approval of the managing agent for any of the foregoing Persons.

17.1.4 Notwithstanding any other provision of the Declaration and these By-Laws, with respect to any right of approval or consent granted to any Person by virtue of any "affect" or "impact" on it or any portion of the Property owned or controlled by it, in each instance the "affect" alleged must relate to the unique circumstances of such Person and the portion(s) of the Property owned or controlled by it; and no specific right of approval or consent shall apply with respect to any such matter which affects or impacts all Unit Owners, all General Common Charge Obligors, Commercial Unit Owners, the Commercial Board and the Residential Board, as the case may be, simply by virtue of their status as Unit Owners, General Common Charge Obligors, Unit Owner or Board, as the case may be.

17.2 Waiver. No provision contained in the Declaration, these By-Laws or the General Rules and Regulations shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches thereof which may occur.

17.3 Captions. The index hereof and 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.

17.4 Conflicts. In the event of a conflict between: (i) the terms of the Declaration and those of any of the Condominium By-Laws, Residential By-Laws or Commercial By-Laws, the terms of the Declaration shall in all events govern; (ii) the terms of the Condominium By-Laws and those of the Residential By-Laws or the Commercial By-Laws, the terms of these Condominium By-Laws shall in all events govern; and (iii) the terms of any General Rules and Regulations and those of the Residential Rules and Regulations or Commercial Rules and Regulations, the terms of any General Rules and Regulations, if any, shall in all events govern.

17.5 Certain References.

17.5.1 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.

17.5.2 The terms "herein," "hereof" or "hereunder" or similar terms used in these By-Laws refer to these entire Condominium By-Laws and not to the particular provision in which the terms are used.

17.5.3 Unless otherwise stated, all references herein to Articles, Sections, subsections, paragraphs, subparagraphs or other provisions are references to Articles, Sections or other provisions of these Condominium By-Laws.

17.6 Severability. Subject to the provisions of the Declaration, if any provision of these By-Laws is invalid or unenforceable as against any Person or under certain circumstances, the remainder of these By-Laws and the applicability of such provision to other Persons or circumstances shall not be affected thereby. Each provision of these By-Laws shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by Law.

17.7 CPI Increases. All specific dollar amounts set forth in these By-Laws or the Declaration shall be adjusted by the CPI Increase Factor except to the extent otherwise provided. For such purposes, the "CPI Increase Factor" means an increase proportionate to any increase in the cost of living from the date of the initial recording of the Declaration, as reflected by the change in the Consumer Price Index (CPI-U; All Items; 1982-84 = 100 standard reference base period) for New York, New York (or the smallest measured area including New York, New York), as published by the Bureau of Labor Statistics, United States Department of Labor or, if the same ceases to be published, a commonly used substitute therefor reasonably selected by the Condominium Board (such index or substitute, the "Consumer Price Index").

17.8 Covenant of Further Assurances.

17.8.1 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 an officer of any Board, a Registered Mortgagee, Residential Mortgagee Representative, Office Mortgagee Representative 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, as shall be reasonably necessary 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 (but without expanding the scope of any liability or obligation on the part of the cooperating party beyond that set forth in the Condominium Documents).

17.8.2 If any Unit Owner or any other party which is subject to the terms of these By-Laws fails to execute, acknowledge or deliver any instrument, or fails or refuses to take any action which such Unit Owner or other party is required to perform pursuant to one or more specific provision of these By-Laws, in each case (unless a specific provision with respect thereto is provided for elsewhere in the Condominium Documents) within fifteen (15) Business Days after request therefor and within five (5) Business Days after receipt of a second request therefor (which second request shall be accompanied by a copy of the initial request (and any supporting materials)) and stating in bold print: "THIS IS A SECOND AND FINAL REQUEST FOR YOU TO EXECUTE, ACKNOWLEDGE AND/OR DELIVER THE DOCUMENTS, OR TO TAKE THE ACTIONS, DESCRIBED IN THE ENCLOSED PRIOR REQUEST THEREFOR, WHICH IS REQUIRED UNDER THE TERMS OF THE CONDOMINIUM DECLARATION AND/OR BY-LAWS. YOUR FAILURE TO EXECUTE, ACKNOWLEDGE AND/OR DELIVER THE DOCUMENTS, OR TO TAKE THE ACTIONS, AS THE CASE MAY BE, WITHIN FIVE (5) BUSINESS DAYS FROM THE DATE HEREOF SHALL ENTITLE THE CONDOMINIUM BOARD TO DO SO ON YOUR BEHALF.", then the Condominium Board is hereby authorized, as attorney-in-fact, coupled with an interest, for such Unit Owner or other party, to execute, acknowledge and deliver such instrument, or to take such

action, in the name of such Unit Owner or other party, and such instrument or action shall be binding on such Unit Owner or other party, as the case may be. Any dispute with respect to the foregoing shall be subject to Arbitration; provided, the Person refusing to execute, acknowledge or deliver any such instrument, or refusing to take any such action, expressly renders such refusal in writing (together with its rationale for such refusal) within the time period(s) provided in this Section 17.8.2.

17.8.3 If the Condominium Board, Commercial Board or Residential Board, as applicable, fails to execute, acknowledge or deliver any instrument, or fails or refuses to take any action which is required of it to perform in furtherance of any right granted Declarant or Sponsor hereunder or otherwise in the Condominium Documents, then Declarant and/or its respective designees is authorized, as attorney-in-fact, coupled with an interest, for the Boards, and the Unit Owners, to execute, acknowledge and deliver any instrument, or to take action, in the name of the Boards and the Unit Owners in furtherance thereof, and such instrument or action shall be binding on the applicable Board(s) and the Unit Owners, as the case may be.

# EXHIBIT 1
# TO CONDOMINIUM BY-LAWS

## TABLE OF DEFINITIONS

Affiliate: with respect to any Person, means (except as may be provided more specifically in any instance in the Condominium Documents) a Person which directly or indirectly (through one or more intermediaries) controls, is controlled by, or is under common control with, such Person. For purposes hereof, the term "control" (including the related terms "controlled by" and "under common control with") mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person (whether through the ownership of voting securities or other ownership interest, by contract or otherwise); and the ownership, either directly or indirectly, of at least fifty-one percent (51%) of the legal or beneficial interest in such Person.

Alterations: As defined in Section 2.2.2(a) of the Condominium By-Laws; and "Altering" shall mean performing an Alteration.

Amendment: As defined in Section 16.1 of the Condominium By-Laws.

Appurtenant Interests: As defined in Section 17.3 of the Declaration.

Arbitration: As defined in Section 14.1 of the Condominium By-Laws.

Board Member: means a Condominium Board Member as defined in Article 2 of the Condominium By-Laws.

Board: means any of the Residential Board, the Commercial Board or the Condominium Board, as the context may require; and such boards are collectively referred to as the "Boards".

Budget: As defined in Section 6.1.1 of the Condominium By-Laws.

Building: As defined in Article 3 of the Declaration.

Business Days: means Monday to Friday, except holidays observed by the federal, state or local governments.

Club Unit: As defined in Section 3.1 of the Declaration.

Club Unit Owner: the record owner, whether one or more Persons, of the Club Unit, in fee simple absolute, from time to time, including, without limitation, any mortgagee (or its designee) succeeding to such owner's interest in the Unit in question by foreclosure or by deed-in-lieu of foreclosure.

Commercial Board: As defined in Section 2.1 of the Commercial By-Laws.

Commercial By-Laws: As defined in Section 1.4 of the Declaration.

Commercial Lobby: means the elevator and surrounding area servicing the Club Unit and Office Units lobby accessed through the Main Lobby.

Commercial Rules and Regulations: As defined in the Commercial By-Laws.

Commercial Section: As defined in Section 1.4 of the Declaration.

Commercial Unit(s): Any of the Office Units, Retail Units, Club Unit or Garage Unit, as the same may be subdivided or combined in accordance with the Declaration and/or Condominium By-Laws. All of any such Units are collectively referred to as the "Commercial Units."

Commercial Unit Owner: means the record owner, whether one or more Persons, of a Commercial Unit, in fee simple absolute, from time to time, including, without limitation, any mortgagee (or its designee or nominee) succeeding to such owner's interest in the Commercial Unit in question by foreclosure or by deed-in-lieu of foreclosure, and further described in Section 3.1 of the Declaration.

Common Charges: in respect of a General Common Charge Obligor means General Common Charges; and in respect of a Residential Unit Owner means Residential Common Charges and in respect of a Commercial Unit Owner means Commercial Common Charges.

Common Elements: means the General Common Elements, the Residential Limited Common Elements and the Commercial Limited Common Elements, each as defined in Article 7 of the Declaration.

Common Interest: means, at any given time, the proportionate, undivided interest in fee simple absolute appurtenant to each Unit in the Common Elements, as expressed in percentage terms and set forth in Schedule B to the Declaration, as such Schedule may be amended from time to time in accordance with and subject to the provisions of the Condominium Documents. References in the Declaration, the Condominium By-Laws and the Residential By-Laws to the Common Interest(s) of the Residential Section or the Residential Board shall mean, in each case, the aggregate of the Common Interests appurtenant to all the Residential Units. References in the Declaration, the Condominium By-Laws and the Commercial By-Laws to the Common Interest(s) of the Commercial Section or the Commercial Board shall mean, in each case, the aggregate of the Common Interests appurtenant to all the Commercial Units.

Condominium: means the condominium established pursuant the Declaration.

Condominium Board: As defined in Article 2 of the Condominium By-Laws.

Condominium Board Member or Board Member: As defined in Article 2 of the Condominium By-Laws.

Condominium Board's Lien: As defined in Article 12 of the Condominium By-Laws.

Condominium By-Laws: As defined in Section 1.2 of the Declaration.

Condominium Documents: the Declaration, the Condominium By-Laws (including the General Rules and Regulations, to the extent then adopted and in effect), the Residential By-Laws (including the Residential Rules and Regulations) and the Commercial By-Laws (including the Commercial Rules and Regulations, to the extent then adopted and in effect), and the Floor Plans, as any of the foregoing may be amended from time to time.

Condominium Managing Agent: The manager of the Condominium at the time in question.

Construction Lender: means any holder of a Construction Loan Mortgage.

Construction Loan Documents: means all documents evidencing or governing a Construction Loan Mortgage.

Construction Loan Mortgage: As defined in Section 13.3(a) of the Condominium By-Laws.

Construction Loans: means the mortgage loans secured by the Construction Loan Mortgage.

Construction Manager: means Lend Lease (US) Construction LMB INC., a New York Corporation, having an office at 200 Park Avenue, New York, New York 10166.

Consumer Price Index: As defined in Section 17.7 of the Condominium By-Laws.

Costs: claims, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements).

Courtyard: means that portion of the Land between the Main Lobby and East 56$^{th}$ Street that will feature a semi-circular driveway leading from East 56$^{th}$ Street to the Main Lobby and the entry point to the Garage Unit and loading dock area, as shown more particularly on the Floor Plans.

CPI Increase Factor: As defined in Section 17.7 of the Condominium By-Laws.

Declarant: means, collectively Project Declarant and Lot 43 Declarant.

Declaration: means that certain Declaration Establishing a Plan for Condominium Ownership of the Premises known as 432 Park Condominium, to which the initial form of these Condominium By-Laws are attached, as such Declaration may be amended from time to time.

Default Rate: means a rate per annum equal to the lesser of: (i) five (5) percentage points above the rate publicly announced from time to time by Citibank N.A. (or its successor) in New York, New York as its "prime rate"; and (ii) the maximum rate of interest

permissible under applicable Laws, if any, with respect to the applicable amount payable hereunder.

Designator: means, with respect to a Condominium Board Member, the Person (*i.e.*, the Commercial Board or the Residential Board or, if applicable, the Unit Owner) entitled to designate such Board Member to the Condominium Board.

Designator in Good Standing: as of any given date, a Designator with respect to which no Event of Default has occurred and is continuing at the time in question.

Emergency: means a condition, event or occurrence (including, without limitation, leaks or cracks, structural problems or defects) requiring Repair, Alteration or abatement immediately and specifically necessary for the preservation or safety of the Building or any part thereof, or for the health or safety (but not the general comfort or welfare) of Occupants of the Building or other persons, or required to avoid the suspension of any necessary services in the Building.

Environmental Law(s): 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.

Equipment: means equipment, facilities, parts, fixtures, apparatus, appurtenances, installations and other similar items and personalty as may be located or contained in a Unit, Limited Common Element or General Common Element, but not necessarily forming a part of such Unit, Limited Common Element or General Common Element, as the case may be, unless otherwise specifically set forth in the Condominium Documents.

Event of Default: A Monetary Event of Default or Non-Monetary Event of Default, as the case may be.

Family Member: A spouse, domestic partner, child, parent or adult sibling of a Unit Owner.

First Annual Residential Meeting: The first annual meeting of Residential Unit Owners, which shall be held not later than thirty (30) days following the later to occur of: (i) the second anniversary of the First Closing; or (ii) the closing of title to Residential Units representing at least fifty percent (50%) both in number and aggregate Common Interests of all Residential Units conveyed to purchasers under the Offering Plan.

First Closing: means the first date upon which title to any Residential Unit is conveyed to a purchaser under the Offering Plan.

Floor Plans: As defined in Article 5 of the Declaration.

Garage Unit: As defined in Section 3.1 of the Declaration.

Garage Unit Owner: the record owner, whether one or more Persons, of the Garage Unit, in fee simple absolute, from time to time, including, without limitation, any mortgagee (or its designee) succeeding to such owner's interest in the Unit in question by foreclosure or by deed-in-lieu of foreclosure.

Garden: means that portion of the Land to the east of the Courtyard and to the west of the Park Avenue Pavilion as shown more particularly on the Floor Plans.

General Common Charges: As defined in Section 6.1.1 of the Condominium By-Laws.

General Common Charge Obligors: means: (i) the Residential Board on behalf of and as agent for the owners of the Residential Units; and (ii) the Commercial Board on behalf of and as agent for the owners of the Commercial Units. In the context of any payment obligations of a Commercial Unit Owner (other than an Office Unit Owner) either to or for the benefit of the Condominium Board or the Commercial Board, giving rise to any rights, remedies, or recourse in favor of the Condominium Board (including, without limitation, the Condominium Board's Lien), "General Common Charge Obligor" shall for such purposes under the Condominium Documents also include such Commercial Unit Owner.

General Common Elements: As defined in Article 7 of the Declaration.

General Common Expenses: As defined in Section 6.1.1 of the Condominium By-Laws.

General Rules and Regulations: such non-discriminatory rules and regulations as may be promulgated (and amended) by the Condominium Board from time to time with respect to various matters relating to the use of all or any portion of the Property, which either supplement or elaborate upon the provisions of the Declaration or the Condominium By-Laws, and which shall be uniformly enforced.

Governmental Authority(ies): means the United States of America, the State of New York, The City of New York and any agency, department, commission, board, bureau, instrumentality, public authority or agency (whether governmental or quasi-governmental) or political subdivision of any of the foregoing, now existing or hereafter created (including, without limitation, the New York City Department of Buildings, the City Planning Commission and the boards of fire underwriters) having jurisdiction over the Property or any portion thereof.

Hazardous Materials: petroleum products, asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law.

Impositions: each of the following imposed by any Governmental Authority: (i) real property, general and special assessments (including, without limitation, any special assessments: (A) for business improvements; or (B) imposed by any special assessment district); (ii) personal property taxes; (iii) commercial rent or occupancy taxes; (iv) license and permit fees, if and to the extent such fees are not paid by the Condominium Board and charged to the

Unit Owners as part of General Common Charges; (v) any fines, penalties and other similar governmental charges applicable to any of the foregoing, together with any interest or costs with respect to the foregoing; and (vi) any other governmental levies, fees, rents, assessments or taxes and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind whatsoever, together with any fines and penalties and any interest or costs with respect thereto.

Institutional Mortgage: means a mortgage loan made by and of the following Persons: (i) any bank, savings bank, trust company, savings and loan association, credit union or similar banking institution whether organized under the laws of the State of New York, the United States or any other state; (ii) any foreign banking corporation licensed by the Superintendent of Banks of New York or the Comptroller of the Currency to transact business in the State of New York; (iii) any insurance company or pension and/or annuity company duly organized or licensed to do business in New York State; and (iv) any instrumentality created by the United States or any state with the power to make mortgage loans.

Insurance Requirements: means all requirements of any insurance policy required to be carried pursuant to the Declaration and/or Condominium By-Laws and covering or applicable to all or any part of the Property or the use thereof, all requirements of the issuer of any such policy and all orders, rules, regulations, reasonable recommendations and other requirements of the New York Board of Fire Underwriters or any other body exercising the same or similar functions and having jurisdiction over all or any portion of the Property.

Insured Property: As defined in Section 11.8.2 of the Condominium By-Laws.

Land: As defined in Article 2 of the Declaration.

Laws (or, if used individually, Law): all applicable laws, statutes and ordinances (including, without limitation, Environmental laws, and all building codes, zoning ordinances and all requirements and limitations with respect to certificate(s) of occupancy for the Property), case law, and the written orders, rules, regulations, directives, binding resolutions and requirements of all Governmental Authorities, whether in force as of the date hereof or hereafter, which are or become, or purport to be, applicable to the Property or any part thereof.

Lien-Causing Board: As defined in Section 9.1 of the Condominium By-Laws.

Lien-Causing Unit Owner: As defined in Section 9.1 of the Condominium By-Laws.

Limited Common Elements: means the Commercial Limited Common Elements and Residential Limited Common Elements, individually or collectively, as the context may require.

Lot 43 Declarant: 46 EAST 57TH ST. (NY), LLC, a Delaware limited liability company having an office at 6922 Hollywood Blvd., Suite 900, Los Angeles, California 90028, which, together with Project Declarant, are collectively referred to as "Declarant".

Lot 43 Declarant's Land: As defined in Article 2 of the Declaration.

Majority Member Vote: means the affirmative vote of a majority of those Board Members in Good Standing who are Present in Person or by proxy and authorized to vote and voting at a duly constituted meeting of the Condominium Board at which a quorum is present, subject to Section 2.9.3 of these By-Laws.

Majority Unit Owner Vote: means the affirmative vote of those Unit Owners having more than fifty percent (50%) of the total votes of all Unit Owners (determined in accordance with the provisions of Section 3.7 of the Condominium By-Laws), who are Present in Person or by proxy, authorized to vote and voting at a duly constituted meeting at which a quorum is present or is not required.

Main Lobby: means the Tower lobby located on the Ground Floor of the Tower, set back from East 56th Street, which provides access to the Residential Lobby and the Commercial Lobby.

Managing Agent(s): Condominium Managing Agent or Residential Managing Agent, as the context may require.

Member in Good Standing or Board Member in Good Standing: means, as of any given date, a Condominium Board Member whose Designator is a Designator in Good Standing.

Monetary Event of Default: The failure of any Unit Owner or Board, after all required notices and beyond the expiration of all applicable grace and cure periods, to pay any General Common Charges, Special Assessments and/or other sums payable by it directly to the Condominium Board, or in the case of a Non-Office Commercial Unit, to pay any Commercial Common Charges to the Commercial Board.

Mortgagee Representative: Residential Mortgagee Representative or Office Mortgagee Representative, as the context may require.

New York Condominium Act: As defined in Article 1 of the Declaration.

No-Access Terraces: means those open-air and windowless mechanical spaces located on Floors 30/31, 46/47, 60/61, 74/75 and 89/90 of the Tower, as shown on the Floor Plans.

Non-Monetary Event of Default: A default by any Unit Owner or the Commercial Board or Residential Board (whether due to its action or inaction, or the action or inaction of any Permittee or Occupant of any such Unit Owner or Board), in the performance of any non-monetary obligation set forth in the Declaration or these By-Laws, other than a Monetary Event of Default (but including a Special Non-Monetary Event of Default), if such default continues for a period of thirty (30) days following receipt by the defaulting Unit Owner (in the case of any default by a Unit Owner or such Unit Owner's Occupants or Permittees; with a copy to the applicable Sub-Board) or the defaulting Board (in the case of any default by a Sub-Board or the Occupants or Permittees of any Units owned by it) of a notice of default from the Condominium Board, or, if the default is of a nature that it cannot reasonably be cured within such thirty (30) day period, if the defaulting Unit Owner (or its Occupant or Permittee) or Board (or its Occupant or Permittee) fails to: (i) commence such cure as promptly as practicable within

such thirty (30) day period; and (ii) thereafter proceed with diligence and continuity to complete such cure (however if a Unit Owner's or Board's Occupant shall be the cause of or otherwise give rise to the default as to which such notice has been given, no Event of Default shall exist if the Unit Owner or Board, as the case may be, uses commercially reasonable efforts (and promptly, diligently and continuously attempts) to cause such defaulting Occupant to cure such default (including, without limitation, the commencement and prosecution of an action to evict such Occupant or seeking an order to compel such Occupant to comply)).

Non-Office Commercial Unit: Any of the Retail Units, Club Unit or Garage Unit, as the same may be subdivided or combined in accordance with the Declaration and/or Condominium By-Laws. All of any such Units are collectively referred to as the "Non-Office Commercial Units."

Non-Office Commercial Unit Owner: means the record owner, whether one or more Persons, of a Non-Office Commercial Unit, in fee simple absolute, from time to time, including, without limitation, any mortgagee (or its designee or nominee) succeeding to such owner's interest in the Non-Office Commercial Unit in question by foreclosure or by deed-in-lieu of foreclosure.

Occupant: means any Person from time to time entitled to the use and occupancy of all or any portion of: (i) in the case of a Commercial Unit Owner, the Unit of such Commercial Unit Owner, and any Commercial Limited Common Elements under the exclusive control of such Unit Owner (in accordance with the Commercial By-Laws); (ii) in the case of a Residential Unit Owner, the Unit of such Unit Owner, and any Residential Limited Common Elements under the exclusive control of such Unit Owner (in accordance with the Residential By-Laws); and (iii) in the case of a Sub-Board, the Limited Common Elements (other than those under the exclusive control of a Unit Owner in accordance with the Declaration or the applicable Sub-By-Laws) of such Board and any Units owned by such Board or its designee; in each case under an ownership right or any lease, sublease, license, concession, or other similar agreement (but an Occupant of a Residential Unit or Office Unit not owned by a Sub-Board shall not, unless otherwise provided herein, be deemed an Occupant of such Board).

Offering Plan: means that certain offering plan, initially accepted for filing by the Office of the Attorney General of the State of New York as of _____ __, 2012, in connection with the offering of the Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses, together will all amendments to such plan made from time to time.

Office Mortgagee Representatives: One (1) or more (but not more than three (3)) representatives which the holders of Institutional Mortgages constituting a majority in principal amount of all Institutional Mortgages encumbering the Office Units may, at their election, designate in writing to the Commercial Board and the Condominium Board which representatives shall be empowered to act on behalf of all holders of Institutional Mortgages encumbering the Office Units with respect to any matter requiring their consent or approval under the Condominium Documents.

Office Unit: As defined in Section 3.1 of the Declaration.

Office Unit Owner: the record owner, whether one or more Persons, of an Office Unit, in fee simple absolute, from time to time, including, without limitation, any mortgagee (or its designee) succeeding to such owner's interest in the Unit in question by foreclosure or by deed-in-lieu of foreclosure.

Park Avenue Pavilion: That structure containing Retail Unit C, located principally on a portion of the Land located on the northwest corner of Park Avenue and East 56th Street, and connected to the Tower at the Cellar Level, and which, together with the Tower, comprises the Building.

Permitted Mortgagee: a Permitted Office Mortgagee or a Permitted Residential Mortgagee, as the context may require.

Permitted Office Mortgagee: with respect to an Office Unit, shall (with respect to such Office Unit), in each case, have the meaning given to such term, if any, in the Commercial By-Laws.

Permitted Residential Mortgagee: with respect to a Residential Unit, shall (with respect to such Residential Unit), in each case, have the meaning given to such term, if any, in the Residential By-Laws.

Permittee(s): the Persons (including the officers, directors, employees, agents, contractors, subcontractors, customers, vendors, suppliers, visitors, invitees, licensees, tenants, subtenants, and concessionaires of any Unit Owner or Board, or of any Occupant) who are, at any given time, in a Unit Owner's Unit, Residential Section, Commercial Section or Residential Limited Common Element or Commercial Limited Common Element, if any (to the extent such Residential Limited Common Element or Commercial Limited Common Element is under its/his/her exclusive control pursuant to the Residential By-Laws or Commercial By-Laws, as applicable), in each case as the context requires.

Person: means any individual, corporation, partnership, limited liability company, trust, unincorporated association, Governmental Authority or other legal entity, including, without limitation, each of the Boards.

Present in Person: As defined in 2.9.3 of the Condominium By-Laws.

Prime Rate: means a rate per annum equal to the lesser of: (i) the rate publicly announced from time to time by Citibank N.A. (or its successor) in New York, New York as its "prime rate"; and (ii) the maximum rate of interest permissible under applicable Laws, if any, with respect to the applicable amount payable hereunder.

Project Declarant: 56TH AND PARK (NY) OWNER, LLC, a Delaware limited liability company having an office at 515 Madison Avenue, 41st Floor, New York, New York 10022, which, together with Lot 43 Declarant, are collectively referred to as "Declarant".

Project Declarant's Land: As defined in Article 2 of the Declaration.

Property: As defined in Section 1.1 of the Declaration.

Purchase Agreement: The agreement to purchase a Residential Unit or Office Unit pursuant to the Offering Plan.

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

Registered Mortgage: As defined in Section 13.3 of the Condominium By-Laws.

Registered Mortgagee: As defined in Section 13.3 of the Condominium By-Laws.

Repairs: As defined in Section 2.2.2(a) of the Condominium By-Laws; and "Repairing" shall mean performing a Repair.

Resident Manager's Unit: The Residential Unit which will be used as an apartment by the resident manager of the Residential Section.

Residential Board: As defined in Section 2.1 of the Residential By-Laws.

Residential By-Laws: As defined in Section 1.3 of the Declaration.

Residential Common Expenses: As defined in Section 6.1.7 of the Condominium By-Laws.

Residential Limited Common Elements: As defined in Section 7.3 of the Declaration.

Residential Lobby: means the elevators (and surrounding area) servicing the Residential Section, the mail room, and a concierge accessed through the Main Lobby.

Residential Managing Agent: The manager of the Residential Section at the time in question.

Residential Mortgagee Representatives: One (1) or more (but not more than three (3)) representatives which the holders of Institutional Mortgages constituting a majority in principal amount of all Institutional Mortgages encumbering the Residential Units may, at their election, designate in writing to the Residential Board and the Condominium Board which representatives shall be empowered to act on behalf of all holders of Institutional Mortgages encumbering the Residential Units with respect to any matter requiring their consent or approval under the Condominium Documents.

Residential Restaurant: means that certain private restaurant and related areas located on Floor 12 of the Tower, as shown more particularly on the Floor Plans.

Residential Rules and Regulations: As defined in the Residential By-Laws.

Residential Section: As defined in Section 1.4.1 of the Declaration.

Residential Unit: As defined in Section 3.1 of the Declaration.

Residential Unit Owner: the record owner, whether one or more Persons, of a Residential Unit, in fee simple absolute, from time to time, including, without limitation, any mortgagee (or its designee) succeeding to such owner's interest in the Unit in question by foreclosure or by deed-in-lieu of foreclosure.

Retail Unit: As defined in Section 3.1 of the Declaration.

Retail Unit Owner: the record owner, whether one or more Persons, of a Retail Unit, in fee simple absolute, from time to time, including, without limitation, any mortgagee (or its designee) succeeding to such owner's interest in the Unit in question by foreclosure or by deed-in-lieu of foreclosure.

RM Notice: As defined in Section 13.3(b) of the Condominium By-Laws.

Roofs: means each of the roofs of the Building (including any machine room levels or bulkhead levels thereof or thereon), including, without limitation, those roofs which are the subject of easements for terraces and otherwise as specified in Article 15 of the Declaration.

Rules and Regulations: means, collectively, the General Rules and Regulations, the Residential Rules and Regulations and the Commercial Rules and Regulations (in each case, if any); and in all events, together with all amendments, additions and modifications thereto.

Sale, Sell or like terms, including the term conveyance (in each case, whether or not capitalized): means the sale or conveyance or transfer by a Unit Owner of its fee title interest in its Unit and its undivided common ownership interest in the Common Elements appurtenant thereto.

Special GCE Restoration Assessment: As defined in Section 11.11.3(c) of the Condominium By-Laws.

Special GCE Restoration Assessment Proceeds: As defined in Section 11.11.3(c) of the Condominium By-Laws.

Sponsor: means Project Declarant or any affiliate thereof to which the Unsold Residential Units or Unsold Office Units (or rights with respect to the initial licensing of the Storage Closets and Wine Cellars) are initially conveyed following the recording of the Declaration for purposes of effecting the offering of Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses as set forth the Offering Plan.

Storage Closet: As defined in Section 6.10.1 of the Residential By-Laws.

Storage License: As defined in Section 6.10.1 of the Residential By-Laws.

Studio Unit: The Residential Units specially designated in Section 3.1 of the Declaration as Studio Units.

Studio Unit Owner: An owner of any Studio Unit at the time in question, who except for Sponsor, must also own at all times a Residential Unit that is not specially designated in the Declaration as a Studio Unit.

Sub-Board: the Residential Board or the Commercial Board, as the context may require (and both of such Boards, the "Sub-Boards").

Sub-By-Laws: the Residential By-Laws and/or the Commercial By-Laws, as the context may require.

Tower: That structure that will feature eighty-four (84) stories above grade, with a Subcellar 2 Level, Subcellar 1 Level and Cellar Level below grade, located principally in the center portion of the Land, and connected to the Park Avenue Pavilion at the Cellar Level, and which, together with the Park Avenue Pavilion, comprises the Building.

Twelfth Floor Terrace: means that certain terrace located on Floor 12 of the Tower, as shown more particularly on the Floor Plans.

Unanimous or "unanimous", "unanimously" and words of similar import (whether or not capitalized): used in the Declaration and By-Laws, when referring to the Condominium Board shall mean the affirmative vote of all Condominium Board Members in Good Standing; and when referring to a group of some or all Unit Owners, shall mean the affirmative vote of all Unit Owners in Good Standing within the identified group.

Unit: means any of the Commercial Units, Residential Units, or any condominium units resulting from a subdivision or combination of any of the foregoing Units (as and to the extent permitted under the Condominium Documents).

Unit Owner: the record owner, whether one or more Persons, of a Unit in fee simple absolute, from time to time, including, without limitation, Sponsor as the record owner of any Unit, or any mortgagee (or its designee or nominee) succeeding to such owner's interest in a Unit by foreclosure or by deed-in-lieu of foreclosure. All references to a Unit Owner shall be deemed to include such Unit Owner's successors and assigns. Every Unit Owner shall be treated for all purposes as a single owner, irrespective of whether such ownership is joint, in common, or by a tenancy by the entirety.

Unit Owner in Good Standing: as of any given date, a Unit Owner with respect to which no Event of Default has occurred and is continuing at the time in question.

Unit Owners Meeting: As defined in Section 3.1 of the Condominium By-Laws.

Unsold Commercial Unit: As defined in Section 8.2.1 of the Declaration.

Unsold Office Unit: As defined in Section 8.2.2 of the Declaration.

Unsold Residential Unit: As defined in Section 8.1.2 of the Declaration.

Unsold Unit(s): Unsold Residential Unit(s), Unsold Commercial Unit(s) and/or Unsold Office Unit(s), as the context may require.

Wine Cellar: As defined in Section 6.10.1 of the Residential By-Laws.

Wine Cellar License: As defined in Section 6.10.1 of the Residential By-Laws.

Zoning Resolution: means the Zoning Resolution of the City of New York, effective as of December 15, 1961, as amended from time to time.

# EXHIBIT 2
# TO CONDOMINIUM BY-LAWS

## EXPENSE ALLOCATION SCHEDULE

| | Method of Allocation | Residential Unit 76.58% | Garage Unit 1.75% | Retail Unit A 1.76% | Retail Unit B 8.04% | Retail Unit C 4.43% | Club Unit 5.76% | Office Unit 1.67% |
|---|---|---|---|---|---|---|---|---|
| PAYROLL AND BENEFITS | % of Interest | | | | | | | |
| REPAIRS AND MAINTENANCE | % of Interest | | | | | | | |
| SERVICE CONTRACTS | % of Interest | | | | | | | |
| MANAGEMENT FEE | % of Interest | | | | | | | |
| INSURANCE | % of Interest | | | | | | | |
| LEGAL AND AUDIT | % of Interest | | | | | | | |
| OTHER | % of Interest | | | | | | | |

**EXHIBIT 12**

RESIDENTIAL BY-LAWS

# RESIDENTIAL BY-LAWS

# OF

# 432 PARK CONDOMINIUM

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# RESIDENTIAL BY-LAWS
# OF
# 432 PARK CONDOMINIUM

## ARTICLE 1

## GENERAL

1.1 Purpose. The purpose of these by-laws (the "Residential By-Laws") is to set forth the rules and procedures concerning the conduct of the affairs of the Residential Section (the "Residential Section") of 432 Park Condominium (the "Condominium"); the by-laws of the Condominium (the "Condominium By-Laws") detail the rules and procedures concerning the conduct of the affairs of the Condominium. The Residential Section and these Residential By-Laws shall be subject to the provisions of the Declaration and the Condominium By-Laws; and, as provided (and subject to any express provision to the contrary) therein, the rights of the Residential Unit Owners (as hereinafter defined) with respect to the Condominium, the Condominium Board (as hereinafter defined) and the Commercial Unit Owners (as defined in the Declaration) shall generally only be enforced by the Residential Board (as hereinafter defined) on behalf of the Residential Unit Owners. The Residential Section is comprised of the Residential Units together with the Residential Limited Common Elements appurtenant thereto, including, without limitation, the Storage Closets (hereinafter defined) and Wine Cellars (hereinafter defined). All terms used herein (including, without limitation, those in the previous sentence) which are not separately defined herein, shall have the meanings given to those terms in the Declaration and/or Condominium By-Laws (including Exhibit 1 ("Table of Definitions") annexed thereto).

1.2 Applicability of By-Laws. These Residential By-Laws are applicable to the Residential Section and to the use and occupancy thereof. All present and future Residential Unit Owners, mortgagees, lessees, sublessees and occupants of Residential Units and their respective employees, invitees and guests, as well as all other persons who may use the facilities located on, or forming a part of, the Residential Section, are and shall be subject to these Residential By-Laws, the Residential Rules and Regulations, the Declaration, the Condominium By-Laws and the General Rules and Regulations, if any. The acceptance of a deed or conveyance, or the succeeding to title to, or the execution of a lease, sublease or license for, or the act of occupancy of, all or any portion of a Residential Unit or the Residential Section shall constitute an agreement that the provisions of these Residential By-Laws, the Residential Rules and Regulations, the Declaration, the Condominium By-Laws and the General Rules and Regulations, if any, as any of the same may be amended from time to time, are accepted, ratified and will be complied with.

1.3 Principal Office of the Residential Section. The principal office of the Residential Section shall be located either within the Property or at such other place in the Borough of Manhattan as may be designated from time to time by the Residential Board.

## ARTICLE 2

## THE RESIDENTIAL BOARD

2.1 General Description of the Residential Board.

2.1.1 (a) As more particularly set forth in Section 2.2, the affairs of the Residential Section shall be governed by a board of managers of the Residential Section (the "Residential Board"). From and after the First Annual Residential Meeting (as hereinafter defined), the Residential Board shall consist of five (5) persons elected (and/or designated, as hereinafter provided) by the Residential Unit Owners.

(b) Each member of the Residential Board, except for the First Residential Board (as hereinafter defined) and except as otherwise provided herein, shall be elected or designated (as hereinafter set forth) at an annual meeting of the Residential Unit Owners and shall serve until the expiration of their term in office as herein provided. Notwithstanding the expiration of the term of office of a member of the Residential Board, each member shall serve until a successor for such member has been designated or elected, as the case may be, and qualified.

(c) In addition, the five (5) members of the Residential Board shall also serve as the representatives of the Residential Section on the Condominium Board as herein described.

(d) Until the First Annual Residential Meeting, Sponsor reserves the right to designate fewer than five (5) persons to the Residential Board; however, in such case, Sponsor's designees shall be the only members of the Residential Board and such designees shall collectively hold five (5) of the seven (7) votes on the Condominium Board (in addition to the votes of any representatives of the Commercial Section serving on the Condominium Board who were designated by Sponsor as the owner of a Commercial Unit, as applicable).

2.1.2 Except for Residential Board members elected or designated by Sponsor or its designee, all members of the Residential Board shall be: (i) individual Residential Unit Owners or Permitted Residential Mortgagees (as hereinafter defined) of Residential Units; (ii) partners or employees of a partnership owning, or holding a mortgage encumbering, a Residential Unit; (iii) officers, directors, shareholders or employees of corporate owners or corporate Permitted Residential Mortgagees of Residential Units; (iv) members or employees of a limited liability company owning, or holding a Permitted Residential Mortgage encumbering, a Residential Unit; (v) fiduciaries or their beneficiaries who are owners or Permitted Residential Mortgagees of Residential Units (or directors, officers, shareholders or employees of corporate fiduciaries or partners or employees of partnership fiduciaries); (vi) adult family members (as defined in Section 8.7), or domestic partners of any of the foregoing individuals; or (vii) individuals designated by a sovereign government, consulate or other similar entity that is a Residential Unit Owner or a mortgagee of a Residential Unit. Other than Residential Board members elected or designated by Sponsor or its designee, no Residential Board member shall continue to serve after he or she ceases to be qualified as set forth above. Notwithstanding anything otherwise contained herein or in the Condominium By-Laws, any member of the

Residential Board may also be a member of the Condominium Board and any member of the Condominium Board may also be a member of the Residential Board, if otherwise qualified.

2.1.3 As used herein, the term "Permitted Residential Mortgagee" means the holder of any mortgage ("Permitted Residential Mortgage") of a Residential Unit or Residential Units which is permitted to be placed thereon in accordance with these Residential By-Laws.

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

2.2 Powers and Duties of the Residential Board.

2.2.1 General. Subject to the Declaration and Condominium By-Laws, the Residential Board shall have the powers and duties necessary for or incidental to the administration of the affairs of the Residential Section (except such powers and duties which by Law, the Declaration, the Condominium By-Laws or these Residential By-Laws may not be delegated to the Residential Board by the Residential Unit Owners).

2.2.2 Residential Board. Subject to, and in accordance with, the provisions of subsection 2.2.1 and without limiting the generality thereof (and in addition to all other powers and duties granted to the Residential Board by Law, the Declaration, the Condominium By-Laws or these Residential By-Laws), the Residential Board shall be entitled to make determinations with respect to all matters relating to the operation and the affairs of the Residential Section, and not relating (to more than a *de minimis* extent) to the General Common Elements and/or the operation and affairs of any Commercial Unit (as defined in the Declaration) or the use of same for their permitted purposes, including, without limitation, the following:

(a) (i) Operation, care, upkeep and maintenance of; (ii) the making of alterations, additions and improvements (collectively, "Alterations") to; and (iii) the making of repairs, restorations and replacements (collectively, "Repairs") of, the Residential Limited Common Elements, in the condition and otherwise in such a manner that maintains standards of quality, service and appearance which are appropriate for a luxury residential condominium.

(b) The amount of Residential Common Charges and any special assessments to be levied against Residential Unit Owners.

(c) Collection of Residential Common Charges and any special assessments from Residential Unit Owners.

(d) Employment and dismissal of the personnel necessary for the maintenance and operation of the Residential Section and the provision of the services offered therein.

(e) Adoption of, and amendments and additions to, the Residential Rules and Regulations (as hereinafter defined).

(f) Purchasing, leasing and otherwise acquiring in the name of the Residential Board (or, if required by Law, in the name of the Condominium Board as nominee for the Residential Board), or its designee, corporate or otherwise, on behalf of all Residential Unit Owners, those Residential Units offered for sale or lease by, or Residential Units surrendered by, the owners of such Units to the Residential Board, or those Residential Units with respect to which liens for real estate taxes are being sold by the City of New York, or a Residential Unit or other residence for use by the resident manager of the Residential Section.

(g) Purchasing Residential Units at foreclosure or other similar sales (including, without limitation, in connection with the enforcement of the Residential Board's lien for unpaid Residential Common Charges), in the name of the Residential Board (or, if required by Law, in the name of the Condominium Board as nominee for the Residential Board), or its designee, on behalf of all Residential Unit Owners.

(h) Selling, leasing, mortgaging, refinancing and otherwise dealing with (but not voting the interests appurtenant to) Residential Units acquired by, and subleasing Residential Units leased by, the Residential Board or its designee, on behalf of all Residential Unit Owners; and preparing, executing and administering Storage Licenses and Wine Cellar Licenses and assignments and assumptions thereof.

(i) Making Repairs and Alterations to the Residential Section or parts thereof damaged or destroyed by fire or other casualty or necessitated as a result of condemnation or eminent domain proceedings, all in accordance with the terms of these Residential By-Laws and the Condominium By-Laws.

(j) Enforcing obligations of Residential Unit Owners, including, without limitation, commencing, prosecuting and settling litigation in connection therewith.

(k) Levying fines against Residential Unit Owners for violations of the Condominium By-Laws, Residential By-Laws, Residential Rules and Regulations, and the General Rules and Regulations, if any (any such fines shall constitute Residential Common Charges payable by the Residential Unit Owner against whom they are levied).

(l) Maintaining bank accounts on behalf of the Residential Section (with respect to matters within its jurisdiction as provided in these Residential By-Laws) and designating the signatories required therefor.

(m) Adjusting and settling insurance claims (and executing and delivering releases in connection therewith) if the loss involves only the Residential Section and if the loss is to be adjusted by the Residential Board in accordance with Article 6 hereof.

(n) Borrowing money, at any time, on behalf of the Residential Section when required in connection with: (x) the operation, care, upkeep and maintenance of, or the making of Repairs and Alterations to the Residential Limited Common Elements, or (y) any permitted action or activity of the Residential Board, provided, however, that: (i) except as

provided in Section 8.6, in the case of borrowings which are in excess of the amount of $250,000 in any one fiscal year or $500,000 in the aggregate at any one time (in each case excluding the pro-rata share of the Residential Section with respect to any borrowing made by the Condominium Board pursuant to the Condominium By-Laws), the consent of at least sixty-six and two-thirds (66-2/3%) in Common Interest of all Residential Unit Owners (determined in accordance with the provisions of Section 3.8 hereof) who are present, in person or by proxy, and voting at a duly constituted meeting at which a quorum is present or is not required, shall be required for any borrowings for such purposes; (ii) no lien to secure repayment of any sum borrowed may be created on any Residential Unit or its appurtenant interest in any of the Common Elements (except to the extent permitted by applicable Law) without the prior written consent of the owner of such Unit; and (iii) none of the Commercial Unit Owners, the Condominium Board or the Commercial Board will be liable for repayment of any portion of any such borrowing and all loan documentation entered into by or on behalf of the Residential Board with respect to such loans shall specifically so provide. Subject to Section 6.1.1(b) of these Residential By-Laws and Section 2.2.8 of the Condominium By-Laws, any such debt may be secured by future income and Residential Common Charges in which event the Residential Common Charges, subject to the rights of the Condominium Board with respect thereto as described in such Section, shall be deemed trust funds for the purpose of paying such debt. The Residential Board cannot secure such debt by a lien on the Residential Limited Common Elements (or any other Common Elements) without the consent of all Residential Unit Owners (or in the case of any other Common Elements, the consent of all Unit Owners). In addition to the debt described above, the Residential Board, without approval of the Unit Owners may, at any time, incur, or refinance, debt from time to time, secured by a lien on the Resident Manager's Unit or Club Unit or any other residence or property acquired by the Residential Board pursuant to the Declaration, Condominium By-Laws and/or these Residential By-Laws; provided, however, that no such financing or refinancing may be secured by an encumbrance or hypothecation of any portion of the Property other than the Residential Unit (together with its appurtenant interest in the Common Elements) or other property acquired. If any sum borrowed by the Residential Board pursuant to the authority contained in this subsection 2.2.2(o) is not repaid by the Residential Board, a Residential Unit Owner who pays to the creditor such proportion thereof as its interest in the Common Elements bears to the interest of all Residential Unit Owners in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor has filed or has the right to file against such Residential Unit Owner's Unit, and all loan documentation entered into by or on behalf of the Residential Board shall specifically so provide.

(o) Organizing (and owning shares of or membership interests in, as the case may be) corporations, limited liability companies and/or other entities to act as designees of the Residential Board with respect to such matters as the Residential Board may determine, including, without limitation, in connection with the acquisition of title to, or the leasing or subleasing of, Residential Units acquired or leased by the Residential Board on behalf of the Residential Unit Owners (or the ownership and operation of the Club Unit).

(p) Execution, acknowledgment and delivery of, without limitation: (i) any consent, agreement, document, covenant, restriction, easement, declaration or other instrument, or any amendment thereto, affecting the Residential Section (and not relating (to more than a *de minimis* extent) to the General Common Elements and/or the operation and

affairs of any Commercial Unit or the use of same for their permitted purposes), which the Residential Board deems necessary or appropriate to comply with the Laws applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Residential Section; or (ii) any consent, agreement, document, covenant, restriction, easement, declaration or other instrument, or any amendment thereto, affecting a Residential Unit (and not relating (to more than a de minimis extent) to the General Common Elements and/or the operation and affairs of any Commercial Unit or the use of same for their permitted purposes), if the owner of such Residential Unit requests, or under the Declaration, the Condominium By-Laws or these Residential By-Laws is required to request, that the Residential Board take such action, and (except as otherwise provided in the Declaration, the Condominium By-Laws or these Residential By-Laws) the Residential Board determines that taking such action is appropriate.

(q) Execution, acknowledgement and delivery of any documents or other instruments necessary to commence, pursue, compromise or settle certiorari proceedings to obtain reduced real estate tax assessments, or in connection with any real estate tax exemption or abatement, with respect to any or all of the Residential Units on behalf of and as agent for the respective Residential Unit Owners thereof; but only with respect to such Residential Units as to which the respective Unit Owners thereof have in writing requested and authorized the Residential Board to do so, and indemnified the Residential Board from and against all claims, costs and expenses (including, without limitation, attorneys' fees) resulting from such proceedings.

(r) Commencing, prosecuting and settling litigation to the extent relating to the Residential Board or the Residential Section, and not relating (to more than a *de minimis* extent) to the General Common Elements and/or the operation and affairs of any Commercial Unit or the use of same for their permitted purposes.

(s) Operating, maintaining and supervising the Residential Limited Common Elements in accordance with the terms of these Residential By-Laws and the Condominium By-Laws.

(t) Obtaining and reviewing insurance for the Residential Section and otherwise as provided in Section 6.4 hereof.

(u) Imposition, increase, decrease or elimination of move-in fees and charges, "flip-tax" and/or similar transfer fees payable to the Managing Agent and/or the Residential Board, in connection with the sale or lease (including lease renewals) of a Residential Unit, provided that no such fees or charges or any other conditions of transfer or lease may be imposed upon Declarant or Sponsor or its designee or any Units bought, sold or leased by the Residential Board.

(v) Establishing, changing and otherwise making determinations with respect to reserves, including, without limitation, a general operating reserve or a reserve for working capital or for replacements with respect to the Residential Limited Common Elements.

2.2.3 Limitations on Residential Board. Notwithstanding anything to the contrary contained in these Residential By-Laws (including, without limitation, in subsection

2.2.2 above), for a period (the "Initial Control Period") which shall end upon the later to occur of: (a) the fifth anniversary of the first closing of title to a Residential Unit (the "First Residential Closing") by Sponsor, pursuant to an Agreement (as the terms "Sponsor" and "Agreement" are defined in that certain Offering Plan, dated as of _____ __, 201_, for sale of the Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses at the Condominium (the "Offering Plan" or "Plan")), or (b) the closing of title by Sponsor to Residential Units representing at least ninety percent (90%), both in number and in aggregate Common Interests, of all Residential Units, the Residential Board may not, without the prior written consent of Sponsor or its designee: (i) make any Alteration to the Residential Limited Common Elements or any Residential Unit (unless required by any applicable Laws); (ii) assess any Residential Common Charges for the creation of, addition to or replacement of all or any reserve, contingency or surplus fund in respect of the Residential Section; (iii) increase or decrease the number of, or change the kind of, employees initially hired for the Residential Section, as provided for in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation" set forth in the Plan; (iv) enter into any service or maintenance contract for work not covered by contracts in existence on the date of the First Residential Closing or otherwise provide services in excess of those referred to in the Offering Plan, except as is required to reflect normal annual increases in operating services; (v) borrow money on behalf of the Residential Section, unless any such borrowing is approved by the owners of Residential Units representing at least seventy-five percent (75%) both in number and aggregate Common Interests of all Residential Units; or (vi) exercise any right of first refusal to lease or purchase a Residential Unit. However, the Residential Board may perform any function or take any action enumerated in subsections (i) through (v) hereinabove without the consent of Sponsor if, and only if, the performance of such function or the carrying out of such action is necessary, and no other alternative is available, either to enable the Residential Board to comply with any Laws, or to remedy any notice of violation entered against the Residential Section, or to comply with any proper work order by an insurer of the Residential Section, or for the health and safety (but not the general comfort or welfare) of the occupants of the Residential Section. Sponsor may not exercise veto power over expenses described in Schedule B-1 – "Projected Budget for First Year of Residential Section Operation", or over expenses required to comply with any Laws applicable to the Residential Section, or to remedy any notice of violation entered against the Residential Section or to comply with any proper work order by an insurer of the Residential Section. 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 Residential Closing or whenever the Unsold Residential Units constitute less than twenty-five percent (25%) of the Common Interest, whichever is sooner.

2.2.4 (a) Any action required or permitted to be taken pursuant to the provisions of these Residential By-Laws or the Declaration or Condominium By-Laws by the Residential Board shall be done or performed by the Residential Board, or shall be done on behalf of the Residential Board and at its direction by the agents, employees or designees of the Residential Board, and the Residential Board may employ one or more managing agents and/or managers, at a compensation established by the Residential Board, to perform such duties and services as the Residential Board shall authorize, including, but not limited to, the duties listed in 2.2.2(a), (c), (d), (i), (l) and (t). The Residential Board may delegate to such managing agent or manager other powers granted to the Residential Board by these Residential By-Laws, except the powers set forth in subparagraphs 2.2.2(b), (e), (f), (g), (h), (j), (k), (m), (u) and (v).

(b) Subject to the limitations set forth in this subsection 2.2.4, the Residential Board may, together with any or all of the Commercial Unit Owners and the Condominium Board employ the same managing agent and/or manager to act on behalf of each.

2.2.5 For convenience of operation of the Condominium, the Residential Board and the Condominium Board may each designate one of the other entities enumerated, to act as its agent with respect to any matter the determination of which is entitled to be made by such designating party and, in connection with such designation, may execute, acknowledge and deliver any application, instrument or document, including, without limitation, any power of attorney or indemnification from liability that such designated party may request.

2.2.6 Any action required or permitted to be taken pursuant to the provisions of these Residential By-Laws, the Condominium By-Laws or the Declaration by the Residential Board may, if required by any applicable Laws, be taken by the Residential Board (upon prior written notice to the Condominium Board in accordance with the Condominium By-Laws) in the name of the Condominium Board which shall, upon request, execute, acknowledge and deliver any and all instruments, documents or applications in connection therewith; provided, however, that the Residential Board shall, subject to the provisions of Section 2.13, indemnify and hold harmless the Condominium Board, the Commercial Board and the Commercial Unit Owners from any expense or liability thereof or therefrom.

2.3 Number and Terms of Office of Members of Residential Board.

2.3.1 (a) Until the First Annual Residential Meeting held by the Residential Unit Owners pursuant to the terms of Section 3.1 hereof, the Residential Board (the "First Residential Board") shall (subject to Section 2.1.1(d)) consist of five (5) persons designated by Sponsor from time to time. Prior to the First Annual Residential Meeting, the terms of each such member of the First Residential Board shall expire annually and, subject to the other provisions of this Section, Sponsor shall have the right to designate the replacement for each such member, even though such replacement may be the same person. In accordance with, and within the time periods set forth in, the provisions of Section 3.1, the First Residential Board shall cause the President of the Residential Section to call the First Annual Residential Meeting. The term of office of the five (5) members of the First Residential Board so designated by Sponsor prior to the First Annual Residential Meeting shall expire when the five (5) persons to be elected and/or designated at the First Annual Residential Meeting are so elected and/or designated and qualified.

(b) The term of office of each of the five (5) members comprising the Residential Board elected or designated at the First Annual Residential Meeting pursuant to Section 3.1 shall be fixed at such meeting as follows: (a) two (2) of such members will serve for a term of approximately three (3) years; (b) two (2) of such members will serve for a term of approximately two (2) years; and (c) one (1) of such members will serve for a term of approximately one (1) year. Those members of the first five (5) member Residential Board who receive the highest number of votes will serve for the longest terms of office but, except as set forth in subsection 2.4.4 hereof, any members elected or designated by Sponsor or its designee as the owner of Unsold Residential Units pursuant to the terms of subsection 2.4.3 hereof, shall serve for the shortest terms of office. At each annual meeting of Residential Unit Owners

subsequent to the First Annual Residential Meeting, the Residential Unit Owners shall elect and/or designate, pursuant to the terms of Section 2.4 hereof, Residential Board members to replace the Residential Board members whose terms of office are then expiring, each to serve a term of office fixed at three years. Notwithstanding the expiration of the term of office of a member of the Residential Board or anything contained herein to the contrary, such member of the Residential Board (including any member of such Residential Board designated by Sponsor or its designee) shall serve until his or her successor shall be elected and qualified. There shall be no limit on the number of terms of office, successive or otherwise, that a Residential Board member (including any member of the Residential Board designated by Sponsor or its designee) may serve until his or her successor shall be elected and qualified.

2.4 Election of Residential Board Members; Rights of Sponsor.

2.4.1 Subject to the terms of subsections 2.4.3 and 2.4.4, all members of the Residential Board to be elected by the Residential Unit Owners shall be determined by plurality of the votes cast by those Residential Unit Owners (including Sponsor or its designee, and subject in all events to the rights of Sponsor under subsection 2.4.3 for so long as Sponsor or its designee shall own at least one (1) Residential Unit) entitled to vote for such board member(s) who are present (in person or by proxy) and voting at a meeting at which a quorum of all Residential Unit Owners is present or not required.

2.4.2 When voting for members of the Residential Board, the voting shall be by ballot and each ballot shall state the name of the Residential Unit Owner voting, the Residential Unit owned by such Residential Unit Owner and the percentage of Common Interest attributable to each Residential Unit owned by such Residential Unit Owner and, in addition, the name of the proxy if such ballot is cast by a proxy. Nothing contained in these Residential By-Laws shall be deemed to permit cumulative voting.

2.4.3 At the First Annual Residential Meeting and at all times theretofore and thereafter, Sponsor and/or its designee and/or any owner of Unsold Residential Units shall be entitled to vote in accordance with its/their ownership of Residential Units and thus may be able to elect members of the Residential Board by virtue of its/their ownership of Residential Units. In addition, at elections of members to the Residential Board held at and after the First Annual Residential Meeting, but before the expiration of the Initial Control Period, Sponsor and/or its designee shall have the right to designate four (4) of the five (5) members of the Residential Board, who may be persons related to and/or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners; and Sponsor, such designee and all other Residential Unit Owners shall have the right to elect the remaining one (1) member of the Residential Board who shall not be related to or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners. In addition, at elections of members to the Residential Board held after the expiration of the Initial Control Period, but while Sponsor and/or its designee still owns at least one (1) Residential Unit, Sponsor and/or its designee shall have the right to designate at least one (1) of the five (5) members of the Residential Board, who may be a person related to and/or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners; and Sponsor, such designee and all other Residential Unit Owners shall have the right to elect the remaining members of the Residential Board who shall not be related to or affiliated with Sponsor, such designee or other Unsold Residential Unit Owners. Accordingly, from and after the expiration of

the Initial Control Period, at least four (4) of the five (5) members of the Residential Board shall not be designated by or related to or affiliated with Sponsor, its designee or other Unsold Residential Unit Owners; and subject to the foregoing shall be elected by all Residential Unit Owners (including Sponsor, its designee or other Unsold Residential Unit Owner). There is no restriction on the right of the Unsold Residential Unit Owners (including Sponsor) to vote for members of the Residential Board who are not related to or affiliated with Sponsor, its designee or other Unsold Residential Unit Owners. However, after the expiration of the Initial Control Period, neither the Sponsor nor its designee will designate a majority of the members to the Residential Board at the annual meeting of Residential Unit Owners. The number of members of the Residential Board may not be increased without the consent of the owner(s) of the Unsold Residential Units, for so long as there remains at least one (1) Unsold Unit. Notwithstanding anything otherwise herein contained, this provision may not be amended or modified without the consent thereto of Sponsor.

2.4.4 In the event that after notice of an annual meeting of Residential Unit Owners is given to Residential Unit Owners in the manner prescribed by Section 3.4 of these Residential By-Laws, the Residential Unit Owners present in person or by proxy at such annual meeting constitute less than a quorum, and consequently new members of the Residential Board to replace those whose terms expire as of such annual meeting cannot be elected, subject to the rights of Sponsor or its designee, or the owner of Unsold Residential Units pursuant to Section 2.4.3, the remaining members of the Residential Board shall fill any resulting vacancies at a special meeting of the Residential Board held for that purpose promptly thereafter, even though the members of the Residential Board present at such meeting may themselves constitute less than a quorum. The Residential Board shall request the Residential Unit Owners present (in person or by proxy) at the annual meeting to express their preferences for the Residential Board members to have been elected at such annual meeting, but such expression of preferences shall be non-binding on the Residential Board. Any person so elected by the Residential Board shall be a member of the Residential Board until the next annual meeting of Residential Unit Owners, when a successor shall be elected for the remainder of the term.

2.5 Resignation and Removal.

2.5.1 Any member of the Residential Board may resign at any time by written notice given in accordance with the terms of Section 5.1 of these Residential By-Laws to the President or Secretary of the Residential Section and, with respect to members of the Residential Board designated as such or elected by Sponsor (or its designee), by also giving such written notice to such party. Any such resignation shall take effect at the time specified in such notice and, unless specifically requested by the resigning member, acceptance of such resignation shall not be necessary for the effectiveness thereof.

2.5.2 Subject to the provisions of Sections 2.3 and 2.4, and except as provided in the following sentence, any Residential Board member elected thereto by the Residential Unit Owners or by the Residential Board pursuant to the terms of Section 2.4 or 2.6 hereof, respectively, may be removed from office, with or without cause, by a Majority of Residential Unit Owners (as hereinafter defined). Any Residential Board member who was designated or elected as such by Sponsor (or its designee) may be removed from office: (i) for cause, by a Majority of Residential Unit Owners; and (ii) without cause, only by Sponsor or its designee. In

the event of any removal described in the previous sentence, whether with or without cause, Sponsor (or its designee) shall have the sole right to designate the replacement of such member. Any Residential Board member whose removal for cause has been proposed shall be given an opportunity to be heard at the meeting of Residential Unit Owners at which such removal is to be considered.

2.6 Vacancies on Residential Board. Subject to the provisions of Sections 2.3 and 2.4, any vacancy on the Residential Board for whatever reason shall be filled by the members of the Residential Board then in office, at a special meeting of the Residential 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 Residential Board until the next annual meeting of Residential Unit Owners, when a successor shall be elected for the remainder of the term of the member creating such vacancy. However, any vacancy on the Residential Board created by the resignation, removal or any other reason of any Residential Board member designated or elected as such by Sponsor or its designee shall be filled only by Sponsor or its designee as the case may be.

2.7 Organizational Meeting of Residential Board. The first meeting of the Residential Board following each annual meeting of Residential Unit Owners shall be held within twenty (20) 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 Residential Board members in order to legally constitute such meeting, provided that a majority of the members of the Residential Board shall be present thereat.

2.8 Regular Meetings of Residential Board. Regular meetings of the Residential 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 one (1) such meeting shall be held every three (3) months during each fiscal year of the Residential Section. Notice of regular meetings shall be given to each member thereof, by personal delivery, nationally recognized overnight courier or telecopy, at least five (5) business days prior to the day named for such meeting.

2.9 Special Meetings of Residential Board. Special meetings of the Residential Board may be called by the President or Vice President of the Residential Section by giving at least five (5) business days' prior notice to each member of the Residential Board, by personal delivery, nationally recognized overnight courier or telecopy, which notice shall state the time, place (in the Borough of Manhattan) and purpose of the meeting. In addition, the President shall call a special meeting upon the written request of two (2) or more members of the Residential Board.

2.10 Waiver of Notice. Any member of the Residential Board may at any time waive notice of any Residential Board meeting in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Residential Board at any meeting thereof shall constitute a waiver by such member of notice of the time and place thereof. If all the members are present at any meeting of the Residential Board, no notice shall be required and any business may be transacted at such meeting.

2.11 Determinations by Residential Board; Quorums.

2.11.1 Except as otherwise set forth in subsections 2.4.4, 2.6 and 2.11.3, all determinations of the Residential Board shall be made at a meeting of the Residential Board at which a quorum thereof is present. At any Residential Board meeting, a majority of the members thereof shall constitute a quorum, except as may otherwise be provided herein, and the votes of a majority of such members present shall constitute the decision of the Residential Board.

2.11.2 If at any Residential Board meeting there is less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum exists or may reconvene the meeting to a time (specified on at least three (3) business days' notice, by personal delivery, nationally recognized overnight courier or telecopy, to the absent members) when no quorum requirement shall apply. At any such adjourned meeting at which a quorum is present or is not required, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.11.3 Members of the Residential Board may participate in a meeting thereof by means of a conference telephone call 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 Residential Board may be taken without a meeting if all members of the Residential Board consent thereto in writing.

2.12 Compensation. No member the Residential Board shall receive any compensation for acting as such.

2.13 Liability of Residential Board and Unit Owners.

2.13.1 To the extent permitted by applicable Law, no member of the Residential Board shall have any personal liability with respect to any contract, act or omission of the Residential Board, the Condominium Board, the Commercial Board or of any managing agent or manager, building engineer or superintendent in connection with the affairs or operation of all or any portion of the Condominium or the Residential Section (except in its or their capacities as Unit Owners) and the liability of any Residential Unit Owner with respect thereto shall be limited as hereinafter set forth. Every contract made by the Residential Board or by any managing agent or manager thereof shall state that it is made by the Residential Board or the managing agent or manager, as the case may be, only as agent for all Residential Unit Owners, and that the Residential Board members or managing agent or manager shall, as the case may be, have no personal liability thereon (except in its or their capacities as Unit Owners) and may also state the applicable limitations of liability of the Residential Unit Owners provided for in the next sentence; the absence of such statement or statements in any such contract shall not be deemed to imply any personal liability on the part of the Residential Board, the managing agent or manager or any greater liability on the part of any Residential Unit Owner than as provided in the next sentence. The liability of any Residential Unit Owner for any contract, act or omission with respect to all or any portion of the Condominium shall be limited to such Unit Owner's share of the total liability of the Residential Section with respect thereto in such proportion as the Common Interest of such Residential Unit Owner bears to the aggregate Common Interests of all Residential Unit Owners; and the liability of any Residential Unit Owner for any contract, act or

omission with respect to the Residential Section shall be limited to such proportionate share of the total liability as the Common Interest of such Residential Unit Owner bears to the aggregate Common Interests of all Residential Unit Owners; and in each case, to the extent permitted by applicable Law, shall be limited to such Residential Unit Owner's interest in its Residential Unit and its appurtenant Common Interest, so that such Residential Unit Owner shall have no personal liability for any such contract, act or omission.

2.13.2 Nothing in the preceding Section shall limit a Residential Unit Owner's liability for the payment of Residential Common Charges. To the extent permitted by applicable Law, Residential Board members shall have no liability to Residential Unit Owners except that a Residential Board member shall be liable for his or her own bad faith or willful misconduct. All Residential Unit Owners shall severally, to the extent of their respective interests in their Units and their appurtenant Common Interests, indemnify each Residential Board member against any liability or claim except those arising out of such Residential Board member's own bad faith or willful misconduct. The Residential Board, subject to the provisions of Section 2.19 hereof, may contract or effect any other transaction with any member of the Residential Board, any member of the other Boards, any Unit Owner, Sponsor, Sponsor's designees, or any Commercial Unit Owner, its designee, or any affiliate of any of them without incurring any liability for self-dealing, except in cases of bad faith or willful misconduct.

2.13.3 Neither the Residential Board nor any member thereof shall be liable for either: (i) any failure or interruption of any utility or other services to be provided or obtained by, or on behalf of, the Residential Board or Condominium Board or to be paid for as either a Residential Common Expense or General Common Expense, except when any such failure or interruption is caused by the acts of bad faith or willful misconduct of the Residential Board or such member thereof, as the case may be; or (ii) any injury, loss or damage to any individual or property, occurring in or upon either a Unit or any Common Element, which is either: (a) caused by the elements, by any Unit Owner or by any other individual, (b) resulting from electricity, water, snow or ice that may leak or flow from a Unit or any portion of any Common Element, or (c) arising out of theft or otherwise; except in each case when caused by the acts of bad faith or willful misconduct of the Residential Board or such member thereof. Notwithstanding the foregoing, with respect to the Wine Cellars, all of the Wine Cellars will be located on the Subcellar 1 Level of the Building in a single room serviced by two (2) HVAC units (one (1) on-line and one (1) stand-by) that will set both temperature and humidity and are controlled by one (1) thermostat. The temperature range for the room containing the Wine Cellars shall be determined by the Residential Board. The Residential Board shall have the authority to modify such temperature ranges in its sole discretion. All wine and other beverages stored in a Wine Cellar shall be at the Wine Cellar Licensee's sole risk. Neither Sponsor, the Condominium Board, the Residential Board, nor the Managing Agents shall be liable for any spoilage caused by the failure of the HVAC or any other causes whatsoever.

2.14 Fidelity Bonds. The Residential Board shall obtain fidelity bonds (or similar bonds or insurance), in amounts deemed appropriate by it, for all of its members, officers and employees and for the managing agent or manager, if any, employed by it and the premiums on such bonds (or insurance) shall constitute Residential Common Expenses.

2.15 Committees. The Residential Board may, subject to such limitations and exceptions as the Residential Board may prescribe, appoint such committees as the Residential Board may deem appropriate, each to consist of two (2) or more members of the Residential Board. Each such committee, to the extent provided in the resolution which creates it, shall have and may exercise all the powers of the Residential Board during the intervals between the meetings of the Residential Board, insofar as may be permitted by Law. For so long as Sponsor is entitled to designate members to the Residential Board, any committee appointed by the Residential Board shall have as at least one (1) of its members a member of the Residential Board appointed by Sponsor.

2.16 Status of Residential Board. In addition to the status conferred upon the Residential Board under or pursuant to the provisions of the New York Condominium Act, the Residential 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 or organization of the Residential Board pursuant to the provisions of Section 2.17, the provisions of this Section 2.16 shall no longer be applicable to the Residential Board.

2.17 Incorporation and Organization of Residential Board. To the extent and in the manner provided in the New York Condominium Act, the Residential Board may, by action of the Residential Board as provided in this Article 2, be organized as a limited liability company or incorporated under the applicable statutes of the State of New York. In the event that the Residential Board so incorporates or organizes, 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 Residential 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 or the articles of organization and operating agreement of such resulting limited liability company, as the case may be, shall conform as closely as practicable to the provisions of the Declaration, these Residential By-Laws and, to the extent applicable, the Condominium By-Laws, and the provisions of the Declaration, these Residential By-Laws and, to the extent applicable, the Condominium 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 or articles of organization and operating agreement.

2.18 Residential Board as Agent of Residential Unit Owners. In exercising its powers and performing its duties under the Declaration, these Residential By-Laws and, to the extent applicable, the Condominium By-Laws, the Residential Board shall act as and in the capacity of, and shall be, the agent of the Residential Unit Owners, subject to and in accordance with the provisions of the Declaration, these Residential By-Laws and, to the extent applicable, the Condominium By-Laws.

2.19 Prohibited Transactions. Each member of the Residential Board shall perform his or her duties, and shall exercise his or her powers, in good faith and with a view to the interests of the Residential Section. To the extent permitted by applicable Law, no contract or other transaction between the Residential Board and either: (i) any of its members, or (ii) any corporation, partnership, fiduciary, firm, limited liability company, association or other entity in which any of the members of the Residential Board are officers, directors, shareholders,

employees, partners, fiduciaries, beneficiaries, members or principals, or are otherwise interested, pecuniarily or otherwise, shall be deemed either void or voidable because either: (a) any such member of the Residential Board was present at the meeting or meetings of the Residential Board during which such contract or transaction was discussed, authorized, approved or ratified, or (b) the vote of any such member was counted for such purpose; provided, however, that (A) either: (1) the fact thereof is disclosed to, or known by, the Residential Board or a majority of the members thereof and noted in the minutes thereof, and the Residential Board shall authorize, approve or ratify such contract or transaction in good faith by a vote of a majority of the entire Residential Board, less the number of such members involved in such contract or transaction; or (2) the fact thereof is disclosed to, or known by, a majority of Residential Unit Owners, present at a duly constituted meeting, who shall in good faith authorize, approve or ratify such contract or transaction, less the number of such Residential Unit Owners who are also such members involved in such contract or transaction; and (B) the contract or transaction is commercially reasonable to the Residential Board at the time the same is authorized, approved, ratified, executed or otherwise consummated. Any such members of the Residential Board may be counted in determining the presence of a quorum of any meeting of the Residential Board which authorizes, approves or ratifies any such contract or transaction, but no such member shall be entitled to vote thereat in order to authorize, approve or ratify such contract or transaction and a majority of members present less the number of any such Residential Board members who are also such members involved in such contract or transaction shall constitute a majority of the Residential Board for purposes of authorizing, approving or ratifying such contract or transaction. Notwithstanding the foregoing requirements, any managing agent designated and/or employed by the Residential Board and/or the Condominium Board may be an affiliate of Declarant and/or Sponsor or its designee or other owner of Unsold Residential Units.

2.20 Principal Office of Residential Board. The principal office of the Residential Board shall be located either within the Property or at such other place in the Borough of Manhattan, as may be designated from time to time by the Residential Board.

## ARTICLE 3

## RESIDENTIAL UNIT OWNERS

3.1 Annual Meetings. The first annual meeting of Residential Unit Owners (the "First Annual Residential Meeting") shall be held not later than thirty (30) days following the later to occur of: (i) the second anniversary of the First Residential Closing; or (ii) the closing of title to Residential Units representing at least fifty percent (50%) both in number and aggregate Common Interests of all Residential Units to Purchasers (as defined in the Offering Plan). At such meeting, a new Residential Board shall be elected and/or designated (as provided in Sections 2.3 and 2.4) consisting of five (5) persons and the incumbent Residential Board shall resign. Thereafter, annual meetings of Residential Unit Owners shall be held within four (4) weeks after the anniversary of such first meeting in each succeeding year on a date to be set by the Residential Board. At such meetings, the Residential Unit Owners shall elect or designate, as the case may be, successors to the members of the Residential Board whose terms of office are due to expire on or about the day of such meeting or have already expired and there shall also be transacted such other business as may properly come before such meeting.

3.2 Place of Meetings. Meetings of Residential Unit Owners shall be held at the principal office of the Residential Section or at such other place in the Borough of Manhattan as may be designated from time to time by the Residential Board.

3.3 Special Meetings. The President or the Vice President of the Residential Section shall call a special meeting of Residential Unit Owners if so directed by resolution of the Residential Board or upon a petition signed and presented to the Secretary of the Residential Section by Residential Unit Owners owning Residential Units representing not less than fifty percent (50%) of the Common Interests of all of the Residential Units. Each such resolution or petition shall state, in reasonable detail, the purposes for calling such meeting.

3.4 Notice of Meetings and Actions Taken. Notice of each annual or special meeting of Residential Unit Owners shall be given by the Secretary of the Residential Section to all Residential Unit Owners of record entitled to vote thereat, at their address at the Condominium (or at such other address as any Residential Unit Owner has designated by notice in writing to the Secretary of the Residential Section at least fifteen (15) business days prior to the giving of notice of the applicable meeting). 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 at such meeting except as stated in the notice. All notices hereunder shall be given by personal delivery, mail, nationally recognized overnight courier or telecopy, at least ten (10) business days prior to the date fixed for the meeting. However, if the business to be conducted at any meeting of the Residential Unit Owners shall include consideration of a proposed amendment to the Declaration, these Residential By-Laws or the Condominium By-Laws, the notice of such meeting shall be given to all Residential Unit Owners, in the manner provided above, at least thirty (30) days prior to the date fixed for such meeting and such notice shall be accompanied by a copy of the text of such proposed amendment.

3.5 Lack of Quorum. Subject to the terms and provisions of subsection 2.4.4, if any meeting of Residential Unit Owners cannot be held because a quorum is not present, the Residential Unit Owners who are present at such meeting, either in person or by proxy, may act by majority vote to either: (a) adjourn the meeting from time to time until a quorum exists; or (b) reconvene the meeting to a time (specified on not less than three (3) business days' notice, by personal delivery, nationally recognized overnight courier or telecopy, to the absent Residential Unit Owners) when no quorum requirement shall apply.

3.6 Order of Business. The order of business at all regular meetings of Residential Unit Owners shall be as follows:

(a) Call to order.
(b) Roll call.
(c) Proof of notice of meeting.
(d) Reading of minutes of preceding meeting.
(e) Reports of officers.
(f) Reports of members of the Residential Board.
(g) Reports of committees.
(h) Election of inspectors of election (when so required).
(i) Election of members of the Residential Board.

(j) Unfinished business.
(k) New business.
(l) Adjournment.

3.7 Title to Residential Units. Title to Residential Units may be taken by any individual, corporation, partnership, limited liability company, association, trust, fiduciary or other entity, or any two or more of such owners as joint tenants, tenants in common or tenants by the entirety, as may be appropriate.

3.8 Voting.

3.8.1 Each Residential Unit Owner, or a person designated by such Residential Unit Owner to act as proxy on its behalf and who need not be a Unit Owner, shall be entitled to cast the votes appurtenant to such Residential Unit as set forth herein, in the Condominium By-Laws (to the extent applicable) and in the Declaration at all meetings of Residential Unit Owners and at all joint meetings of Unit Owners. The designation of any such proxy shall be made in a signed and dated writing to the Secretary of the Residential Section and shall be revocable at any time by written notice actually delivered to such Secretary by the Residential Unit Owner which had made the designation; provided, however, that no designation to act as a proxy shall be effective for a period in excess of six (6) months (except that the designation of a Permitted Residential Mortgagee to act as the proxy of its mortgagor shall be effective until duly revoked).

3.8.2 A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity.

3.8.3 If two (2) or more persons or entities own a Residential Unit, they shall designate one (1) person or entity amongst them to vote the entire Common Interest appurtenant to their Unit in a writing given to the Secretary of the Residential Section, and the vote of such designee shall be binding upon such designors. Failing such a designation, all of such persons or entities shall mutually vote such Common Interest under one ballot, without division, and the concurrence of such persons or entities shall be conclusively presumed if any one of them purports to vote such Common Interest without protest being made contemporaneously to the party presiding over the meeting at which such vote is taken. If protest is made, the Common Interest appurtenant to such Residential Unit shall be counted solely for the purpose of determining whether a quorum is present for such voting.

3.8.4 Neither the Residential Board nor its designee shall be entitled to vote the interest appurtenant to any Residential Unit owned by the Residential Board or such designee, and the Common Interest of such Unit shall be excluded from the total Common Interests when computing the interests of Residential Unit Owners for quorum and voting purposes.

3.8.5 Except as otherwise set forth herein, in the Condominium By-Laws (to the extent applicable) or in the Declaration, at all meetings of Residential Unit Owners, each Residential Unit Owner (or its proxy) entitled to vote thereat (including, without limitation, Sponsor or its designee or other owner of Unsold Residential Units) shall be entitled to cast one vote for each .0001% (rounded off to the nearest .0001%) of Common Interest attributable to its

Residential Unit or Units (including, without limitation, for each Residential Board member to be elected) in proportion to the Common Interest of all Residential Units.

3.9 Majority of Residential Unit Owners. Except as may otherwise be provided by law, as used in these Residential By-Laws, the Condominium By-Laws (to the extent applicable) and the Declaration, the term "Majority of Residential Unit Owners" means those Residential Unit Owners having at least fifty percent (50%) of the total authorized votes of all Residential Unit Owners (determined in accordance with the provisions of Section 3.8), who are present in person or by proxy and voting at a duly constituted meeting at which a quorum is present or is not required.

3.10 Quorum. Except as otherwise provided in these Residential By-Laws, the presence in person or by proxy of Residential Unit Owners owning Residential Units to which appertain at least fifty percent (50%) of the aggregate Common Interests attributable to all Residential Units shall constitute a quorum at all meetings of Residential Unit Owners.

3.11 Majority Vote. Except where otherwise provided by Law, the Declaration, these Residential By-Laws, or the Condominium By-Laws, as applicable, at all meetings solely of Residential Unit Owners, the affirmative vote of a Majority of Residential Unit Owners shall be binding upon all Residential Unit Owners for all purposes.

3.12 Representation on Condominium Board. Residential Unit Owners shall not be entitled to vote in their individual capacities as Unit Owners at any meeting of the Condominium Board. All five (5) of the members of the Residential Board shall also serve as the Residential Board's representatives on the Condominium Board and shall be entitled to vote at any such meeting(s) in accordance with the terms of Section 2.1 and the provisions of the Condominium By-Laws. Until the First Annual Residential Meeting, such five (5) members shall be the five (5) Residential Board members designated by Sponsor. During this time, Sponsor reserves the right to designate fewer than five (5) persons to the Residential Board; however, in such case, Sponsor's designees shall be the only members of the Residential Board and such designees shall collectively hold five (5) of the seven (7) votes on the Condominium Board (in addition to the votes of any representatives of the Commercial Section serving on the Condominium Board who were designated by Sponsor as the owner of a Commercial Unit, as applicable).

## ARTICLE 4

## OFFICERS

4.1 Designation. (a) The principal officers of the Residential Section shall be a President, Vice President/Treasurer and Secretary, all of whom shall be elected by the Residential Board. The Residential Board may elect more than one Vice President, or an Assistant Treasurer or Assistant Secretary and such other officers as in its judgment may be desirable. Nothing herein shall preclude any officer of the Residential Section from also being an officer of the Condominium or any officer of the Condominium from also being an officer of the Residential Section, if otherwise qualified under the terms of these Residential By-Laws and the Condominium By-Laws, as applicable. Unless prohibited by applicable Law, any two or more offices of the Residential Section may be held by the same person.

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

4.2 Election of Officers. The officers of the Residential Section shall each be elected annually by the Residential Board at the organizational meeting(s) thereof and at any other meeting as may be required to fill a vacancy, and shall serve at the pleasure of the Residential Board; except that the initial officers of the Residential Section shall be elected by the First Residential Board and shall hold office at the pleasure of such First Residential Board and until their successors are elected.

4.3 Resignation and Removal of Officers. Any officer may resign at any time by written notice given in accordance with the terms of Section 5.1 of these Residential By-Laws to the Residential Board; such resignation shall take effect at the time specified and, unless specifically requested by the resigning officer, acceptance of such resignation shall not be necessary to make it effective. Except as otherwise required by these Residential By-Laws with respect to designation of the Residential Section upon the affirmative vote of a majority of the members of the Residential Board, present in person or by proxy at a regular meeting of the Residential Board, or at a special meeting of the Residential Board called for such purpose, at which a quorum is present or is not required pursuant to Section 2.11.2, any officer may be removed, either with or without cause, and his or her successor shall be elected.

4.4 President. The President of the Residential Section shall be the chief executive officer of the Residential Section and shall preside at all meetings of Residential Unit Owners and of the Residential 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 Residential Unit Owners from time to time as such President, in his or her discretion, may decide are appropriate to assist in the conduct of the affairs of the Residential Section.

4.5 Vice President. The Vice President of the Residential Section shall take the place of the President under whom he or she serves and shall perform the duties of the President whenever the President shall be absent or unable to act. If both the President and the Vice President of the Residential Section are unable to act, the Residential Board shall appoint some other member of the Residential 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, from time to time, shall be imposed by the Residential Board or by the President.

4.6 Secretary. The Secretary of the Residential Section shall keep the minutes of the meetings of the Residential Unit Owners and of the Residential Board. The Secretary shall have charge of such books and papers as the Residential Board shall direct and, in general, shall perform all of the duties incident to the office of secretary of a stock corporation organized under the Business Corporation Law of the State of New York.

4.7 Treasurer. The Treasurer shall have the care and custody of the funds and securities of the Residential Section and shall be responsible for keeping full and accurate financial records and books of account thereof showing all receipts and disbursements necessary for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all funds and other securities in the name of the Residential Board (or in the name of the managing agent or manager appointed by the Residential Board) in such depositories as may from time to time be designated by such Residential Board and shall, in general, perform all of the duties incident to the office of treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

4.8 Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Residential Section shall be executed by the President or Vice-President, acting alone, or by any other two officers thereof or by such other person or persons as may be designated by the Residential Board. In addition to the foregoing, the Residential Board may authorize the managing agent serving on its behalf to execute checks, provided that the expenditures, and the managing agent's paying for same, have been approved in advance by resolution of the Residential Board or have been authorized by two officers of the Residential Section (at least one of whom shall be a Residential Board member).

4.9 Compensation of Officers. Except as otherwise determined by the Residential Board, no officer shall receive any compensation for acting as such.

4.10 Liability of Officers.

4.10.1 To the extent permitted by applicable Law, no officer of the Residential Section shall have any personal liability with respect to any contract, act or omission of the officers in connection with the affairs or operation of the Residential Section (except in their capacities as Residential Unit Owners). To the extent permitted by applicable Law, officers shall have no liability to Residential Unit Owners, except that an officer shall be liable for his or her own bad faith or willful misconduct. All Residential Unit Owners shall severally, to the extent of their respective interests in their Residential Units and their appurtenant Common Interests, indemnify, defend and hold harmless each officer of the Residential Section against any liability or claim except those arising out of such officer's own bad faith or willful misconduct.

4.10.2 None of the officers of the Residential Section shall be liable for either: (i) any failure or interruption of any utility or other services to be obtained by, or on behalf of, any such officer or to be paid for as either a Residential Common Expense or General Common Expense, except when any such failure or interruption is caused by the acts of bad faith or willful misconduct of such officer; or (ii) any injury, loss or damage to any individual or property, occurring in or upon either a Unit or any Common Element, which is either: (a) caused by the elements, by any Unit Owner or by any other individual, (b) resulting from electricity, water, snow or ice that may leak or flow from a Unit or any portion of any Common Element, or (c) arising out of theft or otherwise; except in each case when caused by the acts of bad faith or willful misconduct of such officer.

## ARTICLE 5

## NOTICES

5.1 Notices. Except as otherwise provided in these Residential By-Laws or the Condominium By-Laws, all requests, notices, reports, demands, approvals and other communications required or desired to be given shall be in writing and shall be delivered: (a) if to the Residential Board, in person or sent to the principal office of the Residential Board (or to such other address as the Residential Board may designate from time to time by notice in writing to all Unit Owners and to all Permitted Residential Mortgagees having requested in writing notice of same); and a duplicate shall be sent in like manner to the Residential Managing Agent, if any; (b) if to a Residential Unit Owner, in person or sent to the address of such Residential Unit Owner at the Building, or to such other address as may have been designated by such Residential Unit Owner from time to time in writing to the Residential Board; (c) if to Permitted Residential Mortgagees, either delivered in person or sent by registered or certified mail, return receipt requested, or by nationally recognized overnight courier service to their respective addresses, as may have been designated by such Permitted Residential Mortgagees from time to time in writing to the Residential Board; and (d) if to any other Person, in the manner provided in Article 5 of the Condominium By-Laws. All notices delivered in person (to the extent permitted herein) shall be deemed to have been given when delivered in person. Unless other means of giving certain notices are specifically required or permitted pursuant to the Declaration, Condominium By-Laws and Residential By-Laws (including the Residential Rules and Regulations), all notices which are "sent" shall be sent either: (x) by registered or certified mail, return receipt requested, and shall be deemed to have been given three (3) days after deposit in a depository maintained by the U.S. Postal Service in a postage prepaid sealed wrapper; or (y) by nationally recognized overnight courier service and shall be deemed to have been given the first Business Day (for domestic delivery) and the third Business Day (for international delivery), after deposit with an overnight courier service, provided that notices of change of address shall in all events be deemed to have been given when received.

5.2 Waiver of Service of Notice. Whenever any notice is required to be given by Law, the Declaration or these Residential 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 RESIDENTIAL SECTION

6.1 Determination of Residential Common Expenses and Fixing of Residential Common Charges

6.1.1 (a) As described more fully in the Condominium By-Laws, the Condominium Board shall from time to time, but at least annually, prepare a budget setting forth the projection of General Common Expenses and will allocate to the Residential Section, in the manner described in the Condominium By-Laws, the General Common Charges necessary to meet the Residential Section's allocated share of General Common Expenses. The Residential

Board will allocate and assess to each Residential Unit Owner, in such proportion as the Common Interest of each such Unit Owner's Residential Unit bears to the total aggregate Common Interests of all Residential Units, a portion of the General Common Charges allocated to the Residential Section, to be assessed against and paid by each Residential Unit Owner as part of the Residential Common Charges payable by such Residential Unit Owner, as provided in subsection 6.1.2.

(b) Under the Condominium By-Laws, and to the extent permitted by Law, the Residential Common Charges collected by the Residential Board shall, in all instances, first be payable to the Condominium Board in payment of the Residential Section's allocated share of General Common Charges, failing the occurrence of which, the Condominium Board shall have the right, without limitation, to avail itself of the remedy of specific performance with respect to the Residential Board's obligations hereunder.

6.1.2 (a) Except as otherwise provided herein, all costs and expenses in connection with the Repair, maintenance, care, upkeep and operation of, and any Alteration to, the Residential Limited Common Elements and the business and affairs of the Residential Section (the "Residential Common Expenses") shall be determined by the Residential Board and shall be borne solely by the Residential Unit Owners. Residential Common Expenses shall include, without limitation: (i) such amounts as the Residential Board may deem proper for the establishment of and/or changes to reserves, including, without limitation, a general operating reserve or a reserve for working capital or for replacements with respect to the Residential Limited Common Elements; (ii) such amounts, determined by the Residential Board, as may be required for the purchase, lease or sublease by the Residential Board or its designee, on behalf of all Residential Unit Owners, of an apartment to be used as the residence of the superintendent or resident manager of the Residential Section, if any, or of any Residential Unit whose owner has elected to sell, lease, transfer or convey such Residential Unit or which is to be sold at a foreclosure or other similar sale; and (iii) all such other items as are provided for in the Declaration, the Condominium By-Laws or these Residential By-Laws to be Residential Common Expenses. The Residential Board shall from time to time, but at least annually, prepare a budget setting forth the projection of Residential Common Expenses and shall allocate and assess to the Residential Unit Owners pro rata, in accordance with their respective Common Interests (except as otherwise provided in the Declaration, the Condominium By-Laws or these Residential By-Laws), charges to meet the Residential Common Expenses (which shall include each Residential Unit Owner's share of General Common Charges (such charges together with all such other amounts denominated or payable as Residential Common Charges in or under the Declaration, the Condominium By-Laws or these Residential By-Laws being, collectively, the "Residential Common Charges")). In addition to basing certain elements of Residential Common Charges on proportionate Common Interests, the Residential Board may also assess the same in accordance with submetering, contract allocations, or usage (both projected and actual) so long as such allocations are reasonable, as determined by the Residential Board. The Residential Board shall advise all Residential Unit Owners promptly in writing of the amount of Residential Common Charges payable by each of them and shall furnish copies of each annual budget on which such Residential Common Charges are based to all Residential Unit Owners and, upon written request therefor, to Permitted Residential Mortgagees thereof.

(b) Notwithstanding anything to the contrary contained in this subsection 6.1.2, the costs of Repair, maintenance, care, upkeep and operation of, and any Alteration to, the Residential Limited Common Elements described in subsection 6.6.2(c) shall be paid for in the manner described therein.

6.1.3 The Residential Board may, at its sole discretion, from time to time increase or decrease the amount of Residential Common Charges, and may modify its prior determination of the Residential Common Expenses for any fiscal year so as to increase or decrease the amount of Residential Common Charges payable for such fiscal year or portion thereof; however, no such revised determination shall have a retroactive effect on the amount of Residential Common Charges payable by Residential Unit Owners for any period prior to the date of such new determination. However, a prior period's deficit may be included in Residential Common Charges for a subsequent period or levied from a special assessment levied against all Residential Unit Owners in accordance with subsection 6.1.5.

6.1.4 The failure or delay of the Residential Board to prepare or adopt a budget or to otherwise determine the Residential Common Expenses for any fiscal year or portion thereof shall not be deemed a waiver or modification in any respect of the covenants and provisions hereof or a release of any Residential Unit Owner from the obligation to pay Residential Common Charges. In the event of such failure by the Residential Board, the Residential Common Charges that were computed on the basis of the Residential Common Expenses last determined for any fiscal year or portion thereof, together with the Residential Section's then current allocated share of General Common Charges (determined in accordance with the terms of the Condominium By-Laws), shall continue thereafter to be the Residential Common Charges payable by the Residential Unit Owners until a new determination of the Residential Common Charges is made.

6.1.5 In addition to the foregoing duty to determine the amount of and to assess Residential Common Charges, the Residential Board shall have the right to levy special assessments to meet the Residential Common Expenses (or a prior period's deficit, in accordance with subsection 6.1.3), including, without limitation, the Residential Section's allocated share of General Common Charges or any special assessment levied by the Condominium Board. The Residential Board shall have all rights and remedies for the collection of special assessments as are provided herein for the collection of Residential Common Charges (including, without limitation, perfecting a lien against the defaulting Residential Unit).

6.1.6 The excess of all rents, profits and revenues derived from the rental or use of any space or facility forming part of or included in any Residential Limited Common Element shall be collected by the Residential Board, as agent for and on behalf of the Residential Unit Owners, and shall constitute income of the Residential Unit Owners, to be applied against Residential Common Expenses next arising. Notwithstanding any provision contained in these Residential By-Laws to the contrary, in no event shall any rent, profit or revenue derived from the rental, licensing or use of any space in the Residential Section be deemed to be derived from the rental, licensing or use of any floor slabs, ceilings or walls delineating or enclosing such space or the incidental use of any portion of any Residential Limited Common Elements appurtenant to such space. In addition, none of the Residential Unit Owners, nor the Residential

Board will have any interest in the rents, profits or revenues from the rental or use of any space in the Commercial Units (except for any Commercial Unit owned or leased by them/it).

6.2 Payment of Residential Common Charges.

6.2.1 All Residential Unit Owners shall be obligated to pay to the Residential Board the Residential Common Charges assessed by the Residential Board pursuant to the provision of Section 6.1, at such time or times as the Residential Board determines. Unless otherwise determined by the Residential Board, Residential Common Charges shall be payable monthly, in advance, on the first day of each month.

6.2.2 No Residential Unit Owner shall be liable for the payment of any part of the Residential Common Charges assessed against such Residential Unit Owner's Unit subsequent to a permissible sale, transfer or other conveyance by it (made in accordance with these Residential By-Laws) of such Unit, together with its appurtenant Common Interest except as expressly provided herein. Any Residential Unit Owner may, subject to the terms and conditions of these Residential By-Laws, convey its Unit, together with its appurtenant Common Interest, without consideration, to the Residential Board or its designee, on behalf of all Residential Unit Owners, and in such event (except as hereinafter set forth) be exempt from Residential Common Charges thereafter accruing, provided that such Residential Unit is free and clear of liens and encumbrances other than the statutory lien for unpaid Residential Common Charges (provided that no amounts are owing under any such lien). However, in no event may a Residential Unit Owner exempt itself from liability for Residential Common Charges by waiving use of any of the Common Elements or by abandonment of its Residential Unit. A purchaser of a Residential Unit shall be liable for the payment of Residential Common Charges accrued and unpaid against such Unit prior to its acquisition thereof, except that, to the extent permitted by Law, a Permitted Residential Mortgagee acquiring title to a Residential Unit at a foreclosure sale shall not be liable for, and such Residential Unit shall not be subject to, a lien for the payment of Residential Common Charges assessed against such Residential Unit subsequent to the recording of such Permitted Residential Mortgage and prior to the acquisition of title of such Residential Unit by such mortgagee; the foregoing is subject to the provisions of the last sentence of subsection 6.3.2 hereof. However, in the event of a foreclosure of a Residential Unit by a Permitted Residential Mortgagee (whether by sale, deed in lieu of foreclosure or otherwise) or by the Residential Board of its lien on any Residential Unit for unpaid Residential Common Charges, if the net proceeds of the foreclosure sale actually received (after deduction of all legal fees, advertising costs, brokerage commissions and other costs and expenses incurred by such Permitted Residential Mortgagee in connection therewith) are insufficient to satisfy the defaulting Residential Unit Owner's obligations, such Residential Unit Owner shall remain liable for the deficit of all unpaid Residential Common Charges, as provided in these Residential By-Laws.

6.2.3 Sponsor shall have the right, in its sole and absolute discretion, to cause the Residential Board to waive the collection of some or all of the Residential Common Charges from Residential Unit Owners for a period of time prior to full occupancy of the Building (the "Waiver Period"); provided, however, that Sponsor shall be solely responsible for payment of all remaining expenses to operate the Residential Section during the Waiver Period (the "Operating Expenses"). All Operating Expenses paid by Sponsor during the Waiver Period are based on the

actual cost of operating the Residential Section and not on estimates set forth in Schedule B-1 to the Offering Plan.

6.2.4 (a) Prior to any permissible sale, transfer or other conveyance of a Residential Unit, any seller or purchaser of a Residential Unit shall be entitled, upon request for same, to a statement from the Residential Board, dated as of the date of the closing of title in connection with any such sale, transfer or other conveyance, setting forth the amount of unpaid Residential Common Charges accrued against the Unit.

(b) The Residential Board shall promptly provide any Residential Unit Owner who so requests with a written statement of all unpaid Residential Common Charges due to it from such Residential Unit Owner.

6.2.5 Notwithstanding the provisions of subsection 6.2.1, any Residential Unit Owner that is a foreign government, a resident representative of a foreign government or such other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity) shall deposit with the Residential Board an amount equal to two (2) times the then current annual Residential Common Charges for such Unit, subject to increase from time to time as such Common Charges increase, together with the full amount of any special assessment levied against, or allocable to, such Unit, as security for the faithful observance by such Residential Unit Owner of the terms, provisions and conditions of these Residential By-Laws. In the event that such Residential Unit Owner defaults in respect of the terms, provisions and conditions of these Residential By-Laws, the Residential Board may use, apply or retain the whole or any part of the security so deposited, to the extent required for the payment of any Residential Common Charges or any other sum as to which such Residential Unit Owner is in default. If the Residential Board applies or retains any part of said security, the Residential Unit Owner in questions, within ten (10) days after notice from the Residential Board, shall deposit with the Residential Board the amount so applied or retained so that such Residential Board has the full amount of said security on hand at all times.

6.3 Default in Payment of Residential Common Charges; Lien for Unpaid Residential Common Charges; Other Remedies.

6.3.1 The Residential Board shall take prompt action to collect any Residential Common Charges which remain unpaid for more than thirty (30) days after the due date for payment thereof, including, without limitation, the institution of such actions and the recovery of interest and expenses as provided in this Article 6. Subject to the applicable terms of the Condominium By-Laws, in the event the Residential Board, after notice from the Condominium Board, fails to take such action against a Residential Unit Owner, then the Condominium Board may do so, in its own name or, if necessary, in the name of the Residential Board.

6.3.2 Except to the extent prohibited by Law, the Residential Board, on behalf of all Residential Unit Owners, shall have a lien for Residential Common Charges unpaid by any Residential Unit Owner, together with interest thereon, on all Residential Units owned by such Residential Unit Owner, in proportion to their respective Common Interest. Such lien for Residential Common Charges shall be subordinate only to liens for real estate taxes and, to the extent required by applicable Law, to prior recorded Permitted Residential Mortgages on such

Residential Units, which are first mortgages of record. In the event of a change in applicable Law which does not mandate that the lien for Residential Common Charges be subordinate to the lien for prior recorded Permitted Residential Mortgages which are first mortgages of record, then, to the extent then permitted by applicable Law, provided the Residential Board determines (in its sole discretion) that such a change in Law is and a corresponding change to these Residential By-Laws will be generally acceptable to mortgage lenders, the lien for Residential Common Charges shall not be subordinate to the lien of any such Permitted Residential Mortgages thereafter made or to the lien of any such Permitted Residential Mortgages theretofore made to the extent that, after the implementation of such amendment to applicable Law, such Permitted Residential Mortgages have been modified, amended or extended so that additional monies are secured thereby.

6.3.3 In the event any Residential Unit Owner fails to make payment of Residential Common Charges when due, 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 one and one half percent (1.5%) per month (but in no event in excess of the maximum rate permitted by Law) on such unpaid amounts (exclusive of any "late charges" theretofore collected on such amounts) computed from the due date thereof, together with all expenses, including, without limitation, attorneys' fees and expenses paid or incurred by the Residential Board or by any managing agent in any proceeding brought to collect such unpaid Residential Common Charges or in an action to foreclose the lien on such Unit arising from said unpaid Residential Common Charges, whether 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. In addition, if the Residential Board shall bring an action to foreclose such lien because of unpaid Residential Common Charges, the defaulting Residential Unit Owner shall be required to pay a reasonable fee for the use and occupancy of its Unit and the plaintiff in such foreclosure action shall be entitled to the appointment, without notice, of a receiver to collect the same. All such "late charges," interest, expenses and fees shall be added to and shall constitute Residential Common Charges payable by such Residential Unit Owner; and the lien for unpaid Residential Common Charges shall also secure the payment of such additional sums. A suit to recover a money judgment for unpaid Residential Common Charges shall be maintainable without foreclosing or waiving the lien securing such charges.

6.3.4 In any action brought by the Residential Board to foreclose a lien on a Residential Unit because of unpaid Residential Common Charges, the Residential Board, acting on behalf of all Residential Unit Owners, shall have the power (but shall not be obligated) to purchase any such Residential Unit at the foreclosure sale thereof and to acquire, hold, lease, mortgage, convey or otherwise deal with such Unit (but not to vote the Common Interests appurtenant thereto). In the event the net proceeds received on a foreclosure sale (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 Residential Unit Owner's obligations, such Residential Unit Owner shall remain liable for the deficit, as provided in these Residential By-Laws.

6.3.5 (a) For the purposes of this subsection 6.3.5, "non-occupying owner" shall mean a Residential Unit Owner who or which does not occupy its Residential Unit.

(b) If a non-occupying owner rents any Residential Unit to a rental tenant and then fails to make payments due for Residential Common Charges or any other amounts payable by such Residential Unit Owner to the Residential Board, including, without limitation, assessments and/or late fees (all of the foregoing, collectively, "Payments") for such Residential Unit within sixty days of the expiration of any grace period after the same are due, upon notice in accordance with subdivision (c) of this subsection, all rental payments from the tenant shall be directly payable to the Residential Board.

(c) If the Payments for any Residential Unit have not been paid in full, within sixty (60) days after the expiration of any grace period of the earliest due date, the Residential Board shall provide written notice to the tenant and the non-occupying owner providing that, commencing immediately and until such time as all Payments are made current, all rental payments due subsequent to the issuance of such notice are to be made payable to the Residential Board at the address listed on the notice. Where a majority of the Residential Board has been elected by and from among the Residential Unit Owners who are in occupancy, the Residential Board may elect not to require that rental payments be made payable to the Residential Board. At such time as Payments from the non-occupying owner are once again current, notice of such fact shall be given within three business days to the rental tenant and non-occupying owner. Thereafter all rental payments shall be made payable to the non-occupying owner or a designated agent. A non-occupying owner who disputes the Residential Board's claim to rental payments pursuant to this subsection shall be entitled to present facts supporting such Residential Unit Owner's position at the next scheduled meeting of the Residential Board, which must be held within thirty days of the date that such Residential Board receives notice that such owner seeks to dispute such claim.

(d) Nothing in this subsection shall limit any rights of any Residential Unit Owner or the Residential Board existing under any other Law or agreement.

(e) Payment by a rental tenant to the Residential Board made in connection with this subsection shall relieve that rental tenant from the obligation to pay such rent to the non-occupying owner and shall be an absolute defense in any non-payment proceeding commenced by such non-occupying owner against such tenant for such rent.

6.4 Insurance.

6.4.1 The Condominium By-Laws describe those types of insurance which the Condominium Board, the Residential Board, the Commercial Board, the Commercial Unit Owners and the Residential Unit Owners are required to obtain and maintain. Neither the Condominium Board, nor the Residential Board, is required to obtain or maintain any insurance with respect to any personal property (including fixtures, improvements, furnishings, betterments and improvements, decorations, appliances and other personal property) contained in or constituting part of a Residential Unit or any liability with respect to occurrences within or about a Residential Unit or the Limited Common Elements, if any, appurtenant thereto. Consequently, as specified in Section 11.4 of the Condominium By-Laws, all Residential Unit Owners are

required to obtain and maintain liability insurance as specified therein. Subject to the requirements hereinafter and in subsection 6.4.2 set forth, Residential Unit Owners shall not be prohibited from carrying other insurance for their own benefit, and the Residential Board shall not be prohibited from requesting or seeking to cause the Condominium Board to carry other insurance, or from carrying insurance itself, for the benefit of the Residential Section or Residential Unit Owners. To the extent any party is insured, or is required hereunder to be insured, for loss or damage to property, each party will look to its own insurance policies for recovery.

6.4.2 All policies obtained by any Residential Unit Owner, or by the Residential Board on behalf of the Residential Section or the Residential Unit Owners, shall provide that the liability of the carriers issuing insurance obtained by the Condominium Board shall not be affected or diminished by reason of any additional insurance carried by the Residential Board or any other Unit Owner and shall contain a waiver of the insurer's right of subrogation against the Condominium Board, the Residential Board and any Unit Owner.

6.4.3 If the use of any Residential Unit causes an increase in the premium for the insurance which the Condominium Board, Residential Board or Commercial Board is required to obtain and maintain as set forth herein or otherwise, then the owner of such Residential Unit shall be obligated to pay to the Residential Board (which, to the extent appropriate, shall in turn pay any necessary sums to the Condominium Board), as additional Residential Common Charges, a sum equal to the amount of such increase attributable to such use.

6.4.4 All insurance policies carried by or on behalf of the Residential Board shall provide that adjustment of loss shall be made exclusively by the Residential Board if the loss involves only the Residential Section; in all other instances, the provisions of the Condominium By-Laws shall control as to adjustment of loss. The Condominium By-laws shall also control as to those instances in which proceeds shall be payable to an Insurance Trustee.

6.4.5 Each Residential Unit Owner shall obtain and maintain the following insurance in such amounts and in such limits as described below, or in such higher amounts and in such higher limits as the Residential Board, from time to time, may determine, including a personal liability policy if such Residential Unit Owner is an individual, or commercial general liability insurance if such Residential Unit Owner is a corporate entity, with a limit of not less than $1,000,000 per occurrence against claims for personal injury, death or property damage occurring in, on or about such Residential Unit Owner's Residential Unit and the Limited Common Elements, if any, exclusive and/or appurtenant to his or her Residential Unit, and an Umbrella Liability Policy with limits of not less than $4,000,000 per occurrence and annual aggregate per location, covering the interests of the Residential Unit Owner and its Permitted Mortgagee in the applicable Residential Unit as their respective interests may appear. Such insurance may, at the option of the Residential Unit Owner, be effected by a Homeowners HO-6 form (or its equivalent). The Residential Unit Owner purchasing such policy shall be the named insured.

6.5 Repair or Reconstruction after Fire or Other Casualty.

6.5.1 (a) If any portion of the Property other than solely the Residential Section is damaged or destroyed by fire or other casualty, or if any portion of the Residential Section is damaged or destroyed together with any other portion of the Property, the provisions of the Condominium By-Laws shall control as to control over repair and restoration. In the event that solely the Residential Section (i.e., the Residential Units and/or Residential Limited Common Elements) or any part thereof is damaged or destroyed by fire or other casualty (unless, in accordance with the Condominium By-Laws or these Residential By-Laws, the Building is not to be repaired), the Residential Board will arrange for the prompt repair and restoration of the Residential Section (including each Residential Unit, but excluding improvements, betterments, equipment, furniture, furnishings, betterments and improvements or other personal property in any such Unit) and the Residential Board, or Insurance Trustee, as provided in the Condominium By-Laws or herein, shall disburse the proceeds of all applicable insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

(b) If only the Residential Section is damaged or destroyed by fire or other casualty and the insurance proceeds are less than sufficient to cover, or exceed, the cost of repairs and restoration, the deficit or surplus, as the case may be, will be borne as a Residential Common Expense or profit, respectively, and shared by all Residential Unit Owners in proportion to their respective Common Interests. Any surplus allocable to any Residential Unit pursuant to this subsection 6.5.1 shall first be lessened by such amounts as may be required to discharge unpaid liens (other than mortgages which are not Permitted Residential Mortgages) on any such Unit in the order of priority of such liens, and the remaining surplus, if any, shall then be paid to the owner of such Unit. If any portion of the Property other than solely the Residential Section is damaged or destroyed by fire or other casualty, or if any portion of the Residential Section is damaged or destroyed together with any other portion of the Property, the provisions of the Condominium By-Laws shall control as to any deficit or surplus in insurance proceeds.

6.6 Maintenance and Repairs.

6.6.1 Except as otherwise provided in the Declaration, the Condominium By-Laws or these Residential By-Laws, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary, and all maintenance, repairs and replacements of all plumbing, heating and lighting fixtures, heating and air-conditioning units and appliances: (i) in or to any Residential Unit (excluding General Common Elements and Residential Limited Common Elements therein, except as otherwise provided in the Declaration or these Residential By-Laws) and the interior side of entrance doors thereto, shall be made by the owner of such Residential Unit at its sole cost and expense; provided that, except in the case of work to be done in Unsold Residential Units, the Residential Unit Owner of a Residential Unit utilizes only such contractors, workers or suppliers as are on the then approved list of the then Residential Managing Agent, which list may change from time to time in the sole discretion of such managing agent or the Residential Board and, to the extent applicable, complies with the provisions of Section 6.7 hereof; and (ii) in or to the Residential Limited Common Elements shall be made by the Residential Board and the cost and expense thereof shall be shared by all Residential Unit Owners as a Residential Common Expense, in proportion to their respective Common Interests.

6.6.2 Notwithstanding the provisions of subsection 6.6.1:

(a) In the event that any painting, decorating, maintenance, repairs or replacements to the Property or any part thereof (including, without limitation, any Unit) is necessitated by or attributable to the negligence, misuse, neglect or abuse of: (i) any one or more Residential Unit Owner(s) or its or their tenants, agents, invitees, licensees or guests, the entire cost thereof shall be borne entirely by such Residential Unit Owner(s); or (ii) the Residential Board or its tenants, agents, invitees, licensees or guests, the entire cost thereof shall be charged to all Residential Unit Owners as a Residential Common Expense, except to the extent in any case that such cost is covered by the proceeds of any insurance maintained pursuant to the provisions hereof.

(b) The washing and cleaning of interior glass surfaces of windows in the Residential Units shall be the responsibility of the respective Residential Unit Owners. All window interiors shall be cleaned a minimum of four (4) times per calendar year. The Residential Board may from time to time enforce the responsibility of Unit Owners to wash and clean the interior surfaces of windows located in their respective Units and charge the defaulting Unit Owner therefor. The exterior glass surfaces will be washed, cleaned and replaced at the direction of the Condominium Board and the cost thereof charged as a General Common Expense. Unit Owners are prohibited from cleaning or allowing to be cleaned any window from the outside in violation of Section 202 of the New York State Labor Law, any other applicable Laws, any insurance policy or requirement or otherwise. The interior and exterior glass surfaces of all windows located in any Residential Unit shall not be altered, colored or painted.

(c) All normal maintenance and repairs of any Residential Limited Common Element exclusively appurtenant to a particular Residential Unit shall be made by the Residential Unit Owner having access thereto, at its own cost and expense; any structural or extraordinary repairs or replacements thereto (including leaks) shall be made by or for the Residential Board and the cost and expense thereof shall be charged to all Residential Unit Owners as a Residential Common Expense, unless due to the negligence, misuse, neglect or abuse of such Residential Unit Owner or its tenant, agent, invitee, licensee or guest, in which event such Residential Unit Owner shall bear the entire cost thereof, and the same shall, for all purposes hereunder, constitute part of the Residential Common Charges payable by such Residential Unit Owner.

(d) No Residential Unit Owner (other than Sponsor) may install, inscribe or expose any signage on or at any window or any other part of the Common Elements.

6.6.3 Each Residential Unit and the Residential Limited Common Elements shall be kept in the condition and otherwise in such manner that appropriate standards of quality, service and appearance are maintained which are appropriate for a luxury residential condominium project (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 Residential Unit Owner or the Residential Board, whichever is responsible for the maintenance thereof under the Declaration, these Residential By-Laws or the Condominium By-Laws; and such Residential Unit Owner or the Residential Board 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 Residential Section and those areas which are exposed to public view shall be kept in good appearance, in conformity with the dignity and character of the Building, by: (a) the Residential Board, with respect to such parts of the Building it is required to maintain under the Declaration, these Residential By-Laws or the Condominium By-Laws; and; (b) each Residential Unit Owner, with respect to the windows and shades, Venetian or other blinds, drapes, curtains or other window decorations in or appurtenant to its Residential Unit, as well as those other areas of such Unit and its appurtenant Residential Limited Common Elements which are exposed to public view.

6.6.4 In the event that any Residential Unit Owner, within a reasonable time after receipt of written notice from the Residential Board, fails or neglects in any way to perform any of its obligations with respect to maintenance, repair or replacement in or to its Residential Unit as provided in this Article 6 or of any Common Element for which such Residential Unit Owner is responsible under the Declaration, the Condominium By-Laws or these Residential By-Laws, the Residential Board may perform or cause to be performed such maintenance, repair or replacement, unless such Residential Unit Owner, within ten (10) days after receiving notice of such default by the Residential Board (except in the event of an "emergency," i.e., a condition requiring repair or replacement immediately necessary for the preservation or safety of the Building or for the safety of occupants of the Building or other persons, or required to avoid the suspension of any necessary services in the Building, in which case no notice is required), cures such default, or in the case of a default not reasonably susceptible to cure within such period, promptly commences (within such ten (10)-day period) 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 maintenance, repair or replacement in or to such Residential Unit Owner's Unit or to any such Common Element for which such Residential Unit Owner is responsible as aforesaid, together with interest thereon at the rate of one and one half percent (1.5%) per month (but in no event in excess of the maximum rate permitted by Law), shall be immediately payable by such Residential Unit Owner to the Residential Board and shall, for all purposes hereunder, constitute part of the Residential Common Charges payable by such Residential Unit Owner.

6.6.5 (a) Residential Unit Owners are required to obtain and maintain a maintenance, service and repair contract ("Maintenance Contract") with an HVAC vendor approved by the Residential Board (the "Vendor") qualified to perform maintenance services on the heating, ventilation and air conditioning system and humidification system, if any, located in their Residential Unit (the "HVAC") in accordance with guidelines established, from time to time, by the Residential Board. A copy of the Maintenance Contract shall be delivered to the Residential Managing Agent. Renewal Maintenance Contracts shall be delivered to the Residential Managing Agent prior to the date on which the then current Maintenance Contract expires.

(b) Each Vendor shall maintain insurance in such form as the Residential Board shall direct with limits of liability as follows: Commercial General Liability including Product and Completed Operations with limits of not less than $2,000,000 annual aggregate; Workers Compensation in compliance with all statutory requirements with Employers Liability Limits of not less than $1,000,000; Business Automobile Liability with a Combined Single Limit of not less than $2,000,000; and Umbrella/Excess Liability in amounts not less than

$5,000,000 per occurrence. All insurance certificates shall name, as additional insureds, the Residential Unit Owner and "the Condominium, the Residential Section, the Boards of Managers, their affiliates, agents and assigns". A copy of the insurance certificate shall be delivered to the Residential Managing Agent. Renewal insurance certificates shall be delivered to the Residential Managing Agent prior to the date on which the then current certificate expires.

(c) Any Residential Unit Owner who violates this Section 6.6.5 shall be fined $1,000 per month (subject to increase by the CPI Increase Factor) which shall be deemed to constitute Residential Common Charges payable by the Residential Unit Owner of the Residential Unit against which they are levied.

6.7 Alterations of Residential Units.

6.7.1 Except as otherwise provided in the Declaration, the Condominium By-Laws or these Residential By-Laws:

(a) (i) No Residential Unit Owner (other than Declarant and/or Sponsor or its designee or other owner of Unsold Residential Units) shall make any Alteration or Repair in or to its Residential Unit which affects the structure or systems of the Building (including, without limitation, the mechanical, electrical, plumbing, heating, ventilating and/or air-conditioning systems thereof), without obtaining the prior written consent of the Residential Board thereto. Prior to, and as a condition of, the granting of its consent to the making of any such Alteration or Repair in or to a Residential Unit, the Residential Board, at its option, may require the Residential Unit Owner to execute an agreement, in form and substance satisfactory to the Residential Board (which may, among other things, require payment of a supervisory fee to the Residential Board), setting forth the terms and conditions under which such Alteration or Repair may be made.

(ii) Notwithstanding anything otherwise herein contained to the contrary (whether in clause (i) above or otherwise), no Residential Unit Owner shall make, and the Residential Board shall not have the authority to consent to, any alteration, addition, improvement or repair to a Residential Unit which affects the structural elements or the systems (including, without limitation, the mechanical, electrical, plumbing, heating, ventilating and/or air-conditioning systems) of: (x) the Building without the Residential Board's obtaining the prior written consent thereto of the Condominium Board to the extent required under the terms of the Condominium By-Laws; and/or (y) any Commercial Unit without the Residential Board's obtaining (on behalf of such Residential Unit Owner) the prior written consent thereto of either the Commercial Board or the owner of such Commercial Unit(s) to the extent required under the terms of the Condominium By-Laws. In each of the foregoing cases, the Residential Unit Owner seeking to perform such work requiring such consent(s) shall be liable for all costs and expenses incurred by the Residential Board in obtaining such consent(s).

(b) All Repairs which would affect the structure or the systems of the Building (including, without limitation, the mechanical, electrical, plumbing, heating, ventilating and/or air-conditioning systems thereof) and all Alterations to any Residential Unit shall be made in accordance with plans and specifications, which plans and specifications shall be: (1) subject to review and approval by the Residential Board, in the case of Alterations to which the consent

of the Residential Board is otherwise required under subsection 6.7.1(a); (2) subject to review and approval by the Condominium Board, in the case of Alterations to which the consent of the Condominium Board is otherwise required under Article 8 of the Condominium By-Laws; (3) subject to the approval of the appropriate Commercial Unit Owner(s) in the case of Alterations to which the consent of such Commercial Unit Owner(s) is otherwise required under Article 8 of the Condominium By-Laws; and/or (4) subject to the approval of the Commercial Board in the case of Alterations to which the consent of such Board as otherwise required under Article 8 of the Condominium By-Laws. Prior to, and as a condition of, the granting of its consent to the making of any such Alteration, the Residential Board, the Condominium Board, the Commercial Unit Owner or the Commercial Board, as the case may be, may require the Residential Unit Owner to execute an agreement, in form and substance satisfactory to the consenting party, setting forth the terms and conditions under which such Alteration may be made.

6.7.2 All Alterations (whether to a Unit or to any Common Element) by a Residential Unit Owner shall be performed:

(a) at the Residential Unit Owner's sole cost and expense (including, without limitation, the reasonable costs of the Residential Board, the Condominium Board, the Commercial Unit Owner(s) and/or Commercial Board, as the case may be, incurred in reviewing and approving such Residential Unit Owner's submission for approval (if such approval is required) and in monitoring such Residential Unit Owner's compliance with the provisions of this Section 6.7);

(b) only after obtaining such insurance, naming the Condominium Board and the Residential Board, and the managing agent(s) thereof, and any affected Commercial Unit Owner(s) and/or Commercial Board as additional insureds, as such Boards or such managing agent(s) or such Commercial Unit Owner(s) may reasonably require;

(c) in compliance with the Declaration, these Residential By-Laws, the Condominium By-Laws, the General Rules and Regulations, the Residential Rules and Regulations, and all Laws (including, without limitation, those regarding licensing of contractors, obtaining of all necessary governmental permits, authorizations, certificates and licenses for the commencement and completion of any Alterations and obtaining of any amendment to the Certificate of Occupancy for such Residential Unit, if necessary);

(d) in a manner which will not interfere with, or cause any labor disturbances or stoppages in, the work of Condominium, Residential Section, or Commercial Units Owners' employees or other contractors or subcontractors employed in the Units or the Building; and

(e) (i) only during such days and hours as may be specified by the Residential Board in its reasonable judgment; and (ii) employing such architects, engineers, contractors, subcontractors, suppliers and other laborers who are on the then approved list of the then Residential Managing Agent, as such list may change from time to time, in the sole discretion of the Residential Board or its managing agent.

The Residential Unit Owner performing, permitting, suffering or causing such Alterations to be performed shall, if required either by the Condominium Board and/or the Residential Board, pay the cost of: (x) any necessary amendment of the Declaration and the floor plans of the Condominium, if appropriate, to reflect any such Alterations; (y) obtaining all necessary governmental permits, authorizations, certificates and licenses for the commencement and completion of any Alterations (copies of which shall be delivered to the Residential Board (which shall, as appropriate, also cause copies to be delivered to the Condominium Board) promptly after the issuance thereof and prior to the commencement of any Alterations), and obtaining any amendment to the Certificate of Occupancy for such Residential Unit, if necessary; and (z) any reasonable architectural, engineering and legal fees incurred by the Condominium Board or the Residential Board, as appropriate, in connection with such work. Neither the Condominium Board, the Residential Board nor any Unit Owner (other than the Residential Unit Owner making, permitting, suffering or causing any Alterations to be made in or to its Unit) shall incur any liability, cost or expense either: (1) in connection with the preparation, execution or submission of the applications referred to above; (2) to any contractor, subcontractor, supplier, architect, engineer or laborer on account of any Alterations made, or permitted or caused to be made, by any Residential Unit Owner; (3) to any person or entity asserting any claim for personal injury or property damage arising therefrom; or (4) arising out of a Residential Unit Owner's failure to obtain any permit, authorization, certificate or license, or to comply with the Declaration, the Condominium By-Laws, these Residential By-Laws, the General Rules and Regulations, if any, the Residential Rules and Regulations, and the provisions of any Laws insofar as the same relates to Alterations. A Residential Unit Owner making, or causing, permitting or suffering any tenant or occupant to make, any Alteration shall be deemed to have agreed to indemnify and hold the Condominium Board, the Residential Board, the managing agents thereof and all other Unit Owners harmless from and against any liability, loss, cost, or expense arising therefrom, and from and against any and all loss, cost, expense (including, but not limited to, attorneys' fees and disbursements), damage, injury or liability, whether direct, indirect or consequential, resulting from, arising out of, or in any way connected with, any of the foregoing.

6.7.3 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 an Alteration in or to any Residential Unit shall, if and to the extent required by Law or such department or authority, be executed by the Condominium Board, the Residential Board and/or any affected Commercial Unit Owner(s) or Commercial Board, in the case of an Alteration which such party has approved (or for which its approval is not required), provided that the Condominium Board, the Residential Board, the Commercial Board and the Commercial Unit Owner(s) shall not incur any liability, cost or expense in connection with or by reason of executing such application.

6.7.4 Notwithstanding anything to the contrary contained in this Section 6.7 (but subject to all Laws), Declarant and Sponsor and their designees or other Unsold Residential Unit Owners shall each have the right pursuant (and subject) to the terms of the Declaration and Condominium By-Laws, without the approval of the Residential Board, the Condominium Board, the Commercial Board or any Commercial Unit Owner: (i) to make any alterations, additions, improvements and repairs in or to any Unsold Residential Units, whether structural or non-structural, interior or exterior, ordinary or extraordinary (including, without limitation, those required under any applicable development (or other) agreement affecting the Property, the

Offering Plan, any Purchase Agreement or otherwise); and (ii) to subdivide, combine and change the boundary walls of Unsold Residential Units. Additionally, an initial purchaser of any Unsold Unit shall have the right, without approval of the Residential Board, to make any Alterations in or to its Residential Unit, provided that Sponsor shall have expressly consented to the same in writing at or prior to the closing of title to such Residential Unit (which consent may be withheld or conditioned in Sponsor's sole discretion) and that such purchaser complies with all of the other requirements of this Section 6.7.

6.7.5 In addition to the requirements set forth above in this Section 6.7, until a permanent Certificate of Occupancy is obtained for the Building, no Residential Unit Owner shall make any Alterations in or to its Residential Unit without first notifying the Residential Board, Declarant and Sponsor of the same in writing and complying with the requirements of Declarant and Sponsor with respect to the same. Such requirements may include, but need not be limited to, the following:

(a) such work not include any change that would result in a delay in obtaining a temporary or permanent Certificate of Occupancy for the Residential Section and/or the Building, or any amendment to, or extension of, the same if theretofore issued;

(b) such Residential Unit Owner post a bond or other similar security that is reasonably acceptable to Sponsor in an amount sufficient (in Sponsor's reasonable judgment) to insure the diligent completion of the work and the filing of any required notices or certificates with respect to such work and the completion of the same with all governmental authorities having jurisdiction;

(c) such work not be commenced until such Residential Unit Owner causes all required plans, specifications, notices and/or certifications to be filed with all governmental authorities having jurisdiction, procures all required permits and licenses with respect to the same, and delivers copies of all such plans, specifications, notices, certifications, permits and licenses to Sponsor;

(d) such work be diligently prosecuted to completion in compliance with all plans, specifications, notices and/or certifications and in conformity with all permits and licenses;

(e) the Residential Board, Declarant and Sponsor and their representatives be given reasonable opportunity, from time to time, to inspect such work as it progresses;

(f) promptly after the completion of such work, all necessary inspections and approvals of the same be obtained, all necessary notices and/or certifications be filed with the appropriate governmental authorities and the Residential Board, Declarant and Sponsor each be given a copy of all such inspections, approvals, notices and certifications;

(g) such Residential Unit Owner indemnify and hold the Residential Board, Declarant and Sponsor harmless from any cost, expense, claim, or liability arising, directly or indirectly, from such work, including, without limitation, any cost, expense, claim or liability incurred or suffered by any of them due to any delay in obtaining a temporary or

permanent Certificate of Occupancy for the Building (or any amendment to, or extension of, the same if theretofore issued) as a result of such work or the failure to timely make all appropriate governmental filings in connection with the same; and

(h) all contractors shall be duly licensed to the extent required by applicable Laws and, if required under any contract with any union whose members are performing services at the Building (including, without limitation, services directly or indirectly at the behest, for the benefit, or for the account of Declarant, Sponsor, any other Unit Owner, the Condominium Board, the Residential Board or the Commercial Board), such work shall be performed solely by union members.

If any Residential Unit Owner commences any such Alterations in violation of the foregoing terms and conditions of this subsection 6.7.5, or fails to comply with the requirements of Declarant and/or Sponsor in connection with the same, the Residential Board, Declarant and/or Sponsor shall be entitled to cause such work by such Residential Unit Owner to be halted, including, without limitation, causing the managing agent to deny access to the Building to such Residential Unit Owner's workers and suppliers, until such Residential Unit Owner so complies. During the period until such Residential Unit Owner is permitted hereunder to resume its work, the Residential Board, Declarant and/or Sponsor shall have the right to cause to be performed (whether by the Residential Board, Declarant, Sponsor or otherwise) any and all work in and to such Residential Unit Owner's Unit as shall be necessary, in such party's sole judgment, in order to avoid any delay in obtaining a temporary or permanent Certificate of Occupancy for the Building (or any amendment to, or extension of, the same if theretofore issued), whether or not such work shall be in compliance with the plans and specifications for the work theretofore performed by, or on behalf of, such Residential Unit Owner. The cost and expense of any such work so performed shall be borne by such Residential Unit Owner and shall be paid to the Residential Board, Declarant and/or Sponsor, as designated by such parties, within fifteen (15) days following written demand therefor.

6.7.6 In the event that a dispute arises between any Residential Unit Owner and the Condominium Board, the Residential Board or the Commercial Board, as the case may be, regarding any Alteration subject to the approval of any such Board (including, without limitation, the determination of whether any work constitutes an Alteration subject to the approval of only such Board), or if a dispute arises between a Residential Unit Owner and Declarant and/or Sponsor in respect of subsection 6.7.5, such dispute shall be submitted to Arbitration, provided that the parties shall cause such Arbitration to proceed in an expedited manner.

6.7.7 References in this Section 6.7 to Alteration shall also include, as the context requires but otherwise subject to the Declaration, Condominium By-Law and these By-Law, any Repairs.

6.8 Alterations to Residential Limited Common Elements. Except as otherwise provided in the Declaration, the Condominium By-Laws or these Residential By-Laws, all Alterations in or to any Residential Limited Common Elements shall be made by the Residential Board or by the Residential Unit Owner(s) required to maintain and repair such Residential Limited Common Element and the cost thereof shall be charged either to all Residential Unit

Owners as a Residential Common Expense in the proportion that their respective Common Interests bear to the aggregate Common Interests of all Residential Unit Owners, or to the Residential Unit Owner(s) responsible therefor, as the case may be. Whenever the cost of any such Alterations chargeable to the Residential Board is capital in nature and would, in the judgment of the Residential Board, exceed $100,000 (subject to increase by the CPI Increase Factor) in any calendar year or $250,000 in the aggregate (subject to increase by the CPI Increase Factor), then such proposed Alteration shall not be made unless first approved by a majority in number and Common Interest of Residential Unit Owners, including Sponsor, required to bear the cost and expense thereof in accordance with the foregoing; provided that if the aforesaid is in the nature of a non-capital repair or is necessary to comply with Laws, or to remedy any violation imposed against the Property, or a proper work order of an insurer of the Property, or for the health or safety (but not the general comfort or welfare) of the residents or occupants of the Property, such consent shall not be required. In any such event, the Residential Board may, in its direction, assess each Residential Unit Owner liable therefor for its pro-rata share of the cost of such Alterations, according to its respective Common Interest, as part of the Residential Common Charges. Any Alterations costing the amounts set forth above or less, in the aggregate, in any calendar year may be made by the Residential Board without the approval of the Residential Unit Owners or the Residential Mortgage Representatives.

6.9 Use of Residential Units.

6.9.1 A Residential Unit may generally be used only for residential purposes and, subject to compliance with the Declaration, Condominium By-Laws and these Residential By-Laws, for a lawful home occupation, as defined in the Zoning Resolution of the City of New York. Residential Unit Owners may, subject to the Residential Board's right of first refusal, rent their Residential Unit pursuant to a lease with a minimum term of one (1) year and a maximum term of two (2) years, in each instance. No transient tenant or short-term paying guest (i.e., a tenant or paying guest in occupancy for a period of less than twelve (12) consecutive months) may be accommodated in any Residential Unit, and only an entire Residential Unit may be leased. A Residential Unit may only be occupied by: (i) any individual who is a Residential Unit Owner or permitted lessee; (ii) any officer, director, employee or shareholder of any corporation which is a Residential Unit Owner or permitted lessee; (iii) any partner or employee of any partnership which is a Residential Unit Owner or permitted lessee; (iv) any member of any limited liability company which is a Residential Unit Owner or permitted lessee; (v) the fiduciary or beneficiary or employee of any fiduciary which is a Residential Unit Owner or permitted lessee; (vi) any principal or employee of any other entity (including, but not limited to, embassies and consulates of foreign governments) which is a Residential Unit Owner or permitted lessee; provided that in each instance in clauses (ii) through (vi) above: (A) the individual, designated officer, director, shareholder, partner, member, fiduciary, beneficiary, principal or employee is designated as the primary occupant of the Residential Unit and is not being designated to use the Residential Unit on a transient basis or as other than the primary occupant; and (B) such use is not, in fact or in effect, part of or in furtherance of an Occupancy Plan; and (vii) Family Members, domestic partners, domestic employees and/or non-paying guests of any of the foregoing. An "Occupancy Plan" means a program, plan, agreement or other arrangement for the use, occupancy, marketing, advertising or promotion of one (1) or more Residential Units under short-term, timeshare, fractional or shared ownership, interval exchange (whether the program is based on direct exchange of occupancy rights, cash payments,

reward programs or other point or accrual systems) or other membership plans or arrangements through which a participant in the plan or arrangement acquires a direct or indirect ownership interest in the Residential Unit(s) in question with attendant rights of periodic use and occupancy or acquires contract rights to such periodic use and occupancy of such Residential Unit(s) or a portfolio of accommodations including such Residential Unit(s).

6.9.2 Certain of the Residential Units that are located on Floors 28 and 29 of the Building are classified as "Studio Units". The Studio Units may be used only as a residence occupied by domestic employees of a Residential Unit Owner, as well as Family Members and non-paying guests of Residential Unit Owners. Occupancy of the Studio Units by non-paying guests shall not exceed three (3) months, unless the prior written consent of the Residential Board is obtained. Except for Sponsor, no Unit Owner may own a Studio Unit independently of a Residential Unit (that is not a Studio Unit). In the event a Residential Unit Owner who owns a Studio Unit rents his or her Residential Unit, such Residential Unit Owner must also rent his or her Studio Unit either to the tenant of the Residential Unit (in such case, for a term consistent with the lease to the Residential Unit), or another Residential Unit Owner (in such case, for a term of one (1) year, or if shorter, until such lessor ceases to be a Residential Unit Owner).

6.9.3 Notwithstanding anything to the contrary set forth in these Residential By-Laws or Residential Rules and Regulations, in the event a Residential Unit Owner leases his or her Residential Unit, such Residential Unit Owner's tenant shall not be permitted to keep or harbor pets of any kind in the Residential Unit.

6.10 Licensing and Use of and Alterations to Storage Closets, Wine Cellar Licenses and Related Areas.

6.10.1 Permitted Licensees; Transfer.

(a) To protect the security of the Building, any licensee of any of: (1) the storage closets ("Storage Closets") located in the Subcellar 2 Level and Subcellar 1 Level of the Tower, or (2) the wine cellars ("Wine Cellars") located in the Subcellar 1 Level of the Tower, must also at all times be the owner (or lessee) of a Residential Unit, provided, however, that the foregoing restriction shall not apply: (i) to Sponsor or its designee; or (ii) to the Residential Board or its designees.

(b) If at any time the licensee of a Storage Closet or Wine Cellar sells its Residential Unit, it shall simultaneously assign its license of the Storage Closet or Wine Cellar to the purchaser of such Residential Unit or to another owner of a Residential Unit, and if it fails to do so, the Residential Board shall have the right to terminate the license of the Storage Closet or Wine Cellar and take possession of the same, without compensation to the licensee. The foregoing restriction (set forth in the immediately preceding sentence) requiring the assignment of Storage Closet license (a "Storage License") or Wine Cellar license ("Wine Cellar License") shall not be triggered solely by the lease of a Residential Unit. The licensee of a Storage Closet is herein called a "Storage Closet Licensee" and the licensees of all Storage Closets are herein collectively called the "Storage Closet Licensees", and the licensee of a Wine Cellar is herein called a "Wine Cellar Licensee" and the licensees of all Wine Cellars are herein collectively called the "Wine Cellar Licensees". Except with respect to Declarant or Sponsor, no

Storage Closet or Wine Cellar may be licensed independently of the ownership of a Residential Unit. No Residential Unit Owner shall be permitted to assign or convey a Storage License or Wine Cellar License to any Person other than a Residential Unit Owner. Such licenses may be assigned by a Residential Unit Owner at any time (and not subject to any right of first refusal by the Residential Board) provided the assignee: (i) is a Residential Unit Owner; (ii) assumes the obligations under the Storage License or Wine Cellar License; (iii) notification of the assignment is promptly delivered to the Residential Board in compliance with its requirements; and (iv) all license fees, special assessments and other obligations due to the Residential Board have been paid in full. Such license shall automatically terminate at such time as the Licensee no longer owns a Residential Unit in the Condominium unless the License is assigned to and assumed by another Residential Unit Owner upon or prior to the sale of Licensee's Residential Unit.

(c) Subject to the rights of Sponsor, the Residential Board has the authority to promulgate additional rules regarding the use of and access to the Storage Closets and Wine Cellars and the procedures for assigning such Storage Licenses and Wine Cellar Licenses. If the Residential Board terminates a Storage License or Wine Cellar License or a Residential Unit Owner surrenders a Storage License or Wine Cellar License without assigning such license to another Residential Unit Owner, the Residential Board shall have the right to issue a new Storage License or Wine Cellar License for the corresponding Storage Closet or Wine Cellar upon terms and conditions determined in its sole discretion.

6.10.2 Use.

(a) The Storage Closets may only be used for storage purposes, and the Wine Cellars may only be used for the storage of wine and other beverages, and in no event may be used as a dwelling space or for the storage of toxic or inflammable items or Combustibles (as such term is defined in the New York City Building Code). No materials which pose a health or safety threat or which otherwise create a nuisance may be stored in the Storage Closets and Wine Cellars. To do so may result in a violation placed against the Building by the Building Department that will be the obligation of the licensee to remove. Notwithstanding the foregoing, Sponsor or its designee shall have the right to use without charge any unlicensed Storage Closets (collectively, the "Unlicensed Storage Closets", and individually, an "Unlicensed Storage Closet") and any unlicensed Wine Cellars (collectively, the "Unlicensed Wine Cellars", and individually, an "Unlicensed Wine Cellar") for any lawful purpose or to change the permitted use of any Unlicensed Storage Closets and Unlicensed Wine Cellars, subject, however, to the provisions these Residential By-Laws.

(b) Each licensee shall be liable for all damage arising out of such licensee's use or misuse of its Storage Closet and/or Wine Cellar. Neither the Sponsor, nor its respective agents or employees nor the Residential Board or any of its members, officers or employees, shall be liable for any theft or damage to any property stored in the Storage Closets and Wine Cellars. Each licensee shall indemnify and hold Sponsor and its respective directors, officers, partners, parent and subsidiary and affiliated companies, agents and employees, and the Residential Board, its members, officers and employees, harmless from and against any and all liabilities, claims, causes of action, damages, lawsuits, penalties, judgments, and liens, together with any related costs and expenses, including but not limited to reasonable legal fees, asserted against or sustained by any of them in connection with any act, omission, or negligence of a

licensee or a licensee's family, servants, employees, agents, guests and invitees in connection with the purchase or use of a Storage Closet or Wine Cellar.

6.10.3 Alterations. Except as otherwise expressly permitted herein, no Unit Owner may make any alteration, addition, improvement of, or repair in or to the Storage Closets or Wine Cellars to it without the prior approval of the Residential Board and complying with all Laws and all applicable Rules and Regulations. Notwithstanding the foregoing, Declarant and Sponsor and their designees or any owner of Unlicensed Storage Closets or Unlicensed Wine Cellars shall each have the right, without the approval of the Residential Board, the Condominium Board, the Commercial Board or any Commercial Unit Owner: (i) to make any alterations, additions, improvements and repairs in or to any Unlicensed Storage Closets or Unlicensed Wine Cellars, whether structural or non-structural, interior or exterior, ordinary or extraordinary; and (ii) to subdivide, combine and change the boundary walls of Unlicensed Storage Closets or Unlicensed Wine Cellars.

6.10.4 Unlicensed Storage Closets and Unlicensed Wine Cellars. Notwithstanding anything to the contrary contained in this Section 6.10, Sponsor may, without the consent of or limitation by any Board, Unit Owner or other Person, use any Storage Closets or Wine Cellars (together with adjoining Residential Limited Common Element storage related area(s)) which are not subject to license to a third-party for any purpose, provided such use is permitted by all applicable Laws; and to lease or license the same to Purchasers or otherwise. Further, the Residential Board may impose no rule or fee on Sponsor with respect to any Storage Closet or Wine Cellar for which a Storage License or Wine Cellar License has not yet been issued.

6.10.5 License Fees. Holders of Storage Licenses, excluding Sponsor with respect to Unlicensed Storage Closets, will be required to pay a monthly license maintenance fee to the Residential Board in an amount equal to $1 per month per square foot of such Storage Closet, which amount shall, following the First Residential Closing, be subject to biannual increases based upon the CPI Increase Factor in effect on the date of the First Residential Closing. Holders of Wine Cellar Licenses, excluding Sponsor with respect to Unlicensed Wine Cellars, will be required to pay a monthly license maintenance fee to the Residential Board in an amount equal to $1 per month per square foot of such Wine Cellar, which amount shall, following the First Residential Closing, be subject to biannual increases based upon the CPI Increase Factor in effect on the date of the First Residential Closing. Further, the license fees are otherwise also subject to change from time to time as the Residential Board deems necessary or appropriate.

6.11 Use of Residential Limited Common Elements.

6.11.1 Except as otherwise provided herein, in the Condominium By-Laws or in the Declaration, Residential Limited 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.

6.11.2 In no event shall any Residential Unit Owner impair, restrict or impede the use of the Common Elements by any other Unit Owner(s) having a right thereto (including, without limitation, the Commercial Unit Owners) or anyone claiming by, through or under any

other Unit Owner(s), including, but not limited to, the tenants and occupants of the Commercial Units and their respective licensees or invitees.

6.11.3 Notwithstanding the foregoing subsections of this Section:

(a) the owner or owners of any one or more Residential Units, which Residential Unit or Units are the only Residential Unit or Units serviced or benefited by any Residential Limited Common Element adjacent or appurtenant thereto (for example, that portion at the end of any hallway which is directly adjacent to any such Residential Units located on opposite sides of such hallway) and not affecting access or service (including, without limitation, heating, ventilating and air-conditioning) to any other Unit or to any other portion of the Common Elements shall, to the extent permitted by applicable Law and subject to the consent of the Residential Board (which consent may be granted or withheld in the Residential Board's sole discretion and shall not be required if such Residential Unit Owner or Owners shall be Declarant or Sponsor or such Units shall be Unsold Residential Units), have the exclusive right to use that portion of the Residential Limited Common Elements as if it were a part of such Residential Units (including the right, in the above example of a portion of a hallway, to enclose such portion) and no amendment to the Declaration nor reallocation of Common Interests shall be made by reason thereof; provided, however that, notwithstanding the provisions of Section 6.1 hereof, such Residential Unit Owner or Owners, at their sole cost and expense: (a) shall be responsible for the operation, maintenance and repair of that portion of the Residential Limited Common Elements for so long as such Residential Unit Owner or Owners exercise such exclusive right of use; and (b) shall restore that portion of the Residential Limited Common Elements to its original condition, reasonable wear and tear excepted, after such Residential Unit Owner or Owners cease to exercise such exclusive right of use;

(b) Sponsor or any owner of Unsold Residential Units shall have the right, until the tenth anniversary of the First Residential Closing, to use portions of the Residential Section, without charge, for exhibitions or other promotional functions with respect to a sales program in respect of such Unsold Residential Units or otherwise; and

(c) Sponsor (or its designee), in its own name or in the name of the Residential Board, shall have the exclusive right to initially issue Storage Licenses for Storage Closets and Wine Cellar Licenses for Wine Cellars and to retain the proceeds thereof.

6.11.4 Notwithstanding the foregoing, elevator landings which serve a single Residential Unit may be decorated and/or furnished by the applicable Residential Unit Owner as they desire, at their expense, provided that such Residential Unit Owner consents in writing thereto, and the Residential Board gives its written consent to such decoration and/or furnishing, which consent of the Residential Board may granted or withheld in such board's sole discretion. After an elevator landing is decorated and/or furnished by the Residential Unit Owner serviced by the same, the owner of such Residential Unit, and not the Residential Board, will be responsible for keeping the decor and furnishings in a first class condition and state of repair and performing, at its own expense, all repairs and maintenance necessary or desirable in order to accomplish the same.

6.12 General Provisions as to Use.

6.12.1 No nuisance shall be allowed in the Residential Section nor shall any use or practices be allowed in the Residential Section which interfere with the peaceful possession or proper use thereof by its occupants. No unlawful use shall be made of the Residential Section or any portion thereof. All Laws relating to any portion of the Residential Section shall be complied with at the sole expense of whichever of the Unit Owners or the Residential Board or the Condominium Board shall have the obligation to maintain or repair such portion. In no event may all or any portion of the Residential Section be used for any pornographic purpose or as an adult book, video or paraphernalia store, peep show or adult entertainment facility.

6.12.2 The Residential Board may, in its sole discretion, grant permission for the use of a Residential Unit for a use other than its original intended use, provided such use is permitted by Law, does not violate the then existing Certificate of Occupancy for such Unit, the Declaration, these Residential By-Laws or the Condominium By-Laws, and the Residential Unit Owner thereof complies with all applicable Laws. For so long as there remain any Unsold Residential Units, the consent of Sponsor or its designee as owner of such Unsold Residential Unit(s) shall also be required in connection with any such changed use of any Residential Unit.

6.12.3 Declarant and/or Sponsor, without the permission of the Residential Board, may: (a) use or grant permission for the use of any Unsold Unit for any purpose, provided such use is permitted by Law, does not violate the then existing Certificate of Occupancy for such Residential Unit and the user of such Residential Unit complies with all applicable Laws; (b) use any one or more Unsold Residential Units as sales and/or leasing offices in connection with the sale or rental of the Residential Units or for any other purpose, subject only to compliance with applicable Laws; and (c) lease Unsold Residential Units to any party(ies).

6.13 Right of Access.

6.13.1 Each Residential Unit Owner grants a right of access to its Residential Unit to the Residential Board and the Condominium Board, the managing agents, superintendents and/or any other person authorized by any of the foregoing, for the purposes, among others, of: making inspections of, or removing violations noted or issued by any governmental authority against, the Common Elements or any other part of the Property; curing defaults hereunder or under the Declaration, the Condominium By-Laws, the Residential Rules and Regulations or the General Rules and Regulations, if any, by such Residential Unit Owner or correcting any conditions originating in its Residential Unit and having a reasonable likelihood of causing damage to another Unit or all or any part of the Common Elements; performing maintenance, installations, alterations, repairs or replacements to the mechanical, plumbing or electrical services or other portions of the Common Elements within its Residential Unit or elsewhere in the Building; reading, maintaining or replacing utility meters relating to the Common Elements, its Residential Unit or any other Unit in the Building; or correcting any condition which violates the provisions of any Permitted Residential Mortgage covering another Unit; provided that (a) requests for entry to any Residential Unit are made not less than one (1) day in advance, and (b) any such right shall be exercised in such a manner as will not unreasonably interfere with the use of the Residential Units for their permitted purposes. In case of an "emergency", as defined in subsection 6.6.4, such right of entry shall be immediate,

without advance notice, whether or not the Residential Unit Owner or tenant or occupant is present.

6.13.2 Each Residential Unit Owner grants a right of access to its Residential Unit and any Residential Limited Common Elements appurtenant thereto, and the Residential Board grant rights of access to the Residential Limited Common Elements to Declarant and Sponsor, and their contractors, subcontractors, agents and employees, for the purpose of complying with and fulfilling each such party's obligations as set forth in the Offering Plan and other documents relating to the construction, development and operation of the Property, provided that access thereto shall be exercised by such party, with respect to any Residential Unit or appurtenant Residential Limited Common Element, in such a manner as will not unreasonably interfere with the use of such Residential Unit and/or Residential Limited Common Element for its or their permitted purposes.

6.14 Residential Rules and Regulations. Annexed hereto as Exhibit A and made a part hereof are rules and regulations (the "Residential Rules and Regulations") concerning the use of the Residential Units and the Residential Limited Common Elements. The Residential Board may from time to time modify, amend or add to such Residential Rules and Regulations, except that: (x) a majority vote (by Common Interest) of Residential Unit Owners may overrule the Residential Board with respect to any such modifications, amendments or additions; and (y) no adoption, modification, amendment or addition affecting Declarant or Sponsor or the Unsold Residential Units may be made unless agreed to, in writing, by Declarant and/or Sponsor, or by all the owners of such Unsold Residential Units who are affected by such adoption, modification, amendment or addition, as the case may be. Copies of any newly adopted Residential Rules and Regulations, or any modifications, amendments or additions thereto shall be furnished by the Residential Board to each Residential Unit Owner not less than thirty (30) days prior to the effective date thereof.

6.15 Water Charges, Sewer Rents and Real Estate Taxes.

6.15.1 Water and sewer services for the Residential Section shall be supplied by the City of New York or other utilities servicing the Property. Unless and until water charges and sewer rents are billed directly to Residential Unit Owners by the proper authority, the Residential Board shall promptly pay such charges to the Condominium Board (who will in turn pay the City of New York or other utilities servicing the Property), together with all related sewer rents arising therefrom, and allocated as a Residential Common Expense among the Unit Owners, or the Residential Unit Owners, as applicable, as reasonably determined by the Residential Board, based on Common Interests, and the Residential Unit Owners shall be required to reimburse the Residential Board, as a Residential Common Charge, for their share of such charges and rents.

6.15.2 Until the Units are separately assessed and billed for real estate tax purposes, the Condominium Board will pay all real estate taxes with respect to the Property to the Department of Finance of The City of New York (or directly to Declarant if Declarant has paid such taxes) and allocate the cost thereof among the Commercial Units and the Residential Section in the manner provided in the Condominium By-Laws. The Residential Board shall, no later than the later to occur of (x) fifteen (15) days after receipt of notice of such allocated

amount from the Condominium Board or (y) thirty (30) days prior to the date such taxes are due to The City of New York, pro-rate the share of the Property's real estate taxes so allocated to the Residential Section among the individual Residential Units on the basis of each Residential Unit's proportionate Common Interest, and give notice to each Residential Unit Owner of the amount payable by such Unit Owner. Each Residential Unit Owner will then, no later than the later to occur of (i) fifteen (15) days after receipt of notice of such pro-rated amount from the Residential Board or (ii) fifteen (15) days prior to the date such taxes are due to The City of New York, pay to the Residential Board its pro-rated share, which amount shall for all purposes constitute part of the Residential Common Charges payable by such Unit Owner, and the Residential Board will forward all such amounts, plus any additional amount necessary so that the total shall equal the total amount allocated the Residential Section, to the Condominium Board no later than five (5) business days prior to the date such taxes are due to The City of New York or shall at the direction of the Condominium Board timely pay the same to the appropriate taxing authority on the Condominium Board's behalf. A Residential 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.

6.15.3 The Residential Board shall (or shall cause the Condominium Board on its behalf to) commence, pursue, compromise and settle certiorari proceedings to obtain reduced real estate tax assessments with respect to any or all of the Residential Units on behalf of and as agent for the respective Residential Unit Owners thereof; but only with respect to such Residential Units as to which the respective Unit Owners thereof have, in writing requested and authorized the Residential Board to do so, and indemnified the Residential Board from and against all claims, costs and expenses (including, without limitation, attorneys' fees) resulting from such proceedings. All Residential Unit Owners making such request to the Residential Board will share the costs in connection therewith in proportion to the benefits derived therefrom by such Residential Unit Owners. In the event any Residential Unit Owner individually seeks to have the assessed valuation of its Unit reduced by bringing a separate certiorari proceeding, the Residential Board, if necessary for such proceeding, will execute any documents or other papers required for, and otherwise cooperate with such Residential Unit Owner in pursuing, such reduction, provided that such Residential Unit Owner indemnifies the Residential Board from all claims, costs and expenses (including, without limitation, attorneys' fees and expenses) resulting from such proceedings.

6.16 Electricity. Electricity will be provided to the Building by Con Edison or other utility company/ies or supplier(s) from time to time serving the Property and submetered to each Residential Unit. Subject to Section 6.4.1 of the Condominium By-Laws, the Owner of each such Unit shall pay for such electricity to the Residential Board, and the Residential Board shall be responsible for paying the utility company for the Residential Section meter and collecting from the Residential Unit Owners based on the Residential Unit submeters. Consumption with respect to the Residential Limited Common Elements will be determined by a separate meter and allocated by the Residential Board among the Residential Units, on the basis of percentage of Common Interest.

6.17 Gas. Gas will be provided to the Building by Con Edison. Gas for the Residential Section will be paid for by the Residential Board. The charges for any other gas utilized at the Residential Section shall be paid by the Residential Board as a Residential

Common Expense and allocated among the Residential Units on the basis of percentage of Common Interests.

6.18 Steam. Steam will be provided to the Building by Con Edison. Steam for the Building shall be purchased by the Condominium Board from Con Edison in bulk. The charges for any other steam utilized at the Residential Section shall be paid by the Residential Board as a Residential Common Expense and allocated to the Residential Units on the basis of percentage of Common Interests.

6.19 Dispute as to Utilities Charges. In the event that there is a dispute as to the accuracy of assessing the charges for a utility upon the basis of usage, and the disputing Residential Unit Owners and/or the Residential Board fail to agree on a manner to accurately allocate such costs, the matter shall be determined by Arbitration.

6.20 Remedies for Violations of By-Laws or Rules and Regulations.

6.20.1 The violation by any Residential Unit Owner of any of the Residential Rules and Regulations (or the General Rules and Regulations, if any) or the breach of any of these Residential By-Laws or the Condominium By-Laws, or the breach of any provision of the Declaration, shall give: (a) the Condominium Board with respect to matters affecting the Condominium By-Laws or the General Common Elements, (b) the Residential Board with respect to matters affecting these Residential By-Laws or the Residential Section, and (c) the Commercial Board, with respect to matters affecting the Commercial Section, the right, in addition to any other rights set forth in these Residential By-Laws, the Condominium By-Laws or the Declaration: (i) to enter any Residential Unit or Common Elements in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Residential Unit Owner, any structure, thing or condition resulting in such violation or breach, provided that the Residential Unit Owner is given reasonable notice (which may be by telephone or telecopier) that such violation or breach exists and, as the case may be, that abatement, removal, Repairs or Alterations are necessary, and such entry and cure shall not constitute or give rise to any guilt or liability in any matter of trespass, and/or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach, provided that the Residential Unit Owner is given reasonable notice (which may be by telephone or telecopier) that such violation exists and that repairs, replacements or alterations are necessary, and/or (iii) to have its costs and expenses by reason of such breach or violation repaid to it, and/or (iv) if the party seeking to remedy a breach is the Residential Board, to levy such fines and penalties as the Residential Board may deem appropriate, and the Residential Board shall have the same remedies for non-payment of such fines and penalties as for non-payment of Residential Common Charges.

6.20.2 The violation or breach of any of the provisions of these Residential By-Laws, the Condominium By-Laws, the Residential Rules and Regulations, the General Rules and Regulations, if any, or the Declaration with respect to any rights, easements, privileges or licenses granted to Declarant and/or Sponsor shall give to such parties the right, in addition to any other rights set forth in these Residential By-Laws, the Condominium 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.

6.21 Utility Costs Payable as Residential Common Charges. All amounts payable to the Residential Board by the Residential Unit Owners in respect of utilities shall be considered and payable as Residential Common Charges and subject to, among other things, the Residential Board's lien for unpaid Residential Common Charges.

## ARTICLE 7

## MORTGAGES

7.1 Notice to Residential Board. Each Residential Unit Owner shall have the right to mortgage its Unit, subject only to the terms and conditions set forth in this Article 7. A Residential Unit Owner which mortgages its Unit shall notify the Residential Board of the name and address of the mortgagee, file a conformed copy of the note and mortgage with the Residential Board and, prior to making such mortgage, satisfy all unpaid liens against its Unit other than Permitted Residential Mortgages. A Residential Unit Owner who satisfies a mortgage covering its Unit shall so notify the Residential Board and shall file a conformed copy of the satisfaction of mortgage with the Residential Board.

7.2 Notice to Mortgagees.

7.2.1 Unpaid Residential Common Charges. The Residential Board shall promptly report to such Permitted Residential Mortgagee any sixty (60) day default in the payment of Residential Common Charges by the Unit Owner of such Residential Unit. In addition, whenever so requested in writing by a Permitted Residential Mortgagee, the Residential Board shall also promptly report to such Permitted Residential Mortgagee any other default by the Residential Unit Owner of such Residential Unit of which the Residential Board has given notice to such Residential Unit Owner. The Residential Board, when giving notice to a Residential Unit Owner of any such default, shall also send a copy of such notice to any Permitted Residential Mortgagee thereof, if so requested in writing by such Permitted Residential Mortgagee; however, the Residential Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Residential Mortgagee of any default by its mortgagor described above, provided that the Residential Board shall advise such Permitted Residential Mortgagee of the default promptly after discovering such failure.

7.2.2 Material Casualty or Condemnation. Whenever so requested in writing by a Permitted Residential Mortgagee of a Residential Unit, the Residential Board shall promptly report to such Permitted Residential Mortgagee any condemnation or casualty loss that affects (a) a material portion of the Residential Section or (b) the Residential Unit encumbered by such Permitted Residential Mortgagee's mortgage; however, the Residential Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Residential Mortgagee of such casualty or condemnation, provided that the Residential Board shall advise such Permitted Residential Mortgagee of such casualty or condemnation promptly after discovering such failure.

7.2.3 Cancellation or Material Modification of Insurance Policy. Whenever so requested in writing by a Permitted Residential Mortgagee of a Residential Unit, the Residential Board shall promptly report to such Permitted Residential Mortgagee any lapse, cancellation, or

material modification of any insurance policy required to be held by the Residential Board under these Residential By-Laws or the Condominium By-Laws; however, the Residential Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Residential Mortgagee of such cancellation or material modification, provided that the Residential Board shall advise such Permitted Residential Mortgagee of such cancellation or material modification promptly after discovering such failure.

7.2.4 Actions Requiring Consent of Residential Mortgagee Representatives. Whenever so requested in writing by a Permitted Residential Mortgagee of a Residential Unit, the Residential Board shall promptly report to such Permitted Residential Mortgagee any proposed action which requires the consent of any Residential Mortgagee Representative; however, the Residential Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Residential Mortgagee of such proposed action, provided that the Residential Board shall advise such Permitted Residential Mortgagee of such proposed action promptly after discovering such failure.

7.3 Performance by Permitted Residential Mortgagees. The Residential Board shall accept payment of any sum of money or performance of any act by any Permitted Residential Mortgagee of a Residential Unit Owner required to be paid or performed by such Residential Unit Owner pursuant to the provisions of the Declaration, these Residential By-Laws, the Condominium By-Laws, the Residential Rules and Regulations or the General Rules and Regulations, if any, with the same force and effect as though paid or performed by such Residential Unit Owner.

7.4 Examination of Books. Each Residential Unit Owner and Permitted Residential Mortgagee shall be permitted to examine the books of account of the Residential Section upon reasonable prior notice, at reasonable times on business days, but not more frequently than once a month.

7.5 Representatives of Residential Mortgagees.

7.5.1 The holders of Permitted Residential Mortgages constituting a majority of the outstanding principal amount of all Permitted Residential Mortgages encumbering the Residential Units may, at their election, designate in writing to the Residential Board one or more (but not more than three (3)) representatives ("Residential Mortgagee Representatives"), which Residential Mortgagee Representatives shall be empowered to act on behalf of all holders of Permitted Residential Mortgages encumbering the Residential Units with respect to any matter requiring their consent or approval under the Declaration, these Residential By-Laws or, as applicable, the Condominium By-Laws. If any of the Residential Mortgagee Representatives are so designated and notice thereof is given to the Residential 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 Permitted Residential Mortgages encumbering the Residential Units.

7.5.2 Any designation of a Residential Mortgagee Representative shall remain effective until a subsequent designation is made pursuant to the provisions hereof and notice of such subsequent designation is given to the Residential Board.

7.6 Consent of Mortgagees. Except as otherwise expressly provided for herein, in the Condominium By-Laws or in the Declaration, no consent or approval by any mortgagee shall be required with respect to any determination or act of the Residential Board or any Residential Unit Owner, provided, however, that nothing contained herein shall be deemed to limit or affect the rights of any mortgagee against its mortgagor.

## ARTICLE 8

## SELLING, LEASING AND MORTGAGING OF RESIDENTIAL UNITS

8.1 Sales and Leases of Residential Units. No Residential Unit Owner (other than Sponsor or its designee or the owner of any Unsold Unit(s)) may sell or lease its Unit except in compliance with the provisions of this Article 8. Subject to the terms of Section 8.7 hereof, each Residential Unit Owner may sell his or her Residential Unit, or lease his or her Residential Unit for a minimum term of one (1) year and a maximum term of two (2) years, in each instance (or for such other period of time as may be determined by the Residential Unit Owners pursuant to an amendment of this provision in accordance with Section 13.1), provided that no Residential Unit Owner (other than Declarant or Sponsor) may sell or lease its Residential Unit except by complying with the provisions of this Article 8 and, specifically, this Section 8.1.

8.1.1 (a) Subject to the terms of Section 8.8, any contract to sell a Residential Unit, together with its appurtenant Common Interest, or any lease of a Residential Unit (collectively, the "Sale Agreement or Lease") shall contain the following provision: "This Agreement, and the rights and obligations of the parties hereunder, are hereby expressly subject to the right of first refusal of the Residential Board of 432 Park Condominium in respect of the transaction described herein, pursuant to the terms of Article 8 of the Residential By-Laws of 432 Park Condominium." (The Residential Unit Owner who has entered into a Sale Agreement or Lease is herein referred to as the "Offeree Unit Owner" and the prospective purchaser or tenant is herein referred to as the "Outside Offeror.")

(b) Promptly after a Sale Agreement or Lease has been fully executed, the Offeree Unit Owner shall send written notice thereof to the Residential Board, by certified or registered mail, return receipt requested, or by reputable courier providing overnight delivery; such notice shall be accompanied by a fully completed application package, which the Offeree Unit Owner shall obtain from the Residential Managing Agent, together with a fully executed duplicate original of the Sale Agreement or Lease and any and all related agreements, containing all of the terms offered in good faith by the Outside Offeror. The giving of such notice to the Residential Board shall constitute an offer by the Offeree Unit Owner to sell its Residential Unit, together with its appurtenant Common Interest, or to lease its Residential Unit, as the case may be, to the Residential Board, or its designee (corporate or otherwise), on behalf of all Residential Unit Owners, upon the same terms and conditions as contained in such Sale Agreement or Lease, and shall also constitute a representation and warranty by the Offeree Unit Owner to the Residential Board, on behalf of all Residential Owners, that such Sale Agreement or Lease is bona fide in all respects and contains the complete terms of the transaction. The Offeree Unit Owner shall promptly submit in writing such further information with respect thereto as the Residential Board may reasonably request. The Residential Board may, by sending written notice, by certified or registered mail, return receipt requested, or by reputable courier providing

overnight delivery, to such Offeree Unit Owner not later than twenty (20) days after receipt of such notice, or if further information has been requested, then not later than twenty (20) days after receipt thereof, elect to purchase such Residential Unit, together with its appurtenant Common Interest, or elect to lease such Residential Unit, as the case may be (or to cause the same to be purchased or leased by its designee), on behalf of all Residential Unit Owners, upon the same terms and conditions as contained in the Sale Agreement or Lease, as such terms and conditions may be modified or supplemented by any additional information provided by and as stated in and supplemented or amended by the Offeree Unit Owner's response(s) to requests by the Residential Board for further information, as provided for above.

8.1.2 If the Residential Board shall timely elect to purchase such Residential Unit, together with its appurtenant Common Interest, or to lease such Residential Unit, as the case may be, or to cause the same to be purchased or leased by its designee, title shall close or a lease shall be executed at the office of the attorneys for the Residential Board, in accordance with the terms of the Sale Agreement or Lease, within sixty (60) days after the giving of notice by the Residential Board of its election to accept such offer. However, if the closing date of the purchase or the commencement date of the term of the lease, as the case may be, set forth in the Sale Agreement or Lease shall be later than sixty (60) days after the giving of notice by the Residential Board of its election to accept the aforesaid offer, the Residential Board shall be required to perform or cause to be performed all of the terms of the Sale Agreement or Lease to be performed by the Outside Offeror (except as otherwise expressly set forth in this Article 8), including, but not limited to, payment of a down payment or advance rentals and security deposits, or closing of title or acceptance of occupancy, as the case may be, and such closing of title or the commencement of the term of the Lease shall be on the date set forth in the Sale Agreement or Lease as the intended closing date or commencement date, as the case may be. If, pursuant to such Sale Agreement or Lease, the Outside Offeror was to assume or take title to the Unit subject to the Offeree Unit Owner's existing mortgage or mortgages, in the case of a sale, the Residential Board may purchase the Residential Unit and assume or take title to the Residential Unit subject to said existing mortgage or mortgages, as the case may be. At the closing, the Offeree Unit Owner, if such Residential Unit (together with its appurtenant Common Interest) is to be sold, shall convey the same to the Residential Board, or its designee, on behalf of all Residential Unit Owners, by deed in the form required by Section 339-o of the Real Property Law of the State of New York. Real estate taxes (including water charges and sewer rents, if separately assessed), mortgage interest, if applicable, Residential Common Charges and rent, if applicable, shall be apportioned between the Offeree Unit Owner and the Residential Board, or its designee, as of the closing date. In the event such Residential Unit is to be leased, the Offeree Unit Owner shall execute and deliver to the Residential Board, or its designee, a lease between the Offeree Unit Owner, as landlord, and the Residential Board, or its designee, as tenant, covering such Residential Unit, for the rental and term contained in the Lease.

8.1.3 In the event the Residential Board or its designee shall fail to accept such offer within twenty (20) days after receipt of notice and all other documents and information to be provided under this Article 8 (including any additional information requested by the Residential Board as provided in Section 8.1.1(b) above), or waives such election in writing within such twenty- (20) day period, the Offeree Unit Owner shall have an additional sixty (60) days after the earlier of the expiration of such twenty- (20) day period or waiver in writing by the Residential Board, as the case may be (or such later date for closing or occupancy provided in

the Sale Agreement or Lease, as applicable) to consummate the transaction set forth in the Sale Agreement or Lease. In the event the Offeree Unit Owner shall not, within such sixty- (60) day period (or such later date for closing or occupancy provided in the Sale Agreement or Lease, as applicable), so consummate the transaction, or should the terms of the Sale Agreement or Lease be amended or modified in any way (whether orally, in writing or by a side agreement) to be on terms less favorable to the Offeree Unit Owner, then 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 an Outside Offeror shall expressly provide that the acceptance thereof by the grantee shall constitute an assumption of all of the provisions of the Declaration, the Condominium By-Laws, these Residential By-Laws, the Residential Rules and Regulations and the General Rules and Regulations, if any, in each case as the same may be amended from time to time, and, in the absence of such express language, the same shall be conclusively deemed to have been included therein.

8.1.5 Any Lease to an Outside Offeror shall be consistent with these Residential By-Laws and shall provide that it may not be modified, amended, extended or assigned without the prior consent in writing of the Residential Board, that the tenant shall not assign its interest in such lease or sublet the demised premises or any part thereof without the prior consent in writing of the Residential Board and that the Residential Board shall have 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: (i) a default by the tenant in the performance of its obligations under such lease or a default by or caused by such tenant under any of the provisions of these Residential By-Laws or the Condominium By-Laws; or (ii) a foreclosure of the lien granted by Section 339-z of the Real Property Law of the State of New York, the Declaration, these Residential By-Laws, the Condominium By-Laws or otherwise. Such lease shall also provide that it is and shall be subject and subordinate to the Declaration, these Residential By-Laws, the Condominium By-Laws, the Residential Rules and Regulations and the General Rules and Regulations.

8.1.6 Except as hereinbefore set forth, the form and substance of any such lease executed by the Residential Board or an Outside Offeror shall be the then current form of lease approved by the Residential Board (as the same may be changed from time to time). Any lease executed by the Residential Board as tenant shall provide that the Residential Board may enter into a sublease of the demised premises without the consent of the landlord and without paying to the landlord any portion of the rent received from the subtenant.

8.1.7 If a Residential Unit Owner is a corporation, any sale, assignment, transfer or other disposition of any of its stock, or if a Residential Unit Owner is a partnership, limited liability company or other entity, any sale, assignment, transfer or other disposition of any interest in such partnership, company or other entity, in each case, other than through any recognized national securities exchange or "over-the-counter" market, which results in a change in the majority beneficial or legal ownership of such entity, shall also subject the Residential Unit owned by such entity to the requirement that the Residential Unit first be offered to the Residential Board, as described in this Section 8.1.

8.1.8 Any purported sale or lease of a Residential Unit in violation of this Section 8.1 shall be voidable at the election of the Residential Board and if the Residential Board

shall so elect, the Residential Unit Owner shall be deemed to have authorized and empowered the Residential Board to institute legal proceedings to eject or evict the purported purchaser or tenant, as the case may be, in the name of said Residential Unit Owner as the purported seller or landlord, as the case may be. Said Residential Unit Owner shall reimburse the Residential Board for all expenses (including attorneys' fees and expenses) incurred in connection with such proceedings, promptly upon demand therefor. In no event shall any purported sale or lease of a Residential Unit in violation of this Section 8.1 release the Residential Unit Owner which is the purported seller or lessor, as the case may be, from any of its obligations under the Declaration, the Condominium By-Laws, these Residential By-Laws, whether or not such sale or lease is voided by the Residential Board.

8.1.9 The Residential Board shall have the right to impose a fee in connection with any waiver of its right of first refusal pursuant to this Section 8.1, either with respect to a sale or a lease of a Residential Unit; provided, however, that no fee shall assessed in connection with a renewal of a lease of a Residential Unit, which lease the Residential Board previously waived its right of first refusal pursuant to this Section 8.1.

8.1.10 Notwithstanding anything to the contrary set forth in the Residential Rules and Regulations, in the event a Residential Unit Owner leases his or her Residential Unit, such Residential Unit Owner's tenant shall not be permitted to keep or harbor pets of any kind in the Residential Unit.

8.2 Consent of Residential Unit Owners to Purchase or Lease of Units by Residential Board. Subject to the terms of these Residential By-Laws, the Residential Board may exercise or waive any option hereinabove set forth to purchase or lease any Residential Unit without the prior approval of the Residential Unit Owners.

8.3 No Severance of Ownership. No Residential Unit Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to its Residential Unit without including therein its appurtenant Common Interest, 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. Thus, each conveyance of a Residential Unit by the Owner thereof shall include as part of the property to be conveyed, such Residential Unit Owner's: (i) undivided interest in the Common Elements; (ii) undivided interest in any Residential Unit or Residential Units acquired by the Residential Board from Unit Owners (or the proceeds received at a foreclosure or other judicial sale of a Residential Unit); and (iii) undivided interest in any other assets of the Residential Board or assets of the Condominium (including, without limitation, in the Resident Manager's Unit and the Club Unit. No part of the appurtenant Common Interest of any Residential 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 Common Interests of all Residential Units. Nothing in this Section 8.3 shall prohibit the lease of any Residential Unit without the simultaneous lease of its appurtenant Common Interest.

8.4 Release by Residential Board of Right of First Refusal. The right of first refusal contained in Section 8.1 may be released or waived by the Residential Board only in the manner provided in Section 8.5. In the event the Residential Board shall release or waive its right of first refusal as to any Residential Unit, such Residential Unit, together with its appurtenant Common Interest, may be sold, conveyed or leased in accordance with the Sale Agreement or Lease and the other information supplied by the Offeree Unit Owner to the Residential Board pursuant to Section 8.1 hereof, subject to the provisions of subsection 8.1.3. The Residential Board may establish reasonable fees for the consideration of any right of first refusal, which fees shall be payable by the selling or leasing Residential Unit Owner (but not Project Declarant or Sponsor), as the case may be.

8.5 Certificate of Termination of Right of First Refusal. A certificate executed and acknowledged by the Secretary or any other officer of the Residential Section stating that the provisions of 8.1 have been satisfied by a Residential Unit Owner or stating that the right of first refusal contained therein has been duly released or waived by the Residential Board and that, as a result thereof, the rights of the Residential Board thereunder have terminated, shall be conclusive upon the Residential Board and the Residential Unit Owners in favor of all persons who rely on such certificate in good faith.

8.6 Financing of Purchase, or Refinancing, of Residential Units by Residential Board. The purchase of any Residential Unit, together with its appurtenant Common Interest, by the Residential Board or its designee, on behalf of all Residential Unit Owners, may, at the option of the Residential Board, be made from the funds deposited in the capital and/or expense accounts of the Residential Board by or on behalf of Residential Unit Owners. The Residential Board may levy an assessment against each Residential Unit Owner, in proportion to its respective Common Interest, as an additional Residential Common Charge, and/or the Residential Board, in its discretion, may finance the acquisition of such Residential Unit and subsequently refinance such Unit or refinance any loan secured by or relating to the Residential Section's superintendent's residence or such other Residential Unit (on such terms and in such amount(s) as the Residential Board determines); provided, however, that no such financing may be secured by an encumbrance or hypothecation of any portion of the Residential Section (except to the extent permitted by Law) other than the Residential Unit or other property to be purchased or refinanced, as the case may be, together with its appurtenant Common Interest, as applicable.

8.7 Exceptions. In addition to any other exceptions hereinbefore set forth, the provisions of Section 8.1 shall not apply to the sale, lease or conveyance of any Unit, together with its appurtenant Common Interest, or in the case of a Residential Unit Owner which is a corporation, partnership, limited liability company or other entity, the sale, lease or conveyance of an interest in such Residential Unit Owner, in each case: (a) to an affiliate or one or more family members (and for purposes of this Section 8.7, an "affiliate" is defined as a person or entity that owns fifty percent (50%) or more of the legal and beneficial interest of such Unit Owner or owner of an interest in a Unit Owner, as the case may be, or an entity with respect to which such Unit Owner or owner of an interest in a Unit Owner owns fifty percent (50%) or more of the legal and beneficial interest, and "family member" is defined as a spouse, domestic partner, adult child, parent or adult sibling, or a trust for the benefit of any one or more of the foregoing and/or one or more minor children of any of the foregoing.); (b) Sponsor or its designee with respect to Unsold Residential Units; (c) the Residential Board; (d) any proper

officer conducting the sale of a Residential Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of such foreclosure; or (e) a Permitted Residential Mortgagee, its nominee or assignee, who has acquired title to any Residential Unit at any foreclosure sale of its Permitted Residential Mortgage or by deed in lieu of such foreclosure delivered in a bona fide transaction; provided, however, that each succeeding Residential Unit Owner thereof shall be bound by, and its Residential Unit shall be subject to, all of the provisions of this Article 8. In addition, the provisions of Section 8.1 shall not apply to any lease, sale or conveyance of a Residential Unit to a Permitted Residential Mortgagee or a purchaser at a foreclosure sale of a Permitted Residential Mortgage in connection with a foreclosure or to the acceptance of a deed or assignment in lieu of foreclosure, in the event of a default by the mortgagor under such Permitted Residential Mortgage.

8.8 Gifts and Devises, etc. Any Residential Unit Owner shall be free to convey or transfer his or her Residential Unit by gift, or may devise his or her Residential Unit by will, or have his or her Residential Unit pass by intestacy, without complying with the provisions of 8.1, provided, however, that each succeeding Residential Unit Owner shall be bound by, and his or her Residential Unit shall be subject to, the provisions of this Article 8.

8.9 Payment of Assessments. No Residential Unit Owner shall be permitted to sell, convey, mortgage, pledge, hypothecate or lease its Residential Unit unless and until it shall have paid in full to the Residential Board all unpaid Residential Common Charges and other amounts required by the Residential Board to be paid and theretofore assessed against such Residential Unit and until such Residential Unit Owner shall have satisfied all unpaid liens against their Units, other than Permitted Residential Mortgages. Residential Unit Owners shall notify the Residential Managing Agent at least five (5) business days prior to the closing of any of the aforementioned transactions for confirmation of any unpaid amounts. The provisions of this Section 8.9 shall not apply to Sponsor or its designee or other owner of Unsold Residential Units.

8.10 Waiver of Right of Partition with Respect to Units Acquired on Behalf of Residential Unit Owners as Tenants-in-Common. In the event that any Unit shall be acquired by the Residential Board or its designee, corporate or otherwise, on behalf of all Residential 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.

8.11 Mortgage of Residential Units. Subject to Article 7 and Section 8.9, each Residential Unit Owner shall have the right to mortgage its Unit without restriction.

## ARTICLE 9

## CONDEMNATION

In the event of the taking in condemnation or by eminent domain of all or any part of the Residential Limited Common Elements, then, subject to the provisions set forth below and any applicable provisions of the Declaration and the Condominium By-Laws, the Residential Board will arrange for the prompt repair and restoration of the part of the Residential Limited Common Elements affected by such taking. The award made for any such taking shall be payable to the Residential Board; provided, however, that if any such award exceeds $2,500,000, such award

shall be payable to the Insurance Trustee (as defined in Section 12.7 hereof) 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 or shared, as the case may be, by the Residential Unit Owners pro rata in accordance with their respective Common Interests; provided, that the amount of any surplus payable to any Unit Owner shall be lessened by such amounts as may be necessary to reduce unpaid liens (other than mortgages which are not Permitted Residential Mortgages) on any such Unit in the order of the priority of such liens. Notwithstanding any provisions contained herein to the contrary, if seventy-five percent (75%) or more of the Residential Limited Common Elements are so taken, subject to any applicable provisions of the Declaration and Condominium By-Laws, such repairs or restorations shall not be made unless seventy-five percent (75%) or more of all Residential Unit Owners (and Declarant and/or Sponsor or their designees, if they shall then own any Residential Units), both in number and in aggregate Common Interests, shall promptly resolve to proceed with the same. In the event that a sufficient number of Residential Unit Owners shall so resolve, the repairs and restoration shall be performed as set forth above. Conversely, in the event that a sufficient number of Residential Unit Owners shall either fail or refuse to so resolve, subject to any applicable provisions of the Declaration and Condominium By-Laws, the repairs and restoration shall not be performed and the Residential Section shall be subject to an action for partition by any Residential Unit Owner or lienor, as if owned in common, in which event the net proceeds of the sale, and net proceeds of any applicable condemnation awards shall be divided among all Residential Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of its share of such funds, such amounts as may be necessary to discharge all unpaid liens on its Unit (other than mortgages which are not Permitted Residential Mortgages) in the order of the priority of such liens. As used in this Article 9, the words "promptly resolve" shall mean not more than sixty (60) days after the date notice is given of such taking unless a longer period is provided for under the applicable provisions of the Declaration and Condominium By-Laws. Any dispute between the Residential Board and a Residential Unit Owner under this Article 9 shall be settled by Arbitration.

## ARTICLE 10

## RECORDS AND AUDITS

10.1 Records. The Residential Board, or the managing agent therefor, shall keep detailed records of the actions of the Residential Board, minutes of the meetings of the Residential Board, minutes of the meetings of the Residential Unit Owners, and financial records and books of account with respect to the activities of the Residential Board, including a listing of all receipts and expenditures. In addition, the Residential Board shall keep a separate account for each Residential Unit which, among other things, shall contain the amount of each assessment of Residential Common Charges and other amounts required by the Residential Board to be paid in respect of each such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid.

10.2 Audits. Within four months after the end of each fiscal year, an annual report of receipts and expenditures, prepared and certified by an independent certified public accountant

or an independent certified public accounting firm, shall be submitted by the Residential Board to all Residential Unit Owners (and to all Permitted Residential Mortgagees of Residential Units who have requested the same in writing). The cost of such report submitted by the Residential Board shall be paid by the Residential Unit Owners as a Residential Common Expense.

10.3 Availability of Documents. Copies of the Declaration, these Residential By-Laws, the Condominium By-Laws, the Residential Rules and Regulations, the General Rules and Regulations, if any, and the Floor Plans, as the same may be amended from time to time, shall be maintained at the office of the Residential Board and shall be available for inspection by Residential Unit Owners and their authorized agents during reasonable business hours and upon reasonable prior notice.

## ARTICLE 11

## ARBITRATION

11.1 General Procedure. Except as may otherwise be expressly provided in these Residential By-Laws, the Condominium By-Laws or the Declaration, any Arbitration provided for in these Residential By-Laws ("Arbitration") shall be conducted before one arbitrator in New York City by the American Arbitration Association or any successor organization thereto, in accordance with its rules then in effect; the decision rendered in such Arbitration shall be binding upon the parties and may be entered in any court having jurisdiction; provided that, in the case of Arbitration of issues arising under Sections 6.4 and 6.5, any arbitrator shall be a real estate professional, having ten (10) or more years' experience in the field of Manhattan residential real property. Notwithstanding the foregoing, any Arbitration held pursuant to these Residential By-Laws with respect to a dispute which arose prior to the First Annual Residential Meeting shall be non-binding. 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 New York City before one 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 or her appointment.

11.2 Costs and Expenses. The fees, costs and expenses of the arbitrator shall be borne by the losing party in the Arbitration or, if the position of neither party to a dispute shall be substantially upheld by the arbitrator, such fees, costs and expenses shall be borne equally by the parties to the dispute. Each disputant shall also bear the fees and expenses of its counsel and expert witnesses. Subject to the foregoing, all costs and expenses paid or incurred by the Residential Board in connection with any Arbitration held hereunder (including, without limitation, the fees and expenses of counsel and expert witnesses) shall constitute Residential Common Expenses.

11.3 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 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 12

## MISCELLANEOUS

12.1 Consents. Wherever the consent, approval or satisfaction of Declarant or Sponsor or its designee is required under these Residential By-Laws, such consent, approval or satisfaction shall not be required when there are no remaining Unsold Residential Units, the Building has been fully completed, a permanent certificate of occupancy therefor has been issued and neither Declarant nor Sponsor has any remaining obligations under the Offering Plan or otherwise.

12.2 Waiver. No provision contained in these Residential By-Laws or the Residential Rules and Regulations shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches thereof which may occur.

12.3 Captions. The index hereof and 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 Residential By-Laws nor the intent of any provision hereof.

12.4 Conflict. In the event of any conflict between the provisions of these Residential By-Laws or the Residential Rules and Regulations, and those of the Condominium By-Laws, the provisions of the Condominium By-Laws shall control. In the event of any conflict between the provisions of these Residential By-Laws or the Residential Rules and Regulations, and those of the Declaration, the provisions of the Declaration shall control.

12.5 Certain References.

12.5.1 A reference in these Residential 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.

12.5.2 The terms "herein," "hereof" or "hereunder" or similar terms used in these Residential By-Laws refer to these Residential By-Laws in their entirety and not to the particular provision in which the terms are used.

12.5.3 Unless otherwise stated, all references herein to Articles, Sections, subsections, subparagraphs or other provisions are references to Articles, Sections or other provisions of these Residential By-Laws.

12.5.4 Unless otherwise expressly stated herein to the contrary, all references herein to dollar amounts shall be adjusted from time to time, after the date the Declaration is entered into, to reflect any increase in the cost of living, as reflected by an increase in the CPI Increase Factor. The term "CPI Increase Factor" as used herein shall mean an increase proportionate to any increase in the cost of living from and after such date, as reflected by the change in the Consumer Price Index (CPI-U; All Items; 1982-84 = 100 standard reference base period) for New York, New York (or the smallest measured area including New York, New York), as published by the Bureau of Labor Statistics, United States Department of Labor or, if

the same ceases to be published, a commonly used substitute therefor reasonably selected by the Condominium Board.

12.6 Severability. Subject to the provisions of the Declaration, if any provision of these Residential By-Laws is invalid or unenforceable as against any person, party or under certain circumstances, the remainder of these Residential By-Laws and the applicability of such provision to other persons, parties or circumstances shall not be affected thereby. Each provision of these Residential By-Laws shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by law.

12.7 Insurance Trustee. The Insurance Trustee shall be a bank or trust company having an office located in the City of New York, designated by the Residential Board and having a capital surplus and undivided profits of $500,000,000 or more. In the event the Insurance Trustee resigns or is replaced by the Residential Board, the Residential Board shall appoint a new Insurance Trustee which shall be a commercial bank or trust company having an office located in the City of New York and having a capital surplus and undivided profits of $500,000,000 or more, subject to increase by the CPI Increase Factor. The Residential Board shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a Residential Common Expense. The Insurance Trustee shall hold all such proceeds in accordance with Section 254(4) of the Real Property Law of the State of New York.

12.8 Successors and Assigns. The rights and obligations of the Declarant and/or Sponsor with respect to the Unsold Residential Units as set forth herein shall inure to the benefit of, and be binding upon, any successor or assign of the Declarant and Sponsor or, with the consent of the Declarant and/or Sponsor, any transferee of two or more of the then Unsold Residential Units. Subject to the foregoing, the Declarant and Sponsor (or its designee or other holder of Unsold Residential Units) shall each have the right, at any time, in its sole discretion, to assign or otherwise transfer its interests in the Condominium, whether by merger, consolidation, lease, assignment or otherwise.

12.9 Covenant of Further Assurances.

12.9.1 Any party which is subject to the terms of these Residential By-Laws, whether such party is a Residential Unit Owner, a lessee or sublessee of a Residential Unit Owner, an occupant of a Unit, a Permitted Residential Mortgagee, a member or officer of the Residential 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 Residential 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.

12.9.2 If any Residential Unit Owner or any other party which is subject to the terms of these Residential 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 Residential Unit Owner or other party is required to perform pursuant to these Residential By-Laws, then the Residential Board or other party is hereby authorized, as attorney-in-fact, coupled

with an interest, for such Residential Unit Owner or other party, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Residential Unit Owner or other party, and such instrument or action shall be binding on such Residential Unit Owner or other party, as the case may be.

12.9.3 If any Residential Unit Owner or any other party which is subject to the terms of these Residential 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 Residential Unit Owner or party is required to perform pursuant to these Residential By-Laws at the request of Declarant or Sponsor, then Declarant or Sponsor, as the case may be, is hereby authorized, as attorney-in-fact, coupled with an interest, for such Residential Unit Owner or other party, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Residential Unit Owner or other party, and such document or action shall be binding on such Residential Unit Owner or other party.

12.9.4 If the Residential Board 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 Residential Board is required to perform pursuant to these Residential By-Laws or the Condominium By-Laws at the request of Declarant, Sponsor or its designee, then Declarant, Sponsor or its designee, as the case may be, is hereby authorized, as attorney-in-fact, coupled with an interest, for the Residential Board, to execute, acknowledge and deliver such instrument, or to take such action, in the name of the Residential Board, and such document or action shall be binding on the Residential Board.

## ARTICLE 13

## AMENDMENTS TO RESIDENTIAL BY-LAWS

13.1 Amendments by Residential Unit Owners. Subject to the provisions contained herein, in the Declaration or in the Condominium By-Laws with respect to amendments, modifications, additions or deletions affecting Declarant or Sponsor or its designee, or any Unsold Residential Units, the Commercial Units or the Commercial Unit Owners, any provision of these Residential By-Laws or the Residential Rules and Regulations may be amended, modified, added to or deleted by the affirmative vote of at least sixty-six and two-thirds percent (66-2/3%) in number and in Common Interest of all Residential Unit Owners; provided, however, that the Common Interest appurtenant to each Residential Unit shall not be altered without the written consent of all Residential Unit Owners affected thereby. Subject to the provisions contained herein, in the Declaration or in the Condominium By-Laws with respect to amendments, modifications, additions or deletions affecting Declarant or Sponsor, or its designee or any Unsold Residential Units, the Commercial Units or the Commercial Unit Owners, any such amendment, modification, addition or deletion shall be executed by the Residential Board, as attorney-in-fact, coupled with an interest, for the Residential Unit Owners, for the purpose of approving and executing any instrument effecting such amendment, modification, addition or deletion, which the Residential Board is hereby authorized by such Residential Unit Owners to do as their attorney-in-fact. Notwithstanding the foregoing and subject to the provisions contained herein, in the Declaration or in the Condominium By-Laws with respect to amendments, modifications, additions or deletions affecting Declarant or Sponsor, or its designee

or any Unsold Residential Units, the Commercial Units or the Commercial Unit Owners: (i) no such amendment, modification, addition or deletion shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of a majority of the Residential Mortgagee Representative(s), if any (and, in the case of amendments having a material adverse effect on Permitted Residential Mortgagees, without the express written consent of the Permitted Residential Mortgagees of at least fifty-one percent (51%) of the affected Residential Units which are encumbered by Permitted Residential Mortgages); and (ii) the provisions of Sections 6.9 and 6.11 may not be amended, modified, added to or deleted unless eighty percent (80%) in Common Interest of all Residential Unit Owners affected thereby approve such amendment, modification, addition or deletion in the manner set forth above. Each duly adopted amendment, modification, addition or deletion to these Residential By-Laws shall be effectuated by an instrument recorded in the City Register's Office. Notwithstanding anything to the contrary set forth herein, if and to the extent the approval of the Permitted Residential Mortgagees or Residential Mortgagee Representative(s) is required hereunder, such approval shall be deemed given when a Permitted Residential Mortgagee or Residential Mortgagee Representative(s) fails to submit a response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

13.2 Amendments Affecting Declarant or Sponsor. Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition to or deletion of these Residential By-Laws, the Declaration or the Residential Rules and Regulations shall be effective in any way against: (a) Declarant or Sponsor, for so long as any of the foregoing is the owner of one or more Residential Units, or any Unsold Unit, unless Declarant or Sponsor, as the case may be, has given its prior written consent thereto; or (b) the holder of any present or future mortgage, pledge or other lien or security interest encumbering any Unsold Unit unless such holder has given its prior written consent thereto.

13.3 Amendments Affecting Permitted Residential Mortgagees. Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition to or deletion of Section 6.2.2 or 6.4, Article 7, or clauses (d) and (e) and the second sentence of Section 8.7, shall be effective as against the holder of any Permitted Residential Mortgage theretofore made unless such holder has given its prior written consent thereto.

13.4 Consents of Sponsor. The provisions of this Article 13 may not be modified, amended, added to or deleted, in whole or in part, without the consent of Sponsor or its designee.

## ARTICLE 14

## CLUB UNIT

14.1 Residential Board's Power to Own, Operate, Maintain, etc. the Club Unit. In addition to all other powers granted to the Residential Board in the Declaration, the Condominium By-Laws, these Residential By-Laws, at Law or otherwise, the Residential Board shall have the power to acquire the Club Unit and/or establish an entity to hold title to the Club Unit and to exercise such rights and fulfill such obligations. In such case, the Residential Board (or its nominee, corporate or otherwise) shall have the power to hold, lease, mortgage, convey,

operate, maintain, set policies and rules for, and otherwise deal with the Club Unit. As set forth more particularly in Section 2.15 hereof, the Residential Board shall have the power to establish a committee to oversee all aspects of the operation of the Club Unit.

14.2 Costs Associated with Club Unit. All costs incurred in connection with the ownership of the Club Unit (including, without limitation, operating, maintaining, and insuring the Club Unit), to the extent such costs are not recouped by the Residential Board from membership dues and other revenues, will be borne as a Residential Common Expense, and shared by all Residential Unit Owners in proportion to their respective Common Interests.

14.3 Sale of the Club Unit. The Residential Board shall not be permitted to sell the Club Unit without the approval of owners of Residential Units representing at least sixty-six and two-thirds percent (66 2/3%) in aggregate Common Interests of all Residential Units, and without the consent of Sponsor for so long as Sponsor and/or its designee still owns at least one (1) Unsold Residential Unit.

14.4 Operation in Compliance with Laws. For so long as the Club Unit is owned by the Residential Board (or its nominee), the Residential Board shall cause the same to be operated and maintained in compliance with all Laws, including, without limitation, all building codes, zoning ordinances and all requirements and limitations with respect to certificate(s) of occupancy for the Property.

# EXHIBIT A

## RESIDENTIAL RULES AND REGULATIONS
## 432 PARK CONDOMINIUM

1. The sidewalks, entrances, passages, public halls, elevators, vestibules, corridors and stairways of or appurtenant to the Residential Section shall not be obstructed or used for any purpose by Residential Unit Owners and their invitees other than the respective purposes for which they were intended.

2. No article (including, but not limited to, garbage cans, bottles or mats) shall be placed in any of the passages, public halls, vestibules, corridors, stairways or fire 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 or roofs or placed upon the window sills of the Residential Section.

3. Neither occupants nor their guests shall play in the entrances, passages, public halls, lobbies, elevators, vestibules, corridors, stairways or fire landings of or serving the Residential Section.

4. No public hall or public elevator vestibule of the Residential Section (other than on those floors, if any, containing full-floor Residential Units, and in such case, subject to the conditions of the Residential By-Laws) shall be decorated or furnished by any Residential Unit Owner in any manner, except as otherwise expressly provided in the Residential By-Laws.

5. Each Residential Unit Owner shall keep his or her Unit (and any Residential Limited Common Element appurtenant thereto) 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. No window guards or other window decorations shall be used in or about any Residential Unit, unless otherwise required by applicable Laws and as approved by the Residential Board and the Condominium Board, except that to promote a consistent appearance of the Residential Section from the outside, each Residential Unit Owner will be required to install and maintain window treatments having a white-colored backing on the sides facing and nearest to the windows in its Residential Unit, which window treatments and backings must conform to any specifications (including a new color) established from time to time by the Residential Board. Neither the interior nor the exterior glass surfaces of any windows located in any Residential Unit may be altered, colored or painted.

7. No radio, television or other aerial, satellite dish, disk or similar device 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 Residential Section except such as are permitted pursuant to the Declaration, the Condominium By-Laws, the General Rules and Regulations (if any) or the Residential By-Laws or shall have been

approved in writing by the Residential Board; nor shall anything be projected from any window of the Residential Section without similar approval.

8. No heat, ventilator or air conditioning device shall be installed in any Residential Unit without the prior written approval of the Residential Board; and no "window" air-conditioners of any kind shall be permitted.

9. All radio, television or other electrical or electronic equipment of any kind installed or used in any Residential Unit shall comply with all rules, regulations, requirements and recommendations of the New York Board of Fire Underwriters and governmental or public authorities having jurisdiction, and the Residential Unit Owner alone shall be liable for any damage or injury caused by any radio, television or other electrical or electronic equipment in such Residential Unit Owner's Residential Unit.

10. No mopeds, motorcycles, scooters or similar motorized vehicles shall be taken into or from the Residential Section. No bicycles shall be allowed in any of the elevators other than the elevators, if any, designated by the Residential Board or the Residential Managing Agent for that purpose, and no baby carriages or any of the above-mentioned vehicles shall be allowed to stand in the passages, public halls, vestibules, corridors or other public areas of the Residential Section.

11. No Residential Unit Owner shall make or permit any disturbing or objectionable noises, odors or activity in the Residential Section, or do or permit anything to be done therein, which will interfere with the rights, comforts or conveniences of other Unit Owners or their tenants or occupants. No Residential Unit Owner shall play upon or suffer to be played upon any musical instrument, or operate or permit to be operated a stereo system, radio or television set or other loudspeaker in such Residential Unit Owner's Unit between midnight and the following 7:00 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 9:00 A.M. No construction or repair work or other installation involving noise shall be conducted in any Residential Unit except on weekdays (not including legal holidays) and only between the hours of 8:00 A.M. and 4:00 P.M., unless such construction or repair work is necessitated by an emergency or is being performed by or on behalf of the owner of any Unsold Residential Units, by Declarant or Sponsor.

12. No pets other than dogs, caged birds, cats and fish (which do not cause a nuisance, health hazard or unsanitary condition), shall be permitted, kept or harbored in a Residential Unit without the same in each instance having been expressly permitted in writing by the Residential Board or the Residential Managing Agent and such consent, if given, shall be revocable by the Residential Board or such Managing Agent in their sole discretion, at any time, with or without cause. Any pet constituting a nuisance shall be permanently removed from the Building within one (1) week after notice from the Residential Managing Agent. In no event shall there be maintained in any Residential Unit more than two (2) pets without the consent of the Residential Board, which may be granted or denied in the sole discretion of the Residential Board, nor shall any bird, reptile, or animal be permitted in any public elevator in the Residential Section, other than the elevators designated by the Residential Board or the Residential Managing Agent for that purpose, or in any of the public portions of the Residential Section,

unless carried or on a leash. No pigeons or other birds or animals shall be fed from the window sills or other public portions of the Residential Section or on the sidewalk or street adjacent to the Residential Section. In addition to the foregoing, the following rules shall apply with respect to pets:

(i) No "visiting" or "guest" pets shall be permitted in the Residential Section.

(ii) Each Residential Unit Owner who keeps (or permits to be kept) any type of pet in such Unit Owner's Residential Unit shall be required to enter into an agreement with the Residential Board setting forth such other rules regarding pets as the Residential Board shall deem suitable and indemnifying and holding harmless the Residential Section, the Residential Board, all Residential Unit Owners and the Residential Managing Agent from all claims and expenses resulting from acts of such pet.

(iii) Failure to register a pet or harboring a prohibited pet or any infraction of this Rule 12 shall be construed as a violation of the Residential Rules and Regulations and shall result in a $100 fine per infraction or per day until such violation is cured.

(iv) Pet owners must be respectful of those residents and guests who may be uncomfortable with dogs and all dog owners must wait for an empty elevator if requested to do so. A pet owner may be requested to muzzle certain pets when in public spaces or common areas.

(v) Subject to approval by the Residential Board in each instance, the following dogs may be harbored in a Residential Unit (for purposes of this paragraph, combined units shall constitute a single Residential Unit): one (1) dog not more than seventy (70) pounds at maturity or two (2) dogs if both are twenty (20) pounds or fewer at maturity. Dobermans, Pit Bulls, Danes, German Shepherds, large Collies, Huskies, Saint Bernards, Mastiffs, Rhodesian Ridgebacks, or similar dogs are specifically prohibited.

(vi) Subject to approval by the Residential Board in each instance, no more than two (2) cats or two (2) birds may be harbored in any Residential Unit at any time.

(vii) No pet may cause conditions which are a nuisance to residents, their children, employees and guests, and the staff of the Building including, but not limited to defecation or urination in any common area of the Building, the grounds and plantings, the entrances; causing damage to property; aggressive behavior towards people and/or other pets; and, in the case of dogs, continuous barking. It is the pet owner's responsibility to clean up after their pet in the event of an "accident" and to advise the building staff immediately to prevent odors and minimize damage to the Building.

(viii) In no event shall any pet be permitted in any portion of the Common Elements unless carried, on a leash or in a container.

(ix) Subject to approval by the Residential Board in each instance, a Residential Unit Owner may install a fresh water fish tank with a capacity not to exceed fifty (50) gallons of water. For purposes of this paragraph, combined units shall constitute a single

Residential Unit. No salt water fish tanks will be permitted. No Residential Unit Owner will be permitted to install a direct hookup to the Building's water supply.

13. Service personnel, messengers and trades people visiting or residing in the Residential Section may be required to use the elevators designated by the Residential Board or the Residential Managing Agent for that purpose, for ingress and egress, and shall not use any of the other elevators for any purpose, except that nurses in the employ of Residential Unit Owners or their guests or tenants may use any of the other elevators when accompanying said Residential Unit owner, guest or tenant. However, a guest or visitor of a Residential Unit Owner may use any of the available elevators freely, if authorized by such Unit Owner.

14. All service and delivery persons will be required to use the service entrance to the Residential Section as may be designated by the Residential Board or the Residential Managing Agent. All packages, including, without limitation, those containing perishable items, delivered by outside personnel must be delivered to the area therefor designated by the Residential Board or the Residential Managing Agent. Deliveries will be made from such area to individual Residential Units only by Residential Section personnel or as otherwise directed by Residential Section personnel. Such deliveries will be made only at such times as a Residential Unit is occupied by the resident thereof or an authorized person and said resident or authorized person is willing to accept delivery. If the Residential Unit in question is not occupied or delivery is declined, the package will be held in the designated area until the resident or authorized person returns or requests delivery, except in the case of perishable items which will be held in the designated area for no longer than twenty-four (24) hours. After said twenty-four (24)-hour period, the perishable item shall be disposed of by Residential Section personnel. Building personnel will not be responsible for packages held in the package room for more than seventy-two (72) hours. No large deliveries will be accepted for a Residential Unit Owner (or occupant of a Residential Unit) unless such Residential Unit Owner (or occupant) has made prior arrangements with the Residential Section personnel.

15. Trunks, heavy baggage, furniture, appliances and other large or heavy items shall be taken in or out of the Residential Section by the elevators designated by the Residential Board or the Residential Managing Agent for that purpose, and/or through a designated entrance only.

16. No refuse from the Residential Units shall be sent to the below grade levels of the Residential Section except at such times and in such manner as the Residential Board or the Residential Managing Agent may direct.

17. Water-closets and other water apparatus in the Residential Section 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 water-closets or other apparatus in a Residential Unit shall be repaired and paid for by the Owner of such Residential Unit.

18. No occupant of the Residential Section shall send any employee of the Residential Section or of the Managing Agent thereof out of the Residential Section on any private business.

19. The agents of the Residential Board or the Residential Managing Agent, and any contractor or worker authorized by the Residential Board or the Residential Managing Agent and accompanied by an agent of the Residential Board or the Managing Agent, may enter any room or Residential Unit at any reasonable hour of the day, on at least one day's prior notice to the Residential Unit Owner, for the purpose of inspecting such Residential Unit for the presence of any vermin, insects or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects or other pests; however, such entry, inspection and extermination shall be done in a reasonable manner so as not to unreasonably interfere with the use of such Residential Unit for its permitted purposes.

20. Corridor doors, if any, shall be kept closed at all times except when in actual use for ingress or egress to and from public corridors.

21. The Residential Board or the Residential Managing Agent shall retain a pass-key to each Residential Unit. If any lock is altered or a new lock is installed, the Residential Board or the Residential Managing Agent shall be provided with a key thereto immediately upon such alteration or installation. If the Residential Unit Owner is not personally present to open and permit an entry to his or her Residential Unit at any time when an entry therein is necessary or permissible under these Residential Rules and Regulations, the Residential By-Laws, the Condominium By-Laws or the Declaration, and the Residential Unit Owner has not furnished a key to the Residential Board or the Residential Managing Agent, then the Residential Board or the Residential Managing Agent or their agents (but, except in an emergency, only when specifically authorized by an officer of the Residential Board or an officer of the Residential Managing Agent) may forcibly enter such Residential Unit without liability for damages or trespass by reason thereof (provided that during such entry reasonable care is given to the Residential Unit Owner's property).

22. Complaints regarding Residential Section services shall be made in writing to the Residential Board or to the Residential Managing Agent.

23. Residential Unit Owners shall not cause or permit any unusual or objectionable noise or odors to be produced upon or to emanate from their Residential Units or any public portions of the Residential Section.

24. No Residential Unit Owner or any of his or her agents, service personnel, employees, licensees or visitors shall at any time bring into or keep in such Residential Unit Owner's Residential Unit any inflammable, combustible or explosive fluid, material, chemical or substance except as shall be necessary or appropriate for the permitted uses thereof.

25. If any key or keys are entrusted by a Residential Unit Owner or by any member of his or her family or by his or her agent, servant, employee, licensee or visitor to an employee of the Residential Section or of the Residential Managing Agent, whether for such Residential Unit Owner's Residential Unit, automobile, trunk or other item of personal property, the use of the key shall be at the sole risk of such Residential Unit Owner, and neither the Residential Board nor the Residential Managing Agent shall be liable for injury, loss or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

26. Nothing shall be done or kept in any Residential Unit which would increase the rate of insurance of the Condominium, the Building, the Residential Section or any contents of any of the foregoing, without the prior written consent of the Residential Board. No Residential Unit Owner shall permit anything to be done or kept in his or her Residential Unit which will result in the cancellation of insurance on the Condominium, the Building or the Residential Section, or which would be in violation of any law. No waste shall be committed in the Common Elements.

27. Residential Unit Owners will comply with the laws, ordinances, rules and regulations of the City of New York or any other applicable governmental authority with respect to recycling of waste and refuse, including, without limitation, the separation of trash into "recyclable" and "non-recyclable" materials and/or categories of each of same: The Residential Board 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 the Residential Unit Owners for the disposal of designated recyclable materials and the locations where designated recyclable materials shall be deposited. The Residential Board may also establish other rules and regulations regarding the recycling of trash. Any costs incurred by the Residential Board to enforce the Residential Rules and Regulations or the requirements of applicable law regarding the recycling of trash against a Residential Unit Owner, including, without limitation, legal fees, fines and penalties imposed by any government agency, shall be payable by the Residential Unit Owner as additional Common Charges. Residential Unit Owners will comply with the following procedures with respect to the use of the refuse chutes: (a) wrap dust, flour and powdered waste before depositing the same; (b) thoroughly drain and wrap in paper all garbage before depositing the same; (c) refrain from forcing large bundles into the chute; (d) crush into tight bundles all loose papers before placing the same in the hopper door; (e) deposit all bundles of waste into the hopper; and (f) refrain from depositing waste of an explosive or otherwise hazardous nature therein. Any refuse not disposable by depositing same in the refuse chute must be picked up directly from the Residential Unit by Residential Section personnel at such times and in such manner as the Residential Board or the Residential Managing Agent shall determine.

28. Residential Unit Owners will comply with the laws, ordinances, rules and regulations of the City of New York or any other applicable governmental authority, including without limitation, those with respect to window guards and notices of emergency access and egress.

29. Residential Unit Owners, their families, guests, service personnel, employees, agents, visitors or licensees shall not at any time or for any reason whatsoever enter upon or attempt to enter upon the roof of the Building.

30. The Residential Board shall have the right from time to time to relocate any portion of the Common Elements located in the Residential Section devoted to common storage (other than the Storage Closets and Wine Cellars) or service purposes of the Residential Section.

31. Unless expressly authorized by the Residential Board in each case, at least eighty percent (80%) of the floor area of each Residential Unit (excepting only kitchens,

pantries, bathrooms, closets and foyers) must be covered with rugs, carpeting or equally effective noise-reducing material.

32. No Residential Unit Owner shall install any granite, ceramic tile, marble, stone or other hard-surfaced flooring in a Residential Unit without the prior written approval of the Residential Board and without compliance with the provisions of any alteration agreement then in effect. No granite, ceramic tile, marble, stone or other hard-surfaced flooring may be installed except within the original demising walls of the entry foyer, kitchen, bathrooms, pantry and laundry room and that no removals of floor slab materials may take place in those locations. The Residential Board may require installation of a sound retardant underlayment beneath such flooring and/or such other requirements as may be directed by the Residential Board's architect or engineer.

33. No Residential Unit Owner, tenant or occupant of a Residential Unit (other than the owner of any Unsold Residential Unit) shall conduct any group tour, open house, or exhibition of any Residential Unit or its contents or any auction sale in any Residential Unit, without the prior consent of the Residential Board or the Residential Managing Agent.

34. In the event that any Residential 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.

35. Any consent or approval given under these Residential Rules and Regulations may be granted, refused, added to, amended or repealed, in the sole discretion of the Residential Board, at any time by resolution of the Residential Board. Further, any such consent or approval may, in the discretion of the Residential Board or the Residential Managing Agent, be conditional in nature.

36. The Residential 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 Residential Section when, in the judgment of the Residential Board, the Residential Board deems it necessary or desirable for the reputation, safety, character, security, care, appearance or interests of the Condominium, the Building or the Residential Section, or the preservation of good order therein, or the operation or maintenance of the Condominium, the Building or the Residential Section, or the equipment thereof, or the comfort of Unit Owners, occupants or others in the Building. No rescission, alteration, waiver or addition of any rule or regulation in respect of one Residential Unit Owner or other occupant shall operate as a rescission, alteration, waiver or addition in respect of any other Residential Unit Owner or other occupant.

37. Notwithstanding any references to "Residential Unit Owner" in these Residential Rules and Regulations, these Residential Rules and Regulations shall be binding upon all Residential Unit Owners and all tenants, guests, invitees, and other occupants of the Residential Unit(s) of such Residential Unit Owner(s). Residential Unit Owners shall be responsible for enforcing compliance with, and liable for any violation of, the Declaration, Condominium By-Laws, General Rules and Regulations, if any, Residential By-Laws and these Residential Rules and Regulations by members of their families, guests, invitees, tenants, employees, agents, visitors and any other occupants of their Residential Units.

38. The public amenity and common facilities areas of the Residential Section shall be used in such manner, at such times and in accordance with such policies as the Residential Board or the Residential Managing Agent may direct.

39. There will be no barbecuing in the Residential Units or in the Common Elements (including, without limitation, the Residential Limited Common Elements).

40. With respect to any lease (and lease renewal) which, pursuant to the Residential By-Laws, is subject to the Residential Board's review and right of first refusal, the fee for any such lease (or renewal of a lease) shall be determined by the Residential Board from time to time. Any such Residential Unit Owner that has entered into or renewed a lease with a tenant and has not submitted the lease (or lease renewal) to the Managing Agent will have thirty (30) days from the date notified by the Managing Agent to submit the lease or the renewal. In the event that any such Residential Unit Owner does not submit such lease or lease renewal to the Residential Board within such thirty- (30) day period, such Residential Unit Owner shall be subject to a $500 fine (subject to the CPI Increase Factor) and further action by the Residential Board.

41. All move-ins and move-outs as to any Residential Unit shall be scheduled with and coordinated by and through the Resident Manager for the Residential Section. Fees for Residential Section move-ins and move-outs shall be established by the Residential Board from time to time. In addition the Residential Board may require reimbursement for any expenses incurred by the Residential Board in connection with the move-in or move-out, as well as security deposits and such insurance, indemnities and/or releases on such terms as are determined by the Residential Board.

42. Any use of the Residential Section lobby, elevators, corridors and/or other Residential Limited Common Elements, outside the scope of typical and usual daily use, including without limitation for deliveries of furniture or other large items, shall be coordinated in advance with the Resident Manager and shall be subject to payment of fees, reimbursement of expenses, security deposits and such insurance, indemnities and/or releases, all as determined by the Residential Board.

43. When leaving the Residential Unit for extended periods of time Unit Owners and their respective Family Members, guests, domestic employees, agents, visitors, or licensees shall keep the Residential Unit at a maximum of 80 degrees Fahrenheit from May 15 to October 15 and shall keep the Residential Unit at a minimum of 60 degrees Fahrenheit from October 15 to May 15.

**EXHIBIT 13**

COMMERCIAL BY-LAWS

# COMMERCIAL BY-LAWS

# OF

# 432 PARK CONDOMINIUM

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# COMMERCIAL BY-LAWS
# OF
# 432 PARK CONDOMINIUM

## ARTICLE 1

## GENERAL

1.1 Purpose. The purpose of these by-laws (the "Commercial By-Laws") is to set forth the rules and procedures concerning the conduct of the affairs of the Commercial Section (the "Commercial Section") of 432 Park Condominium (the "Condominium"); the by-laws of the Condominium (the "Condominium By-Laws") detail the rules and procedures concerning the conduct of the affairs of the Condominium. The Commercial Section and these Commercial By-Laws shall be subject to the provisions of the Declaration and the Condominium By-Laws; and, as provided (and subject to any express provision to the contrary) therein, the rights of the Commercial Unit Owners (as hereinafter defined) with respect to the Condominium, the Condominium Board (as hereinafter defined) and the Residential Unit Owners (as defined in the Declaration) shall generally only be enforced by the Commercial Board (as hereinafter defined) on behalf of the Commercial Unit Owners. The Commercial Section is comprised of the Commercial Units together with the Commercial Limited Common Elements appurtenant thereto. All terms used herein (including, without limitation, those in the previous sentence) which are not separately defined herein, shall have the meanings given to those terms in the Declaration and/or Condominium By-Laws (including Exhibit 1 ("Table of Definitions") annexed thereto).

1.2 Applicability of By-Laws. These Commercial By-Laws are applicable to the Commercial Section and to the use and occupancy thereof. All present and future Commercial Unit Owners, mortgagees, lessees, sublessees and occupants of Commercial Units and their respective employees, invitees and guests, as well as all other persons who may use the facilities located on, or forming a part of, the Commercial Section, are and shall be subject to these Commercial By-Laws, the Commercial Rules and Regulations, if any, the Declaration, the Condominium By-Laws and the General Rules and Regulations, if any. The acceptance of a deed or conveyance, or the succeeding to title to, or the execution of a lease, sublease or license for, or the act of occupancy of, all or any portion of a Commercial Unit or the Commercial Section shall constitute an agreement that the provisions of these Commercial By-Laws, the Commercial Rules and Regulations, if any, the Declaration, the Condominium By-Laws and the General Rules and Regulations, if any, as any of the same may be amended from time to time, are accepted, ratified and will be complied with.

1.3 Principal Office of the Commercial Section. The principal office of the Commercial Section shall be located either within the Property or at such other place in the Borough of Manhattan as may be designated from time to time by the Commercial Board.

## ARTICLE 2

## THE COMMERCIAL BOARD

2.1 General Description of the Commercial Board.

2.1.1 (a) As more particularly set forth in Section 2.2, the affairs of the Commercial Section shall be governed by a board of managers of the Commercial Section (the "Commercial Board"). During the Initial Control Period (as hereinafter defined), the Commercial Board shall consist of five (5) persons designated by Project Declarant. From and after the First Annual Commercial Meeting (as hereinafter defined), the Commercial Board shall consist of five (5) persons elected and/or designated by the Commercial Unit Owners in accordance with Sections 2.3 and 2.4 hereof.

(b) Each member of the Commercial Board, except for the First Commercial Board (as hereinafter defined) and except as otherwise provided herein, shall be elected or designated (as hereinafter set forth) at an annual meeting of the Commercial Unit Owners and shall serve until the expiration of their term in office as herein provided. Notwithstanding the expiration of the term of office of a member of the Commercial Board, each member shall serve until a successor for such member has been designated or elected, as the case may be, and qualified.

(c) In addition, two (2) of the five (5) members of the Commercial Board shall also serve as the representatives of the Commercial Section on the Condominium Board as herein described.

(d) Until the First Annual Commercial Meeting, Project Declarant reserves the right to designate fewer than five (5), but a minimum of two (2) persons to the Commercial Board; however, in such case, Project Declarant's designees shall be the only members of the Commercial Board and two (2) of such persons shall be designated as the representatives of the Commercial Section on the Condominium Board.

2.1.2 Except for Commercial Board members elected or designated by Sponsor or its designee, all members of the Commercial Board shall be: (i) individual Commercial Unit Owners, Registered Mortgagees (as hereinafter defined), or Permitted Office Mortgagees (as hereinafter defined) of Commercial Units; (ii) partners or employees of a partnership owning, or holding a mortgage encumbering, an Office Unit; (iii) officers, directors, shareholders or employees of corporate owners or corporate Registered Mortgagees or Permitted Office Mortgagees; (iv) members or employees of a limited liability company owning, or holding a Registered Mortgage or Permitted Office Mortgage encumbering, a Non-Office Commercial Unit or Office Unit, respectively; (v) fiduciaries or their beneficiaries who are owners or Registered Mortgagees or Permitted Office Mortgagees (or directors, officers, shareholders or employees of corporate fiduciaries or partners or employees of partnership fiduciaries); (vi) adult family members (as defined in Section 8.7), or domestic partners of any of the foregoing individuals; or (vii) individuals designated by a sovereign government, consulate or other similar entity that is a Commercial Unit Owner or a mortgagee of a Commercial Unit. Other than Commercial Board members elected or designated by Sponsor or its designee, no Commercial

Board member shall continue to serve after he or she ceases to be qualified as set forth above. Notwithstanding anything otherwise contained herein or in the Condominium By-Laws, any member of the Commercial Board may also be a member of the Condominium Board and any member of the Condominium Board may also be a member of the Commercial Board, if otherwise qualified.

2.1.3 As used herein, the term "Permitted Office Mortgagee" means the holder of any mortgage ("Permitted Office Mortgage") of an Office Unit or Office Units which is permitted to be placed thereon in accordance with these Commercial By-Laws.

2.1.4 As used herein, the term "Registered Mortgagee" means the holder of a mortgage ("Registered Mortgage") given to secure the repayment of money or other obligation owed by a Commercial Unit Owner other than an Office Unit Owner (a "Non-Office Commercial Unit Owner", and such Unit, a "Non-Office Commercial Unit") in accordance with Article 13 of the Condominium By-Laws and Article 7 herein.

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

2.2 Powers and Duties of the Commercial Board.

2.2.1 General. Subject to the Declaration and Condominium By-Laws, the Commercial Board shall have the powers and duties necessary for or incidental to the administration of the affairs of the Commercial Section (except such powers and duties which by Law, the Declaration, the Condominium By-Laws or these Commercial By-Laws may not be delegated to the Commercial Board by the Commercial Unit Owners).

2.2.2 Commercial Board. Subject to, and in accordance with, the provisions of subsection 2.2.1 and without limiting the generality thereof (and in addition to all other powers and duties granted to the Commercial Board by Law, the Declaration, the Condominium By-Laws or these Commercial By-Laws), the Commercial Board shall be entitled to make determinations with respect to all matters relating to the operation and the affairs of the Commercial Section, and not relating (to more than a *de minimis* extent) to the General Common Elements and/or the operation and affairs of the "Residential Section" (i.e., the Residential Units and the Storage Closets and Wine Cellars at the Condominium, together with the Residential Limited Common Elements) or the use of same for their permitted purposes, including, without limitation, the following:

(a) Operation, care, upkeep and maintenance of; (ii) the making of alterations, additions and improvements (collectively, "Alterations") to; and (iii) the making of

repairs, restorations and replacements (collectively, "Repairs") of, the Commercial Limited Common Elements, in the condition and otherwise in such a manner that maintains standards of quality, service and appearance which are appropriate for a luxury mixed use condominium.

(b) The amount of Commercial Common Charges and any special assessments to be levied against Commercial Unit Owners.

(c) Collection of Commercial Common Charges and any special assessments from Commercial Unit Owners.

(d) Employment and dismissal of the personnel necessary for the maintenance and operation of the Commercial Section and the provision of the services offered therein.

(e) Adoption of, and amendments and additions to, the Commercial Rules and Regulations.

(f) Purchasing, leasing and otherwise acquiring in the name of the Commercial Board (or, if required by Law, in the name of the Condominium Board as nominee for the Commercial Board), or its designee, corporate or otherwise, on behalf of all Commercial Unit Owners, those Commercial Units offered for sale or lease by, or Commercial Units surrendered by, the owners of such Units to the Commercial Board, or those Commercial Units with respect to which liens for real estate taxes are being sold by the City of New York.

(g) Purchasing Commercial Units at foreclosure or other similar sales (including, without limitation, in connection with the enforcement of the Commercial Board's lien for unpaid Commercial Common Charges), in the name of the Commercial Board (or, if required by Law, in the name of the Condominium Board as nominee for the Commercial Board), or its designee, on behalf of all Commercial Unit Owners.

(h) Selling, leasing, mortgaging, refinancing and otherwise dealing with (but not voting the interests appurtenant to) Commercial Units acquired by, and subleasing Commercial Units leased by, the Commercial Board or its designee, on behalf of all Commercial Unit Owners.

(i) Making Repairs and Alterations to the Commercial Section or parts thereof damaged or destroyed by fire or other casualty or necessitated as a result of condemnation or eminent domain proceedings, all in accordance with the terms of these Commercial By-Laws and the Condominium By-Laws.

(j) Enforcing obligations of Commercial Unit Owners, including, without limitation, commencing, prosecuting and settling litigation in connection therewith.

(k) Levying fines against Commercial Unit Owners for violations of the Commercial Rules and Regulations, if any, and the General Rules and Regulations, if any (any such fines shall constitute Commercial Common Charges payable by the Commercial Unit Owner against whom they are levied).

(l) Maintaining bank accounts on behalf of the Commercial Section (with respect to matters within its jurisdiction as provided in these Commercial By-Laws) and designating the signatories required therefor.

(m) Adjusting and settling insurance claims (and executing and delivering releases in connection therewith) if the loss involves only the Commercial Section and if the loss is to be adjusted by the Commercial Board in accordance with Article 6 hereof.

(n) Borrowing money, at any time, on behalf of the Commercial Section when required in connection with: (x) the operation, care, upkeep and maintenance of, or the making of Repairs and Alterations to the Commercial Limited Common Elements, or (y) any permitted action or activity of the Commercial Board, provided, however, that: (i) in the case of borrowings which are in excess of the amount of $250,000 in any one fiscal year or $500,000 in the aggregate at any one time (in each case excluding the pro-rata share of the Commercial Section with respect to any borrowing made by the Condominium Board pursuant to the Condominium By-Laws), the consent of at least sixty-six and two-thirds (66-2/3%) in Common Interest of all Commercial Unit Owners (determined in accordance with the provisions of Section 3.8 hereof) who are present, in person or by proxy, and voting at a duly constituted meeting at which a quorum is present or is not required, shall be required for any borrowings for such purposes; (ii) no lien to secure repayment of any sum borrowed may be created on any Commercial Unit or its appurtenant interest in any of the Common Elements (except to the extent permitted by applicable Law) without the prior written consent of the owner of such Unit; and (iii) none of the Residential Unit Owners, the Condominium Board or the Residential Board will be liable for repayment of any portion of any such borrowing and all loan documentation entered into by or on behalf of the Commercial Board with respect to such loans shall specifically so provide. Subject to Section 6.1.1(b) of these Commercial By-Laws and Section 2.2.8 of the Condominium By-Laws, any such debt may be secured by future income and Commercial Common Charges in which event the Commercial Common Charges, subject to the rights of the Condominium Board with respect thereto as described in such Section, shall be deemed trust funds for the purpose of paying such debt. The Commercial Board cannot secure such debt by a lien on the Commercial Limited Common Elements (or any other Common Elements) without the consent of all Commercial Unit Owners (or in the case of any other Common Elements, the consent of all Unit Owners). If any sum borrowed by the Commercial Board pursuant to the authority contained in this subsection 2.2.2(n) is not repaid by the Commercial Board, a Commercial Unit Owner who pays to the creditor such proportion thereof as its interest in the Common Elements bears to the interest of all Commercial Unit Owners in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor has filed or has the right to file against such Commercial Unit Owner's Unit, and all loan documentation entered into by or on behalf of the Commercial Board shall specifically so provide.

(o) Organizing corporations, limited liability companies and/or other entities to act as designees of the Commercial Board with respect to such matters as the Commercial Board may determine, including, without limitation, in connection with the acquisition of title to, or the leasing or subleasing of, Commercial Units acquired or leased by the Commercial Board on behalf of the Commercial Unit Owners.

(p) Execution, acknowledgment and delivery of, without limitation: (i) any consent, agreement, document, covenant, restriction, easement, declaration or other instrument, or any amendment thereto, affecting the Commercial Section (and not relating (to more than a *de minimis* extent) to the General Common Elements and/or the operation and affairs of the Residential Section), which the Commercial Board deems necessary or appropriate to comply with the Laws applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Commercial Section; or (ii) any consent, agreement, document, covenant, restriction, easement, declaration or other instrument, or any amendment thereto, affecting a Commercial Unit (and not relating (to more than a *de minimis* extent) to the General Common Elements and/or the operation and affairs of the Residential Section), if the owner of such Commercial Unit requests, or under the Declaration, the Condominium By-Laws or these Commercial By-Laws is required to request, that the Commercial Board take such action, and (except as otherwise provided in the Declaration, the Condominium By-Laws or these Commercial By-Laws) the Commercial Board determines that taking such action is appropriate.

(q) Execution, acknowledgement and delivery of any documents or other instruments necessary to commence, pursue, compromise or settle certiorari proceedings to obtain reduced real estate tax assessments, or in connection with any real estate tax exemption or abatement, with respect to any or all of the Commercial Units on behalf of and as agent for the respective Commercial Unit Owners thereof; but only with respect to such Commercial Units as to which the respective Unit Owners thereof have in writing requested and authorized the Commercial Board to do so, and indemnified the Commercial Board from and against all claims, costs and expenses (including, without limitation, attorneys' fees) resulting from such proceedings.

(r) Commencing, prosecuting and settling litigation to the extent relating to the Commercial Board or the Commercial Section, and not relating (to more than a *de minimis* extent) to the General Common Elements and/or the operation and affairs of the Residential Section.

(s) Operating, maintaining and supervising the Commercial Limited Common Elements in accordance with the terms of these Commercial By-Laws and the Condominium By-Laws.

(t) Obtaining and reviewing insurance for the Commercial Section and otherwise as provided in Section 6.4 hereof.

(u) Imposition, increase, decrease or elimination of move-in fees and charges, "flip-tax" and/or similar transfer fees payable to the Condominium Managing Agent and/or the Commercial Board, in connection with the sale or lease of a Commercial Unit, provided that no such fees or charges or any other conditions of transfer or lease may be imposed upon Project Declarant or Sponsor or its designee or any Units bought, sold or leased by the Commercial Board.

(v) Establishing, changing and otherwise making determinations with respect to reserves, including, without limitation, a general operating reserve or a reserve for working capital or for replacements with respect to the Commercial Limited Common Elements.

2.2.3 (a) Any action required or permitted to be taken pursuant to the provisions of these Commercial By-Laws or the Declaration or Condominium By-Laws by the Commercial Board shall be done or performed by the Commercial Board, or shall be done on behalf of the Commercial Board and at its direction by the agents, employees or designees of the Commercial Board, and the Commercial Board may employ one or more managing agents and/or managers, at a compensation established by the Commercial Board, to perform such duties and services as the Commercial Board shall authorize, including, but not limited to, the duties listed in 2.2.2(a), (c), (d), (i), (l) and (t). The Commercial Board may delegate to such managing agent or manager other powers granted to the Commercial Board by these Commercial By-Laws, except the powers set forth in subparagraphs 2.2.2(b), (e), (f), (g), (h), (j), (k), (m), (u) and (v).

(b) Subject to the limitations set forth in this subsection 2.2.3, the Commercial Board may, together with the Residential Board and the Condominium Board employ the same managing agent and/or manager to act on behalf of each.

2.2.4 For convenience of operation of the Condominium, the Commercial Board and the Condominium Board may each designate one of the other entities enumerated, to act as its agent with respect to any matter the determination of which is entitled to be made by such designating party and, in connection with such designation, may execute, acknowledge and deliver any application, instrument or document, including, without limitation, any power of attorney or indemnification from liability that such designated party may request.

2.2.5 Any action required or permitted to be taken pursuant to the provisions of these Commercial By-Laws, the Condominium By-Laws or the Declaration by the Commercial Board may, if required by any applicable Laws, be taken by the Commercial Board (upon prior written notice to the Condominium Board in accordance with the Condominium By-Laws) in the name of the Condominium Board which shall, upon request, execute, acknowledge and deliver any and all instruments, documents or applications in connection therewith; provided, however, that the Commercial Board shall, subject to the provisions of Section 2.13, indemnify and hold harmless the Condominium Board, the Residential Board and the Residential Unit Owners from any expense or liability thereof or therefrom.

2.3 Number and Terms of Office of Members of Commercial Board.

2.3.1 (a) The Commercial Board shall consist of five (5) persons. During the period (the "Initial Control Period") which shall end upon the later to occur of: (a) the fifth anniversary of the first closing of title to a Residential Unit (the "First Residential Closing") by Sponsor, pursuant to an Agreement (as the terms "Sponsor" and "Agreement" are defined in that certain Offering Plan, dated as of _____ __, 201_, for sale of the Residential Units, Office Units, Storage Licenses and Wine Cellar Licenses at the Condominium (the "Offering Plan" or "Plan")), or (b) the closing of title by Sponsor to Residential Units representing at least ninety percent (90%), both in number and in aggregate Common Interests, of all Residential Units (as more particularly described in the Residential By-Laws), Project Declarant will be entitled to designate from time to time all members of the Commercial Board (the "First Commercial Board") (and therefore control the Commercial Board). For as long as Project Declarant or its designee shall have this right, no regular meetings of Commercial Unit Owners shall need to

occur. Prior to the First Annual Commercial Meeting, the terms of each such member of the First Commercial Board shall expire annually and, subject to the other provisions of this Section, Project Declarant shall have the right to designate the replacement for each such member, even though such replacement may be the same person. In accordance with, and within the time periods set forth in the provisions of Section 3.1, the Commercial Board shall cause the President of the Commercial Section to call the First Annual Commercial Meeting. The term of office of the five (5) members of the First Commercial Board so designated by Project Declarant prior to the First Annual Commercial Meeting shall expire when the five (5) persons to be elected and/or designated at the First Annual Commercial Meeting are so elected and/or designated and qualified.

(b) After the expiration of the Initial Control Period, the Commercial Board shall generally consist of five (5) members: (i) one (1) member designated by or on behalf of the Garage Unit; (ii) one (1) member designated by or on behalf of Retail Unit C; and (iii) three (3) members elected by or on behalf of Retail Unit A Owner and Retail Unit B Owner in accordance with such Unit Owners' proportionate Common Interest. The Club Unit Owner and Office Unit Owners, in each instance, will not have the right to designate any member of the Commercial Board. Following the Initial Control Period but while Project Declarant owns at least one (1) of the Commercial Units represented on the Commercial Board, as provided for in subsection 2.4.3 hereof, the Commercial Board may not be expanded beyond five (5) members without the prior written consent thereto of Project Declarant; notwithstanding anything otherwise herein contained, this provision may not be amended or modified without the consent thereto of Project Declarant.

(c) Each of the five (5) members comprising the Commercial Board elected or designated at the First Annual Commercial Meeting pursuant to Section 3.1 will serve for a term of approximately one (1) year. At each annual meeting of Commercial Unit Owners subsequent to the First Annual Commercial Meeting, the Commercial Unit Owners shall elect and/or designate, pursuant to the terms of Section 2.4 hereof, Commercial Board members to replace the Commercial Board members whose terms of office are then expiring, each to serve a term of office fixed at one (1) year. Notwithstanding the expiration of the term of office of a member of the Commercial Board or anything contained herein to the contrary, such member of the Commercial Board (including any member of such Commercial Board designated by Project Declarant or its designee) shall serve until his or her successor shall be elected (or designated), and qualified. There shall be no limit on the number of terms of office, successive or otherwise, that a Commercial Board member (including any member of the Commercial Board designated by Project Declarant or its designee) may serve until his or her successor shall be elected (or designated), and qualified.

2.4 Election of Commercial Board Members; Rights of Project Declarant.

2.4.1 Subject to the terms of subsections 2.4.3 and 2.4.4, all members of the Commercial Board that are not otherwise to be designated by a particular Unit Owner as set forth herein, and which are otherwise to be elected by the Commercial Unit Owners shall be determined by plurality of the votes cast by those Commercial Unit Owners (including Project Declarant or its designee, and subject in all events to the rights of Declarant under subsection 2.4.3 for so long as Project Declarant or its designee shall own at least one (1) Commercial Unit)

entitled to vote for such board member(s) who are present (in person or by proxy) and voting at a meeting at which a quorum of all Commercial Unit Owners is present or not required.

2.4.2 When voting for members of the Commercial Board, the voting shall be by ballot and each ballot shall state the name of the Commercial Unit Owner voting, the Commercial Unit owned by such Commercial Unit Owner and the percentage of Common Interest attributable to each Commercial Unit owned by such Commercial Unit Owner and, in addition, the name of the proxy if such ballot is cast by a proxy. Nothing contained in these Commercial By-Laws shall be deemed to permit cumulative voting.

2.4.3 At the First Annual Commercial Meeting and at all times theretofore and thereafter, Project Declarant and/or its designee shall be entitled to vote in accordance with its/their ownership of Commercial Units and thus may be able to elect members of the Commercial Board by virtue of its/their ownership of Commercial Units, and such members may be persons related to and/or affiliated with Project Declarant or such designee. In addition, following the Initial Control Period but while Project Declarant owns at least one (1) of the Commercial Units represented on the Commercial Board, the Commercial Board may not be expanded beyond five (5) members without the prior written consent thereto of Project Declarant; notwithstanding anything otherwise herein contained, this provision may not be amended or modified without the consent thereto of Project Declarant. There is no restriction on the right of Project Declarant or its designee to vote for members of the Commercial Board who are not related to or affiliated with Project Declarant or its designee. However, after the expiration of the Initial Control Period, neither the Project Declarant nor its designee will designate all the members to the Commercial Board at the annual meeting of Commercial Unit Owners.

2.4.4 In the event that after notice of an annual meeting of Commercial Unit Owners is given to Commercial Unit Owners in the manner prescribed by Section 3.4 of these Commercial By-Laws, the Commercial Unit Owners present in person or by proxy at such annual meeting constitute less than a quorum, and consequently new members of the Commercial Board to replace those whose terms expire as of such annual meeting cannot be elected, subject to the rights of any particular Unit Owner(s) to designate members, the remaining members of the Commercial Board shall fill any resulting vacancies at a special meeting of the Commercial Board held for that purpose promptly thereafter, even though the members of the Commercial Board present at such meeting may themselves constitute less than a quorum. The Commercial Board shall request the Commercial Unit Owners present (in person or by proxy) at the annual meeting to express their preferences for the Commercial Board members to have been elected at such annual meeting, but such expression of preferences shall be non-binding on the Commercial Board. Any person so elected by the Commercial Board shall be a member of the Commercial Board until the next annual meeting of Commercial Unit Owners, when a successor shall be elected for the remainder of the term.

2.5 Resignation and Removal.

2.5.1 Any member of the Commercial Board may resign at any time by written notice given in accordance with the terms of Section 5.1 of these Commercial By-Laws to the President or Secretary of the Commercial Section and, with respect to members of the

Commercial Board designated as such or elected by Project Declarant (or its designee), by also giving such written notice to such party. Any such resignation shall take effect at the time specified in such notice and, unless specifically requested by the resigning member, acceptance of such resignation shall not be necessary for the effectiveness thereof.

2.5.2 Subject to the provisions of Sections 2.3 and 2.4, and except as provided in the following sentence, any Commercial Board member elected thereto by the Commercial Unit Owners or by the Commercial Board pursuant to the terms of Section 2.4 or 2.6 hereof, respectively, may be removed from office, with or without cause, by a Majority of Commercial Unit Owners (as hereinafter defined). Any Commercial Board member who was designated or elected as such by Project Declarant (or its designee) may be removed from office: (i) for cause, by a Majority of Commercial Unit Owners; and (ii) without cause, only by Project Declarant or its designee. In the event of any removal described in the previous sentence, whether with or without cause, Project Declarant (or its designee) shall have the sole right to designate the replacement of such member. Any Commercial Board member whose removal for cause has been proposed shall be given an opportunity to be heard at the meeting of Commercial Unit Owners at which such removal is to be considered.

2.6 Vacancies on Commercial Board. Subject to the provisions of Sections 2.3 and 2.4, any vacancy on the Commercial Board for whatever reason shall be filled by the members of the Commercial Board then in office, at a special meeting of the Commercial 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 Commercial Board until the next annual meeting of Commercial Unit Owners, when a successor shall be elected for the remainder of the term of the member creating such vacancy. However, any vacancy on the Commercial Board created by the resignation, removal or any other reason of any Commercial Board member designated or elected as such by Project Declarant or its designee shall be filled only by Project Declarant or its designee as the case may be.

2.7 Organizational Meeting of Commercial Board. The first meeting of the Commercial Board following each annual meeting of Commercial Unit Owners shall be held within twenty (20) 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 Commercial Board members in order to legally constitute such meeting, provided that a majority of the members of the Commercial Board shall be present thereat.

2.8 Regular Meetings of Commercial Board. Regular meetings of the Commercial 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 one (1) such meeting shall be held every three (3) months during each fiscal year of the Commercial Section. Notice of regular meetings shall be given to each member thereof, by personal delivery, nationally recognized overnight courier or telecopy, at least five (5) business days prior to the day named for such meeting.

2.9 Special Meetings of Commercial Board. Special meetings of the Commercial Board may be called by the President or Vice President of the Commercial Section by giving at

least five (5) business days' prior notice to each member of the Commercial Board, by personal delivery, nationally recognized overnight courier or telecopy, which notice shall state the time, place (in the Borough of Manhattan) and purpose of the meeting. In addition, the President shall call a special meeting upon the written request of two (2) or more members of the Commercial Board.

2.10 Waiver of Notice. Any member of the Commercial Board may at any time waive notice of any Commercial Board meeting in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Commercial Board at any meeting thereof shall constitute a waiver by such member of notice of the time and place thereof. If all the members are present at any meeting of the Commercial Board, no notice shall be required and any business may be transacted at such meeting.

2.11 Determinations by Commercial Board; Quorums.

2.11.1 Except as otherwise set forth in subsections 2.4.4, 2.6 and 2.11.3, all determinations of the Commercial Board shall be made at a meeting of the Commercial Board at which a quorum thereof is present. At any Commercial Board meeting, a majority of the members thereof shall constitute a quorum, except as may otherwise be provided herein, and the votes of a majority of such members present shall constitute the decision of the Commercial Board.

2.11.2 If at any Commercial Board meeting there is less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum exists or may reconvene the meeting to a time (specified on at least three (3) business days' notice, by personal delivery, nationally recognized overnight courier or telecopy, to the absent members) when no quorum requirement shall apply. At any such adjourned meeting at which a quorum is present or is not required, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.11.3 Members of the Commercial Board may participate in a meeting thereof by means of a conference telephone call 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 Commercial Board may be taken without a meeting if all members of the Commercial Board consent thereto in writing.

2.12 Compensation. No member the Commercial Board shall receive any compensation for acting as such.

2.13 Liability of Commercial Board and Unit Owners.

2.13.1 To the extent permitted by applicable Law, no member of the Commercial Board shall have any personal liability with respect to any contract, act or omission of the Commercial Board, the Condominium Board, the Residential Board or of any managing agent or manager, building engineer or superintendent in connection with the affairs or operation of all or any portion of the Condominium or the Commercial Section (except in its or their capacities as Unit Owners) and the liability of any Commercial Unit Owner with respect thereto shall be

limited as hereinafter set forth. Every contract made by the Commercial Board or by any managing agent or manager thereof shall state that it is made by the Commercial Board or the managing agent or manager, as the case may be, only as agent for all Commercial Unit Owners, and that the Commercial Board members or managing agent or manager shall, as the case may be, have no personal liability thereon (except in its or their capacities as Unit Owners) and may also state the applicable limitations of liability of the Commercial Unit Owners provided for in the next sentence; the absence of such statement or statements in any such contract shall not be deemed to imply any personal liability on the part of the Commercial Board, the managing agent or manager or any greater liability on the part of any Commercial Unit Owner than as provided in the next sentence. The liability of any Commercial Unit Owner for any contract, act or omission with respect to all or any portion of the Condominium shall be limited to such Unit Owner's share of the total liability of the Commercial Section with respect thereto in such proportion as the Common Interest of such Commercial Unit Owner bears to the aggregate Common Interests of all Commercial Unit Owners; and the liability of any Commercial Unit Owner for any contract, act or omission with respect to the Commercial Section shall be limited to such proportionate share of the total liability as the Common Interest of such Commercial Unit Owner bears to the aggregate Common Interests of all Commercial Unit Owners; and in each case, to the extent permitted by applicable Law, shall be limited to such Commercial Unit Owner's interest in its Commercial Unit and its appurtenant Common Interest, so that such Commercial Unit Owner shall have no personal liability for any such contract, act or omission.

2.13.2 Nothing in the preceding Section shall limit a Commercial Unit Owner's liability for the payment of Commercial Common Charges. To the extent permitted by applicable Law, Commercial Board members shall have no liability to Commercial Unit Owners except that a Commercial Board member shall be liable for his or her own bad faith or willful misconduct. All Commercial Unit Owners shall severally, to the extent of their respective interests in their Units and their appurtenant Common Interests, indemnify each Commercial Board member against any liability or claim except those arising out of such Commercial Board member's own bad faith or willful misconduct. The Commercial Board, subject to the provisions of Section 2.19 hereof, may contract or effect any other transaction with any member of the Commercial Board, any member of the other Boards, any Unit Owner, Project Declarant, Project Declarant's designees, or any Residential Unit Owner, its designee, or any affiliate of any of them without incurring any liability for self-dealing, except in cases of bad faith or willful misconduct.

2.13.3 Neither the Commercial Board nor any member thereof shall be liable for either: (i) any failure or interruption of any utility or other services to be provided or obtained by, or on behalf of, the Commercial Board or Condominium Board or to be paid for as either a Commercial Common Expense or General Common Expense, except when any such failure or interruption is caused by the acts of bad faith or willful misconduct of the Commercial Board or such member thereof, as the case may be; or (ii) any injury, loss or damage to any individual or property, occurring in or upon either a Unit or any Common Element, which is either: (a) caused by the elements, by any Unit Owner or by any other individual, (b) resulting from electricity, water, snow or ice that may leak or flow from a Unit or any portion of any Common Element, or (c) arising out of theft or otherwise; except in each case when caused by the acts of bad faith or willful misconduct of the Commercial Board or such member thereof.

2.14 Fidelity Bonds. The Commercial Board shall obtain fidelity bonds (or similar bonds or insurance), in amounts deemed appropriate by it, for all of its members, officers and employees and for the managing agent or manager, if any, employed by it and the premiums on such bonds (or insurance) shall constitute Commercial Common Expenses.

2.15 Committees. The Commercial Board may, subject to such limitations and exceptions as the Commercial Board may prescribe, appoint such committees as the Commercial Board may deem appropriate, each to consist of two (2) or more members of the Commercial Board. Each such committee, to the extent provided in the resolution which creates it, shall have and may exercise all the powers of the Commercial Board during the intervals between the meetings of the Commercial Board, insofar as may be permitted by Law. For so long as Project Declarant is entitled to designate members to the Commercial Board, any committee appointed by the Commercial Board shall have as at least one (1) of its members a member of the Commercial Board appointed by Project Declarant.

2.16 Status of Commercial Board. In addition to the status conferred upon the Commercial Board under or pursuant to the provisions of the New York Condominium Act, the Commercial 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 or organization of the Commercial Board pursuant to the provisions of Section 2.17, the provisions of this Section 2.16 shall no longer be applicable to the Commercial Board.

2.17 Incorporation and Organization of Commercial Board. To the extent and in the manner provided in the New York Condominium Act, the Commercial Board may, by action of the Commercial Board as provided in this Article 2, be organized as a limited liability company or incorporated under the applicable statutes of the State of New York. In the event that the Commercial Board so incorporates or organizes, 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 Commercial 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 or the articles of organization and operating agreement of such resulting limited liability company, as the case may be, shall conform as closely as practicable to the provisions of the Declaration, these Commercial By-Laws and, to the extent applicable, the Condominium By-Laws, and the provisions of the Declaration, these Commercial By-Laws and, to the extent applicable, the Condominium 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 or articles of organization and operating agreement.

2.18 Commercial Board as Agent of Commercial Unit Owners. In exercising its powers and performing its duties under the Declaration, these Commercial By-Laws and, to the extent applicable, the Condominium By-Laws, the Commercial Board shall act as and in the capacity of, and shall be, the agent of the Commercial Unit Owners, subject to and in accordance with the provisions of the Declaration, these Commercial By-Laws and, to the extent applicable, the Condominium By-Laws.

2.19 Prohibited Transactions. Each member of the Commercial Board shall perform his or her duties, and shall exercise his or her powers, in good faith and with a view to the interests of the Commercial Section. To the extent permitted by applicable Law, no contract or other transaction between the Commercial Board and either: (i) any of its members, or (ii) any corporation, partnership, fiduciary, firm, limited liability company, association or other entity in which any of the members of the Commercial Board are officers, directors, shareholders, employees, partners, fiduciaries, beneficiaries, members or principals, or are otherwise interested, pecuniarily or otherwise, shall be deemed either void or voidable because either: (a) any such member of the Commercial Board was present at the meeting or meetings of the Commercial Board during which such contract or transaction was discussed, authorized, approved or ratified, or (b) the vote of any such member was counted for such purpose; provided, however, that (A) either: (1) the fact thereof is disclosed to, or known by, the Commercial Board or a majority of the members thereof and noted in the minutes thereof, and the Commercial Board shall authorize, approve or ratify such contract or transaction in good faith by a vote of a majority of the entire Commercial Board, less the number of such members involved in such contract or transaction; or (2) the fact thereof is disclosed to, or known by, a majority of Commercial Unit Owners, present at a duly constituted meeting, shall in good faith authorize, approve or ratify such contract or transaction less the number of such Commercial Unit Owners who are also such members involved in such contract or transaction; and (B) the contract or transaction is commercially reasonable to the Commercial Board at the time the same is authorized, approved, ratified, executed or otherwise consummated. Any such members of the Commercial Board may be counted in determining the presence of a quorum of any meeting of the Commercial Board which authorizes, approves or ratifies any such contract or transaction, but no such member shall be entitled to vote thereat in order to authorize, approve or ratify such contract or transaction and a majority of members present less the number of any such Commercial Board members who are also such members involved in such contract or transaction shall constitute a majority of the Commercial Board for purposes of authorizing, approving or ratifying such contract or transaction. Notwithstanding the foregoing requirements, any managing agent designated and/or employed by the Commercial Board and/or the Condominium Board may be an affiliate of Declarant and/or Sponsor or its designee or other owner of Unsold Units.

2.20 Principal Office of Commercial Board. The principal office of the Commercial Board shall be located either within the Property or at such other place in the Borough of Manhattan, as may be designated from time to time by the Commercial Board.

## ARTICLE 3

## COMMERCIAL UNIT OWNERS

3.1 Annual Meetings. The first annual meeting of Commercial Unit Owners (the "First Annual Commercial Meeting") shall be held not later than thirty (30) days following the expiration of the Initial Control Period. At such meeting, a new Commercial Board shall be elected and/or designated (as provided in Sections 2.3 and 2.4) consisting of five (5) persons and the incumbent Commercial Board shall resign. Thereafter, annual meetings of Commercial Unit Owners shall be held within four (4) weeks after the anniversary of such first meeting in each succeeding year on a date to be set by the Commercial Board. At such meetings, the

Commercial Unit Owners shall elect or designate, as the case may be, successors to the members of the Commercial Board whose terms of office are due to expire on or about the day of such meeting or have already expired and there shall also be transacted such other business as may properly come before such meeting.

3.2 Place of Meetings. Meetings of Commercial Unit Owners shall be held at the principal office of the Commercial Section or at such other place in the Borough of Manhattan as may be designated from time to time by the Commercial Board.

3.3 Special Meetings. The President or the Vice President of the Commercial Section shall call a special meeting of Commercial Unit Owners if so directed by resolution of the Commercial Board or upon a petition signed and presented to the Secretary of the Commercial Section by Commercial Unit Owners owning Commercial Units representing not less than fifty percent (50%) of the Common Interests of all of the Commercial Units. Each such resolution or petition shall state, in reasonable detail, the purposes for calling such meeting.

3.4 Notice of Meetings and Actions Taken. Notice of each annual or special meeting of Commercial Unit Owners shall be given by the Secretary of the Commercial Section to all Commercial Unit Owners of record entitled to vote thereat, at their address at the Condominium (or at such other address as any Commercial Unit Owner has designated by notice in writing to the Secretary of the Commercial Section at least fifteen (15) business days prior to the giving of notice of the applicable meeting). 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 at such meeting except as stated in the notice. All notices hereunder shall be given by personal delivery, mail, nationally recognized overnight courier or telecopy, at least ten (10) business days prior to the date fixed for the meeting. However, if the business to be conducted at any meeting of the Commercial Unit Owners shall include consideration of a proposed amendment to the Declaration, these Commercial By-Laws or the Condominium By-Laws, the notice of such meeting shall be given to all Commercial Unit Owners, in the manner provided above, at least thirty (30) days prior to the date fixed for such meeting and such notice shall be accompanied by a copy of the text of such proposed amendment.

3.5 Lack of Quorum. Subject to the terms and provisions of subsection 2.4.4, if any meeting of Commercial Unit Owners cannot be held because a quorum is not present, the Commercial Unit Owners who are present at such meeting, either in person or by proxy, may act by majority vote to either: (a) adjourn the meeting from time to time until a quorum exists; or (b) reconvene the meeting to a time (specified on not less than three (3) business days' notice, by personal delivery, nationally recognized overnight courier or telecopy, to the absent Commercial Unit Owners) when no quorum requirement shall apply.

3.6 Order of Business. The order of business at all regular meetings of Commercial Unit Owners shall be as follows:

(a) Call to order.
(b) Roll call.
(c) Proof of notice of meeting.
(d) Reading of minutes of preceding meeting.

(e) Reports of officers.
(f) Reports of members of the Commercial Board.
(g) Reports of committees.
(h) Election of inspectors of election (when so required).
(i) Election of members of the Commercial Board.
(j) Unfinished business.
(k) New business.
(l) Adjournment.

3.7 Title to Commercial Units. Title to Commercial Units may be taken by any individual, corporation, partnership, limited liability company, association, trust, fiduciary or other entity, or any two or more of such owners as joint tenants, tenants in common or tenants by the entirety, as may be appropriate.

3.8 Voting.

3.8.1 Each Commercial Unit Owner, or a person designated by such Commercial Unit Owner to act as proxy on its behalf and who need not be a Unit Owner, shall be entitled to cast the votes appurtenant to such Commercial Unit as set forth herein, in the Condominium By-Laws (to the extent applicable) and in the Declaration at all meetings of Commercial Unit Owners and at all joint meetings of Unit Owners. The designation of any such proxy shall be made in a signed and dated writing to the Secretary of the Commercial Section and shall be revocable at any time by written notice actually delivered to such Secretary by the Commercial Unit Owner which had made the designation; provided, however, that no designation to act as a proxy shall be effective for a period in excess of six (6) months (except that the designation of a Registered Mortgagee or Permitted Office Mortgagee to act as the proxy of its mortgagor shall be effective until duly revoked).

3.8.2 A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity.

3.8.3 If two (2) or more persons or entities own a Commercial Unit, they shall designate one (1) person or entity amongst them to vote the entire Common Interest appurtenant to their Unit in a writing given to the Secretary of the Commercial Section, and the vote of such designee shall be binding upon such designors. Failing such a designation, all of such persons or entities shall mutually vote such Common Interest under one ballot, without division, and the concurrence of such persons or entities shall be conclusively presumed if any one of them purports to vote such Common Interest without protest being made contemporaneously to the party presiding over the meeting at which such vote is taken. If protest is made, the Common Interest appurtenant to such Commercial Unit shall be counted solely for the purpose of determining whether a quorum is present for such voting.

3.8.4 Neither the Commercial Board nor its designee shall be entitled to vote the interest appurtenant to any Commercial Unit owned by the Commercial Board or such designee, and the Common Interest of such Unit shall be excluded from the total Common Interests when computing the interests of Commercial Unit Owners for quorum and voting purposes.

3.8.5 Except as otherwise set forth herein, in the Condominium By-Laws (to the extent applicable) or in the Declaration, at all meetings of Commercial Unit Owners, each Commercial Unit Owner (or its proxy) entitled to vote thereat (including, without limitation, Project Declarant or its designee) shall be entitled to cast one vote for each .0001% (rounded off to the nearest .0001%) of Common Interest attributable to its Commercial Unit or Units (including, without limitation, for each Commercial Board member to be elected by such Unit Owner) in proportion to the Common Interest of all Commercial Units.

3.9 Majority of Commercial Unit Owners. Except as may otherwise be provided by law, as used in these Commercial By-Laws, the Condominium By-Laws (to the extent applicable) and the Declaration, the term "Majority of Commercial Unit Owners" means those Commercial Unit Owners having at least fifty percent (50%) of the total authorized votes of all Commercial Unit Owners (determined in accordance with the provisions of Section 3.8), who are present in person or by proxy and voting at a duly constituted meeting at which a quorum is present or is not required.

3.10 Quorum. Except as otherwise provided in these Commercial By-Laws, the presence in person or by proxy of Commercial Unit Owners owning Commercial Units to which appertain at least fifty percent (50%) of the aggregate Common Interests attributable to all Commercial Units shall constitute a quorum at all meetings of Commercial Unit Owners.

3.11 Majority Vote. Except where otherwise provided by Law, the Declaration, the Condominium By-Laws or these Commercial By-Laws, at all meetings solely of Commercial Unit Owners, the affirmative vote of a Majority of Commercial Unit Owners shall be binding upon all Commercial Unit Owners for all purposes.

3.12 Representation on Condominium Board. Commercial Unit Owners shall not be entitled to vote in their individual capacities as Unit Owners at any meeting of the Condominium Board. Two (2) of the five (5) members of the Commercial Board shall also serve as the Commercial Board's representatives on the Condominium Board and shall be entitled to vote at any such meeting(s) in accordance with the terms of Section 2.1 and the provisions of the Condominium By-Laws. During the Initial Control Period, such two (2) members shall be two (2) of the five (5) Commercial Board members designated by Project Declarant. During this time, Project Declarant reserves the right to designate fewer than five (5), but a minimum of two (2) persons to the Commercial Board; however, in such case, Project Declarant's designees shall be the only members of the Commercial Board and two (2) of such persons shall be designated as the representatives of the Commercial Section on the Condominium Board. After the First Annual Commercial Meeting, such two (2) members shall be: (i) one (1) member designated by or on behalf of Retail Unit C Owner; and one (1) member elected by or on behalf of Retail Unit A Owner, Retail Unit B Owner and Garage Unit Owner in accordance with such Unit Owners' proportionate Common Interest among all such Commercial Unit Owners.

## ARTICLE 4

## OFFICERS

4.1 Designation. (a) The principal officers of the Commercial Section shall be a President, Vice President/Treasurer and Secretary, all of whom shall be elected by the Commercial Board. The Commercial Board may elect more than one Vice President, or an Assistant Treasurer or Assistant Secretary and such other officers as in its judgment may be desirable. Nothing herein shall preclude any officer of the Commercial Section from also being an officer of the Condominium or any officer of the Condominium from also being an officer of the Commercial Section, if otherwise qualified under the terms of these Commercial By-Laws and the Condominium By-Laws, as applicable. Unless prohibited by applicable Law, any two or more offices of the Commercial Section may be held by the same person.

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

4.2 Election of Officers. The officers of the Commercial Section shall each be elected annually by the Commercial Board at the organizational meeting(s) thereof and at any other meeting as may be required to fill a vacancy, and shall serve at the pleasure of the Commercial Board; except that the initial officers of the Commercial Section shall be elected by the First Commercial Board and shall hold office at the pleasure of such First Commercial Board and until their successors are elected.

4.3 Resignation and Removal of Officers. Any officer may resign at any time by written notice given in accordance with the terms of Section 5.1 of these Commercial By-Laws to the Commercial Board; such resignation shall take effect at the time specified and, unless specifically requested by the resigning officer, acceptance of such resignation shall not be necessary to make it effective. Except as otherwise required by these Commercial By-Laws with respect to designation of the Commercial Section upon the affirmative vote of a majority of the members of the Commercial Board, present in person or by proxy at a regular meeting of the Commercial Board, or at a special meeting of the Commercial Board called for such purpose, at which a quorum is present or is not required pursuant to Section 2.12.2, any officer may be removed, either with or without cause, and his or her successor shall be elected.

4.4 President. The President of the Commercial Section shall be the chief executive officer of the Commercial Section and shall preside at all meetings of Commercial Unit Owners and of the Commercial 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 Commercial Unit Owners from time to time as such President, in his or her discretion, may decide are appropriate to assist in the conduct of the affairs of the Commercial Section.

4.5 Vice President. The Vice President of the Commercial Section shall take the place of the President under whom he or she serves and shall perform the duties of the President whenever the President shall be absent or unable to act. If both the President and the Vice President of the Commercial Section are unable to act, the Commercial Board shall appoint some other member of the Commercial 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, from time to time, shall be imposed by the Commercial Board or by the President.

4.6 Secretary. The Secretary of the Commercial Section shall keep the minutes of the meetings of the Commercial Unit Owners and of the Commercial Board. The Secretary shall have charge of such books and papers as the Commercial Board shall direct and, in general, shall perform all of the duties incident to the office of secretary of a stock corporation organized under the Business Corporation Law of the State of New York.

4.7 Treasurer. The Treasurer shall have the care and custody of the funds and securities of the Commercial Section and shall be responsible for keeping full and accurate financial records and books of account thereof showing all receipts and disbursements necessary for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all funds and other securities in the name of the Commercial Board (or in the name of the managing agent or manager appointed by the Commercial Board) in such depositories as may from time to time be designated by such Commercial Board and shall, in general, perform all of the duties incident to the office of treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

4.8 Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Commercial Section shall be executed by the President or Vice-President, acting alone, or by any other two officers thereof or by such other person or persons as may be designated by the Commercial Board. In addition to the foregoing, the Commercial Board may authorize the managing agent serving on its behalf to execute checks, provided that the expenditures, and the managing agent's paying for same, have been approved in advance by resolution of the Commercial Board or have been authorized by two officers of the Commercial Section (at least one of whom shall be a Commercial Board member).

4.9 Compensation of Officers. Except as otherwise determined by the Residential Board, no officer shall receive any compensation for acting as such.

4.10 Liability of Officers.

4.10.1 To the extent permitted by applicable Law, no officer of the Commercial Section shall have any personal liability with respect to any contract, act or omission of the officers in connection with the affairs or operation of the Commercial Section (except in their capacities as Commercial Unit Owners). To the extent permitted by applicable Law, officers shall have no liability to Commercial Unit Owners, except that an officer shall be liable for his or her own bad faith or willful misconduct. All Commercial Unit Owners shall severally, to the extent of their respective interests in their Commercial Units and their appurtenant Common Interests, indemnify, defend and hold harmless each officer of the Commercial Section against

any liability or claim except those arising out of such officer's own bad faith or willful misconduct.

4.10.2 None of the officers of the Commercial Section shall be liable for either: (i) any failure or interruption of any utility or other services to be obtained by, or on behalf of, any such officer or to be paid for as either a Commercial Common Expense or General Common Expense, except when any such failure or interruption is caused by the acts of bad faith or willful misconduct of such officer; or (ii) any injury, loss or damage to any individual or property, occurring in or upon either a Unit or any Common Element, which is either: (a) caused by the elements, by any Unit Owner or by any other individual, (b) resulting from electricity, water, snow or ice that may leak or flow from a Unit or any portion of any Common Element, or (c) arising out of theft or otherwise; except in each case when caused by the acts of bad faith or willful misconduct of such officer.

## ARTICLE 5

## NOTICES

5.1 Notices. Except as otherwise provided in these Commercial By-Laws or the Condominium By-Laws, all requests, notices, reports, demands, approvals and other communications required or desired to be given shall be in writing and shall be delivered: (a) if to the Commercial Board, in person or sent to the principal office of the Commercial Board (or to such other address as the Commercial Board may designate from time to time by notice in writing to all Unit Owners and to all Registered Mortgagees and Permitted Office Mortgagees having requested in writing notice of same); and a duplicate shall be sent in like manner to the managing agent of the Commercial Section, if any; (b) if to a Commercial Unit Owner, in person or sent to the address of such Commercial Unit Owner at the Building, or to such other address as may have been designated by such Commercial Unit Owner from time to time in writing to the Commercial Board; (c) if to Registered Mortgagees or Permitted Office Mortgagees, either delivered in person or sent by registered or certified mail, return receipt requested, or by nationally recognized overnight courier service to their respective addresses, as may have been designated by such Registered Mortgagees or Permitted Office Mortgagees from time to time in writing to the Commercial Board; and (d) if to any other Person, in the manner provided in Article 5 of the Condominium By-Laws. All notices delivered in person (to the extent permitted herein) shall be deemed to have been given when delivered in person. Unless other means of giving certain notices are specifically required or permitted pursuant to the Declaration, Condominium By-Laws and Commercial By-Laws (including the Commercial Rules and Regulations, if any), all notices which are "sent" shall be sent either: (x) by registered or certified mail, return receipt requested, and shall be deemed to have been given three (3) days after deposit in a depository maintained by the U.S. Postal Service in a postage prepaid sealed wrapper; or (y) by nationally recognized overnight courier service and shall be deemed to have been given the first Business Day (for domestic delivery) and the third Business Day (for international delivery), after deposit with an overnight courier service, provided that notices of change of address shall in all events be deemed to have been given when received.

5.2 Waiver of Service of Notice. Whenever any notice is required to be given by law, the Declaration or these Commercial 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 COMMERCIAL SECTION

6.1 Determination of Commercial Common Expenses and Fixing of Commercial Common Charges

6.1.1 (a) As described more fully in the Condominium By-Laws, the Condominium Board shall from time to time, but at least annually, prepare a budget setting forth the projection of General Common Expenses and will allocate to the Commercial Section, in the manner described in the Condominium By-Laws, the General Common Charges necessary to meet the Commercial Section's allocated share of General Common Expenses. The Commercial Board will allocate and assess to each Commercial Unit Owner, in such proportion as the Common Interest of each such Unit Owner's Commercial Unit bears to the total aggregate Common Interests of all Commercial Units, a portion of the General Common Charges allocated to the Commercial Section, to be assessed against and paid by each Commercial Unit Owner as part of the Commercial Common Charges payable by such Commercial Unit Owner, as provided in subsection 6.1.2.

(b) Under the Condominium By-Laws, and to the extent permitted by Law, the Commercial Common Charges collected by the Commercial Board shall, in all instances, first be payable to the Condominium Board in payment of the Commercial Section's allocated share of General Common Charges, failing the occurrence of which, the Condominium Board shall have the right, without limitation, to avail itself of the remedy of specific performance with respect to the Commercial Board's obligations hereunder.

6.1.2 (a) Except as otherwise provided herein, all costs and expenses in connection with the Repair, maintenance, care, upkeep and operation of, and any Alteration to, the Commercial Limited Common Elements and the business and affairs of the Commercial Section (the "Commercial Common Expenses") shall be determined by the Commercial Board and shall be borne solely by the Commercial Unit Owners. Commercial Common Expenses shall include, without limitation: (i) such amounts as the Commercial Board may deem proper for the establishment of and/or changes to reserves, including, without limitation, a general operating reserve or a reserve for working capital or for replacements with respect to the Commercial Limited Common Elements; (ii) such amounts, determined by the Commercial Board, as may be required for the purchase, lease or sublease by the Commercial Board or its designee, on behalf of all Commercial Unit Owners, or of any Commercial Unit whose owner has elected to sell, lease, transfer or convey such Commercial Unit or which is to be sold at a foreclosure or other similar sale; and (iii) all such other items as are provided for in the Declaration, the Condominium By-Laws or these Commercial By-Laws to be Commercial Common Expenses. The Commercial Board shall from time to time, but at least annually, prepare a budget setting forth the projection of Commercial Common Expenses and shall allocate and assess to the Commercial Unit Owners pro rata, in accordance with their respective Common Interests (except as otherwise provided in the Declaration, the Condominium By-Laws

or these Commercial By-Laws), charges to meet the Commercial Common Expenses (which shall include each Commercial Unit Owner's share of General Common Charges (such charges together with all such other amounts denominated or payable as Commercial Common Charges in or under the Declaration, the Condominium By-Laws or these Commercial By-Laws being, collectively, the "Commercial Common Charges")). In addition to basing certain elements of Commercial Common Charges on proportionate Common Interests, the Commercial Board may also assess the same in accordance with submetering, contract allocations, or usage (both projected and actual) so long as such allocations are reasonable, as determined by the Commercial Board. The Commercial Board shall advise all Commercial Unit Owners promptly in writing of the amount of Commercial Common Charges payable by each of them and shall furnish copies of each annual budget on which such Commercial Common Charges are based to all Commercial Unit Owners and, upon written request therefor, to Registered Mortgagees and/or Permitted Office Mortgagees thereof.

(b) Notwithstanding anything to the contrary contained in this subsection 6.1.2, the costs of Repair, maintenance, care, upkeep and operation of, and any Alteration to, the Commercial Limited Common Elements described in subsection 6.6.2(c) shall be paid for in the manner described therein.

(c) As set forth in Section 6.1.11 of the Condominium By-Laws, the Main Lobby Common Expenses shall be determined by the Residential Board, as agent for the Condominium Board, and the Main Lobby Common Charges shall be an expense of and paid by the Residential Board and the Commercial Board. The Main Lobby Common Charges allocated to the Commercial Board shall be borne by the Club Unit and the Office Units in proportion to their respective Common Interests. Owners of the Retail Units and the Garage Unit will not be responsible for such costs.

6.1.3 The Commercial Board may, at its sole discretion, from time to time increase or decrease the amount of Commercial Common Charges, and may modify its prior determination of the Commercial Common Expenses for any fiscal year so as to increase or decrease the amount of Commercial Common Charges payable for such fiscal year or portion thereof; however, no such revised determination shall have a retroactive effect on the amount of Commercial Common Charges payable by Commercial Unit Owners for any period prior to the date of such new determination. However, a prior period's deficit may be included in Commercial Common Charges for a subsequent period or levied from a special assessment levied against all Commercial Unit Owners in accordance with subsection 6.1.5.

6.1.4 The failure or delay of the Commercial Board to prepare or adopt a budget or to otherwise determine the Commercial Common Expenses for any fiscal year or portion thereof shall not be deemed a waiver or modification in any respect of the covenants and provisions hereof or a release of any Commercial Unit Owner from the obligation to pay Commercial Common Charges. In the event of such failure by the Commercial Board, the Commercial Common Charges that were computed on the basis of the Commercial Common Expenses last determined for any fiscal year or portion thereof, together with the Commercial Section's then current allocated share of General Common Charges (determined in accordance with the terms of the Condominium By-Laws), shall continue thereafter to be the Commercial

Common Charges payable by the Commercial Unit Owners until a new determination of the Commercial Common Charges is made.

6.1.5 In addition to the foregoing duty to determine the amount of and to assess Commercial Common Charges, the Commercial Board shall have the right to levy special assessments to meet the Commercial Common Expenses (or a prior period's deficit, in accordance with subsection 6.1.3), including, without limitation, the Commercial Section's allocated share of General Common Charges or any special assessment levied by the Condominium Board. The Commercial Board shall have all rights and remedies for the collection of special assessments as are provided herein for the collection of Commercial Common Charges (including, without limitation, perfecting a lien against the defaulting Commercial Unit).

6.1.6 The excess of all rents, profits and revenues derived from the rental or use of any space or facility forming part of or included in any Commercial Limited Common Element shall be collected by the Commercial Board, as agent for and on behalf of the Commercial Unit Owners, and shall constitute income of the Commercial Unit Owners, to be applied against Commercial Common Expenses next arising. Notwithstanding any provision contained in these Commercial By-Laws to the contrary, in no event shall any rent, profit or revenue derived from the rental, licensing or use of any space in the Commercial Section be deemed to be derived from the rental, licensing or use of any floor slabs, ceilings or walls delineating or enclosing such space or the incidental use of any portion of any Commercial Limited Common Elements appurtenant to such space. In addition, none of the Condominium Board, the Residential Board, the Commercial Board, the Residential Unit Owners or the Office Unit Owners (except as may be expressly provided in the Condominium By-Laws or Commercial By-Laws to the contrary or pursuant to separate written agreement by or among the applicable parties) will have any interest in the rents, profits or revenues from the rental or use of any space in the Non-Office Commercial Units.

6.2 Payment of Commercial Common Charges.

6.2.1 All Commercial Unit Owners shall be obligated to pay to the Commercial Board the Commercial Common Charges assessed by the Commercial Board pursuant to the provision of Section 6.1, at such time or times as the Commercial Board determines. Unless otherwise determined by the Commercial Board, Commercial Common Charges shall be payable monthly, in advance, on the first day of each month.

6.2.2 No Commercial Unit Owner shall be liable for the payment of any part of the Commercial Common Charges assessed against such Commercial Unit Owner's Unit subsequent to a permissible sale, transfer or other conveyance by it (made in accordance with these Commercial By-Laws) of such Unit, together with its appurtenant Common Interest except as expressly provided herein. Any Commercial Unit Owner may, subject to the terms and conditions of these Commercial By-Laws, convey its Unit, together with its appurtenant Common Interest, without consideration, to the Commercial Board or its designee, on behalf of all Commercial Unit Owners, and in such event (except as hereinafter set forth) be exempt from Commercial Common Charges thereafter accruing, provided that such Commercial Unit is free and clear of liens and encumbrances other than the statutory lien for unpaid Commercial

Common Charges (provided that no amounts are owing under any such lien). However, in no event may a Commercial Unit Owner exempt itself from liability for Commercial Common Charges by waiving use of any of the Common Elements or by abandonment of its Commercial Unit. A purchaser of a Commercial Unit shall be liable for the payment of Commercial Common Charges accrued and unpaid against such Unit prior to its acquisition thereof, except that, to the extent permitted by Law, a Registered Mortgagee or Permitted Office Mortgagee acquiring title to a Non-Office Commercial Unit or Office Unit, respectively, at a foreclosure sale shall not be liable for, and such Non-Office Commercial Unit or Office Unit shall not be subject to, a lien for the payment of Commercial Common Charges assessed against such Non-Office Commercial Unit or Office Unit subsequent to the recording of such Registered Mortgage or Permitted Office Mortgage, as the case may be, and prior to the acquisition of title of such Non-Office Commercial Unit or Office Unit by such mortgagee; the foregoing is subject to the provisions of the last sentence of subsection 6.3.2 hereof. However, in the event of a foreclosure of a Non-Office Commercial Unit or Office Unit by a Registered Mortgagee or Permitted Office Mortgagee (whether by sale, deed in lieu of foreclosure or otherwise), as the case may be, or by the Commercial Board of its lien on any Commercial Unit for unpaid Commercial Common Charges, if the net proceeds of the foreclosure sale actually received (after deduction of all legal fees, advertising costs, brokerage commissions and other costs and expenses incurred by such Registered Mortgagee or Permitted Office Mortgagee in connection therewith) are insufficient to satisfy the defaulting Commercial Unit Owner's obligations, such Commercial Unit Owner shall remain liable for the deficit of all unpaid Commercial Common Charges, as provided in these Commercial By-Laws.

6.2.3 (a) Prior to any permissible sale, transfer or other conveyance of a Commercial Unit, any seller or purchaser of a Commercial Unit shall be entitled, upon request for same, to a statement from the Commercial Board, dated as of the date of the closing of title in connection with any such sale, transfer or other conveyance, setting forth the amount of unpaid Commercial Common Charges accrued against the Unit.

(b) The Commercial Board shall promptly provide any Commercial Unit Owner who so requests with a written statement of all unpaid Commercial Common Charges due to it from such Commercial Unit Owner.

6.2.4 Notwithstanding the provisions of subsection 6.2.1, any Commercial Unit Owner that is a foreign government, a resident representative of a foreign government or such other person or entity otherwise entitled to the immunities from suit enjoyed by a foreign government (i.e., diplomatic or sovereign immunity) shall deposit with the Commercial Board an amount equal to two (2) times the then current annual Commercial Common Charges for such Unit, subject to increase from time to time as such Common Charges increase, together with the full amount of any special assessment levied against, or allocable to, such Unit, as security for the faithful observance by such Commercial Unit Owner of the terms, provisions and conditions of these Commercial By-Laws. In the event that such Commercial Unit Owner defaults in respect of the terms, provisions and conditions of these Commercial By-Laws, the Commercial Board may use, apply or retain the whole or any part of the security so deposited, to the extent required for the payment of any Commercial Common Charges or any other sum as to which such Commercial Unit Owner is in default. If the Commercial Board applies or retains any part of said security, the Commercial Unit Owner in questions, within ten (10) days after notice from

the Commercial Board, shall deposit with the Commercial Board the amount so applied or retained so that such Commercial Board has the full amount of said security on hand at all times.

6.3 Default in Payment of Commercial Common Charges; Lien for Unpaid Commercial Common Charges; Other Remedies.

6.3.1 The Commercial Board shall take prompt action to collect any Commercial Common Charges which remain unpaid for more than thirty (30) days after the due date for payment thereof, including, without limitation, the institution of such actions and the recovery of interest and expenses as provided in this Article 6. Subject to the applicable terms of the Condominium By-Laws, in the event the Commercial Board, after notice from the Condominium Board, fails to take such action against a Commercial Unit Owner, then the Condominium Board may do so, in its own name or, if necessary, in the name of the Commercial Board.

6.3.2 Except to the extent prohibited by Law, the Commercial Board, on behalf of all Commercial Unit Owners, shall have a lien for Commercial Common Charges unpaid by any Commercial Unit Owner, together with interest thereon, on all Commercial Units owned by such Commercial Unit Owner, in proportion to their respective Common Interest. Such lien for Commercial Common Charges shall be subordinate only to liens for real estate taxes and, to the extent required by applicable Law, to prior recorded Registered Mortgages and Permitted Office Mortgages on such Commercial Units, which are first mortgages of record. In the event of a change in applicable Law which does not mandate that the lien for Commercial Common Charges be subordinate to the lien for prior recorded Registered Mortgages and Permitted Office Mortgages which are first mortgages of record, then, to the extent then permitted by applicable Law, provided the Commercial Board determines (in its sole discretion) that such a change in Law is and a corresponding change to these Commercial By-Laws will be generally acceptable to mortgage lenders, the lien for Commercial Common Charges shall not be subordinate to the lien of any such Registered Mortgages or Permitted Office Mortgages thereafter made or to the lien of any such Registered Mortgages or Permitted Office Mortgages theretofore made to the extent that, after the implementation of such amendment to applicable Law, such Registered Mortgages or Permitted Office Mortgages have been modified, amended or extended so that additional monies are secured thereby.

6.3.3 In the event any Commercial Unit Owner fails to make payment of Commercial Common Charges when due, 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 one and one half percent (1.5%) per month (but in no event in excess of the maximum rate permitted by Law) on such unpaid amounts (exclusive of any "late charges" theretofore collected on such amounts) computed from the due date thereof, together with all expenses, including, without limitation, attorneys' fees and expenses paid or incurred by the Commercial Board or by any managing agent in any proceeding brought to collect such unpaid Commercial Common Charges or in an action to foreclose the lien on such Unit arising from said unpaid Commercial Common Charges, whether 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. In addition, if the Commercial Board shall

bring an action to foreclose such lien because of unpaid Commercial Common Charges, the defaulting Commercial Unit Owner shall be required to pay a reasonable fee for the use and occupancy of its Unit and the plaintiff in such foreclosure action shall be entitled to the appointment, without notice, of a receiver to collect the same. All such "late charges," interest, expenses and fees shall be added to and shall constitute Commercial Common Charges payable by such Commercial Unit Owner; and the lien for unpaid Commercial Common Charges shall also secure the payment of such additional sums. A suit to recover a money judgment for unpaid Commercial Common Charges shall be maintainable without foreclosing or waiving the lien securing such charges.

6.3.4 In any action brought by the Commercial Board to foreclose a lien on a Commercial Unit because of unpaid Commercial Common Charges, the Commercial Board, acting on behalf of all Commercial Unit Owners, shall have the power (but shall not be obligated) to purchase any such Commercial Unit at the foreclosure sale thereof and to acquire, hold, lease, mortgage, convey or otherwise deal with such Unit (but not to vote the Common Interests appurtenant thereto). In the event the net proceeds received on a foreclosure sale (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 Commercial Unit Owner's obligations, such Commercial Unit Owner shall remain liable for the deficit, as provided in these Commercial By-Laws.

6.3.5 (a) For the purposes of this subsection 6.3.5, "non-occupying owner" shall mean a Commercial Unit Owner who or which does not occupy its Commercial Unit.

(b) If a non-occupying owner rents any Commercial Unit to a rental tenant and then fails to make payments due for Commercial Common Charges or any other amounts payable by such Commercial Unit Owner to the Commercial Board, including, without limitation, assessments and/or late fees (all of the foregoing, collectively, "Payments") for such Commercial Unit within sixty (60) days of the expiration of any grace period after the same are due, upon notice in accordance with subdivision (c) of this subsection, all rental payments from the tenant shall be directly payable to the Commercial Board.

(c) If the Payments for any Commercial Unit have not been paid in full, within sixty (60) days after the expiration of any grace period of the earliest due date, the Commercial Board shall provide written notice to the tenant and the non-occupying owner providing that, commencing immediately and until such time as all Payments are made current, all rental payments due subsequent to the issuance of such notice are to be made payable to the Commercial Board at the address listed on the notice. Where a majority of the Commercial Board has been elected by and from among the Commercial Unit Owners who are in occupancy, the Commercial Board may elect not to require that rental payments be made payable to the Commercial Board. At such time as Payments from the non-occupying owner are once again current, notice of such fact shall be given within three business days to the rental tenant and non-occupying owner. Thereafter all rental payments shall be made payable to the non-occupying owner or a designated agent. A non-occupying owner who disputes the Commercial Board's claim to rental payments pursuant to this subsection shall be entitled to present facts supporting such Commercial Unit Owner's position at the next scheduled meeting of the Commercial

Board, which must be held within thirty (30) days of the date that such Commercial Board receives notice that such owner seeks to dispute such claim.

(d) Nothing in this subsection shall limit any rights of any Commercial Unit Owner or the Commercial Board existing under any other Law or agreement.

(e) Payment by a rental tenant to the Commercial Board made in connection with this subsection shall relieve that rental tenant from the obligation to pay such rent to the non-occupying owner and shall be an absolute defense in any non-payment proceeding commenced by such non-occupying owner against such tenant for such rent.

6.4 Insurance.

6.4.1 The Condominium By-Laws describe those types of insurance which the Condominium Board, the Residential Board, the Commercial Board, the Commercial Unit Owners and the Residential Unit Owners are required to obtain and maintain. Neither the Condominium Board, nor the Commercial Board, is required to obtain or maintain any insurance with respect to any personal property (including improvements, betterments, equipment, furniture, furnishings and the like) contained in or constituting part of a Commercial Unit or any liability with respect to occurrences within or about a Commercial Unit or the Limited Common Elements, if any, appurtenant thereto. Consequently, as specified in Section 11.3 of the Condominium By-Laws, all Commercial Unit Owners are required to obtain and maintain liability insurance as specified therein. Subject to the requirements hereinafter and in subsection 6.4.2 set forth, Commercial Unit Owners shall not be prohibited from carrying other insurance for their own benefit, and the Commercial Board shall not be prohibited from requesting or seeking to cause the Condominium Board to carry other insurance, or from carrying insurance itself, for the benefit of the Commercial Section or Commercial Unit Owners. To the extent any party is insured, or is required hereunder to be insured, for loss or damage to property, each party will look to its own insurance policies for recovery.

6.4.2 All policies obtained by any Commercial Unit Owner, or by the Commercial Board on behalf of the Commercial Section or the Commercial Unit Owners, shall provide that the liability of the carriers issuing insurance obtained by the Condominium Board shall not be affected or diminished by reason of any additional insurance carried by the Commercial Board or any other Unit Owner and shall contain a waiver of the insurer's right of subrogation against the Condominium Board, the Commercial Board and any Unit Owner.

6.4.3 If the use of any Commercial Unit causes an increase in the premium for the insurance which the Condominium Board, Residential Board or Commercial Board is required to obtain and maintain as set forth herein or otherwise, then the owner of such Commercial Unit shall be obligated to pay to the Commercial Board (which, to the extent appropriate, shall in turn pay any necessary sums to the Condominium Board), as additional Commercial Common Charges, a sum equal to the amount of such increase attributable to such use.

6.4.4 All insurance policies carried by or on behalf of the Commercial Board shall provide that adjustment of loss shall be made exclusively by the Commercial Board if the

loss involves only the Commercial Section; in all other instances, the provisions of the Condominium By-Laws shall control as to adjustment of loss. The Condominium By-laws shall also control as to those instances in which proceeds shall be payable to an Insurance Trustee.

6.4.5 In lieu of Section 11.2.1 of the Condominium By-Laws, and notwithstanding the foregoing, each Office Unit Owner shall obtain and maintain the following insurance in such amounts and in such limits as described below, or in such higher amounts and in such higher limits as the Commercial Board, from time to time, may determine, including personal liability policy if such Office Unit Owner is an individual, or commercial general liability insurance if such Office Unit Owner is a corporate entity, with a limit of not less than $1,000,000 per occurrence against claims for personal injury, death or property damage occurring in, on or about such Office Unit Owner's Office Unit and the Limited Common Elements, if any, exclusive and/or appurtenant to his or her Office Unit, and an Umbrella Liability Policy with limits of not less than $4,000,000 per occurrence and annual aggregate per location, covering the interests of the Office Unit Owner and its Permitted Mortgagee in the applicable Office Unit as their respective interests may appear. The Office Unit Owner purchasing such policy shall be the named insured.

6.5 Repair or Reconstruction after Fire or Other Casualty.

6.5.1 (a) If any portion of the Property other than solely the Commercial Section is damaged or destroyed by fire or other casualty, or if any portion of the Commercial Section is damaged or destroyed together with any other portion of the Property, the provisions of the Condominium By-Laws shall control as to control over repair and restoration. In the event that solely the Commercial Section (i.e., the Commercial Units and/or Commercial Limited Common Elements) or any part thereof is damaged or destroyed by fire or other casualty (unless, in accordance with the Condominium By-Laws or these Commercial By-Laws, the Building is not to be repaired), the Commercial Board will arrange for the prompt repair and restoration of the Commercial Section (including each Commercial Unit, but excluding improvements, betterments, equipment, furniture, furnishings or other personal property in any such Unit) and the Commercial Board, or Insurance Trustee, as provided in the Condominium By-Laws or herein, shall disburse the proceeds of all applicable insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

(b) If only the Commercial Section is damaged or destroyed by fire or other casualty and the insurance proceeds are less than sufficient to cover, or exceed, the cost of repairs and restoration, the deficit or surplus, as the case may be, will be borne as a Commercial Common Expense or profit, respectively, and shared by all Commercial Unit Owners in proportion to their respective Common Interests. Any surplus allocable to any Commercial Unit pursuant to this subsection 6.5.1 shall first be lessened by such amounts as may be required to discharge unpaid liens (other than mortgages which are not Registered Mortgages or Permitted Office Mortgages) on any such Unit in the order of priority of such liens, and the remaining surplus, if any, shall then be paid to the owner of such Unit. If any portion of the Property other than solely the Commercial Section is damaged or destroyed by fire or other casualty, or if any portion of the Commercial Section is damaged or destroyed together with any other portion of the Property, the provisions of the Condominium By-Laws shall control as to any deficit or surplus in insurance proceeds.

6.6 Maintenance and Repairs.

6.6.1 Except as otherwise provided in the Declaration, the Condominium By-Laws or these Commercial By-Laws, all painting, decorating, maintenance, repairs and replacements, whether structural or non-structural, ordinary or extraordinary, and all maintenance, repairs and replacements of all plumbing, heating and lighting fixtures, heating and air-conditioning units and appliances: (i) in or to any Commercial Unit (excluding General Common Elements and Commercial Limited Common Elements therein, except as otherwise provided in the Declaration or these Commercial By-Laws) and the interior side of entrance doors thereto, shall be made by the owner of such Commercial Unit at its sole cost and expense; provided that, except in the case of work to be done in Commercial Units owned by Project Declarant, the Commercial Unit Owner of a Commercial Unit utilizes only such contractors, workers or suppliers as are on the then approved list of the then managing agent of the Commercial Section, which list may change from time to time in the sole discretion of such managing agent or the Commercial Board and, to the extent applicable, complies with the provisions of Section 6.7 hereof; and (ii) in or to the Commercial Limited Common Elements shall be made by the Commercial Board and the cost and expense thereof shall be shared by all Commercial Unit Owners as a Commercial Common Expense, in proportion to their respective Common Interests.

6.6.2 Notwithstanding the provisions of subsection 6.6.1:

(a) In the event that any painting, decorating, maintenance, repairs or replacements to the Property or any part thereof (including, without limitation, any Unit) is necessitated by or attributable to the negligence, misuse, neglect or abuse of: (i) any one or more Commercial Unit Owner(s) or its or their tenants, agents, invitees, licensees or guests, the entire cost thereof shall be borne entirely by such Commercial Unit Owner(s); or (ii) the Commercial Board or its tenants, agents, invitees, licensees or guests, the entire cost thereof shall be charged to all Commercial Unit Owners as a Commercial Common Expense, except to the extent in any case that such cost is covered by the proceeds of any insurance maintained pursuant to the provisions hereof.

(b) The Tower will feature a window washing rig for the cleaning of the exterior glass surfaces of windows. The washing and cleaning of interior glass surfaces of windows in the Commercial Units shall be the responsibility of the respective Commercial Unit Owners. All window interiors shall be cleaned a minimum of four (4) times per calendar year. The Commercial Board may from time to time enforce the responsibility of Unit Owners to wash and clean the interior surfaces of windows located in their respective Units and charge the defaulting Unit Owner therefor. The exterior glass surfaces will be washed, cleaned and replaced at the direction of the Condominium Board and the cost thereof charged as a General Common Expense. Unit Owners are prohibited from cleaning or allowing to be cleaned any window from the outside in violation of Section 202 of the New York State Labor Law, any other applicable Laws, any insurance policy or requirement or otherwise. The interior and exterior glass surfaces of all windows located in any Commercial Unit shall not be altered, colored or painted.

(c) All normal maintenance and repairs of any Common Element exclusively appurtenant to a particular Commercial Unit shall be made by the Commercial Unit Owner having access thereto, at its own cost and expense; any structural or extraordinary repairs or replacements thereto (including leaks) shall be made by or for the Commercial Board and the cost and expense thereof shall be charged to all Commercial Unit Owners as a Commercial Common Expense, unless due to the negligence, misuse, neglect or abuse of such Commercial Unit Owner or its tenant, agent, invitee, licensee or guest, in which event such Commercial Unit Owner shall bear the entire cost thereof, and the same shall, for all purposes hereunder, constitute part of the Commercial Common Charges payable by such Commercial Unit Owner.

(d) No Commercial Unit Owner (other than Project Declarant) may install, inscribe or expose any signage on or at any window or any other part of the Common Elements.

6.6.3 Each Commercial Unit and the Commercial Limited Common Elements shall be kept in the condition and otherwise in such manner that appropriate standards of quality, service and appearance are maintained which are appropriate for a luxury mixed-use condominium project (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 Commercial Unit Owner or the Commercial Board, whichever is responsible for the maintenance thereof under the Declaration, these Commercial By-Laws or the Condominium By-Laws; and such Commercial Unit Owner or the Commercial Board 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 Commercial Section and those areas which are exposed to public view shall be kept in good appearance, in conformity with the dignity and character of the Building, by: (a) the Commercial Board, with respect to such parts of the Building it is required to maintain under the Declaration, these Commercial By-Laws or the Condominium By-Laws; and; (b) each Commercial Unit Owner, with respect to the windows and shades, venetian or other blinds, drapes, curtains or other window decorations in or appurtenant to its Commercial Unit, as well as those other areas of such Unit and its appurtenant Commercial Limited Common Elements which are exposed to public view.

6.6.4 In the event that any Commercial Unit Owner, within a reasonable time after receipt of written notice from the Commercial Board, fails or neglects in any way to perform any of its obligations with respect to maintenance, repair or replacement in or to its Commercial Unit as provided in this Article 6 or of any Common Element for which such Commercial Unit Owner is responsible under the Declaration, the Condominium By-Laws or these Commercial By-Laws, the Commercial Board may perform or cause to be performed such maintenance, repair or replacement, unless such Commercial Unit Owner, within ten (10) days after receiving notice of such default by the Commercial Board (except in the event of an "emergency," i.e., a condition requiring repair or replacement immediately necessary for the preservation or safety of the Building or for the safety of occupants of the Building or other persons, or required to avoid the suspension of any necessary services in the Building, in which case no notice is required), cures such default, or in the case of a default not reasonably susceptible to cure within such period, promptly commences (within such ten (10)-day period) 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

maintenance, repair or replacement in or to such Commercial Unit Owner's Unit or to any such Common Element for which such Commercial Unit Owner is responsible as aforesaid, together with interest thereon at the rate of one and one half percent (1.5%) per month (but in no event in excess of the maximum rate permitted by Law), shall be immediately payable by such Commercial Unit Owner to the Commercial Board and shall, for all purposes hereunder, constitute part of the Commercial Common Charges payable by such Commercial Unit Owner.

6.6.5 (a) Office Unit Owners are required to obtain and maintain a maintenance, service and repair contract ("Maintenance Contract") with an HVAC vendor approved by the Commercial Board (the "Vendor") qualified to perform maintenance services on the heating, ventilation and air conditioning system and humidification system, if any, located in their Office Unit (the "HVAC") in accordance with guidelines established, from time to time, by the Commercial Board. A copy of the Maintenance Contract shall be delivered to the Condominium Managing Agent. Renewal Maintenance Contracts shall be delivered to the Condominium Managing Agent prior to the date on which the then current Maintenance Contract expires.

(b) Each Vendor shall maintain insurance in such form as the Commercial Board shall direct with limits of liability as follows: Commercial General Liability including Product and Completed Operations with limits of not less than $2,000,000 annual aggregate; Workers Compensation in compliance with all statutory requirements with Employers Liability Limits of not less than $1,000,000; Business Automobile Liability with a Combined Single Limit of not less than $2,000,000; and Umbrella/Excess Liability in amounts not less than $5,000,000 per occurrence. All insurance certificates shall name, as additional insureds, the Office Unit Owner and "the Condominium, the Commercial Section, the Boards of Managers, their affiliates, agents and assigns". A copy of the insurance certificate shall be delivered to the Condominium Managing Agent. Renewal insurance certificates shall be delivered to the Condominium Managing Agent prior to the date on which the then current certificate expires.

(c) Any Office Unit Owner who violates this Section 6.6.5 shall be fined $1,000 per month (subject to increase by the CPI Increase Factor) which shall be deemed to constitute Commercial Common Charges payable by the Office Unit Owner of the Office Unit against which they are levied.

6.7 Alterations of Commercial Units.

6.7.1 Except as otherwise provided in the Declaration, the Condominium By-Laws or these Commercial By-Laws:

(a) (i) No Commercial Unit Owner (other than Project Declarant or its designee) shall make any Alteration or Repair in or to its Commercial Unit which affects the structure or systems of the Building (including, without limitation, the mechanical, electrical, plumbing, heating, ventilating and/or air-conditioning systems thereof), without obtaining the prior written consent of the Commercial Board thereto (except in the case of the Club Unit or an Office Unit, in which case such consent shall be of the Condominium Board). Prior to, and as a condition of, the granting of its consent to the making of any such Alteration or Repair in or to a Commercial Unit, the Commercial Board, at its option, may require the Commercial Unit Owner

to execute an agreement, in form and substance satisfactory to the Commercial Board (which may, among other things, require payment of a supervisory fee to the Commercial Board), setting forth the terms and conditions under which such Alteration or Repair may be made.

(ii) Notwithstanding anything otherwise herein contained to the contrary (whether in clause (i) above or otherwise), no Commercial Unit Owner shall make, and the Commercial Board shall not have the authority to consent to, any alteration, addition, improvement or repair to a Commercial Unit which affects the structural elements or the systems (including, without limitation, the mechanical, electrical, plumbing, heating, ventilating and/or air-conditioning systems) of: (x) the Building without the Commercial Board's obtaining the prior written consent thereto of the Condominium Board to the extent required under the terms of the Condominium By-Laws; and/or (y) any Residential Unit without the Commercial Board's obtaining (on behalf of such Commercial Unit Owner) the prior written consent thereto of either the Residential Board or the owner of such Residential Unit(s) to the extent required under the terms of the Condominium By-Laws or Residential By-Laws. In each of the foregoing cases, the Commercial Unit Owner seeking to perform such work requiring such consent(s) shall be liable for all costs and expenses incurred by the Commercial Board in obtaining such consent(s).

(b) All Repairs which would affect the structure or the systems of the Building (including, without limitation, the mechanical, electrical, plumbing, heating, ventilating and/or air-conditioning systems thereof) and all Alterations to any Commercial Unit shall be made in accordance with plans and specifications, which plans and specifications shall be: (1) subject to review and approval by the Commercial Board, in the case of Alterations to which the consent of the Commercial Board is otherwise required under subsection 6.7.1(a); (2) subject to review and approval by the Condominium Board, in the case of Alterations to which the consent of the Condominium Board is otherwise required under Article 8 of the Condominium By-Laws; (3) subject to the approval of the appropriate Residential Unit Owner(s) in the case of Alterations to which the consent of such Residential Unit Owner(s) is otherwise required under Article 8 of the Condominium By-Laws; and/or (4) subject to the approval of the Residential Board in the case of Alterations to which the consent of such Board as otherwise required under Article 8 of the Condominium By-Laws. Prior to, and as a condition of, the granting of its consent to the making of any such Alteration, the Commercial Board, the Condominium Board, the Residential Unit Owner or the Residential Board, as the case may be, may require the Commercial Unit Owner to execute an agreement, in form and substance satisfactory to the consenting party, setting forth the terms and conditions under which such Alteration may be made.

6.7.2 All Alterations (whether to a Unit or to any Common Element) by a Commercial Unit Owner shall be performed:

(a) at the Commercial Unit Owner's sole cost and expense (including, without limitation, the reasonable costs of the Commercial Board, the Condominium Board, the Residential Unit Owner(s) and/or Residential Board, as the case may be, incurred in reviewing and approving such Commercial Unit Owner's submission for approval (if such approval is required) and in monitoring such Commercial Unit Owner's compliance with the provisions of this Section 6.7);

(b) only after obtaining such insurance, naming the Condominium Board and the Commercial Board, and the managing agent(s) thereof, and any affected Residential Unit Owner(s) and/or Residential Board as additional insureds, as such Boards or such managing agent(s) or such Residential Unit Owner(s) may reasonably require;

(c) in compliance with the Declaration, these Commercial By-Laws, the Condominium By-Laws, the General Rules and Regulations, if any, the Commercial Rules and Regulations, if any, and all Laws (including, without limitation, those regarding licensing of contractors, obtaining of all necessary governmental permits, authorizations, certificates and licenses for the commencement and completion of any Alterations and obtaining of any amendment to the Certificate of Occupancy for such Commercial Unit, if necessary);

(d) in a manner which will not interfere with, or cause any labor disturbances or stoppages in, the work of Condominium, Commercial Section, or Residential Section's employees or other contractors or subcontractors employed in the Units or the Building; and

(e) (i) only during such days and hours as may be specified by the Commercial Board in its reasonable judgment; and (ii) employing such architects, engineers, contractors, subcontractors, suppliers and other laborers who are on the then approved list of the then Condominium Managing Agent, as such list may change from time to time, in the sole discretion of the Commercial Board or its managing agent.

The Commercial Unit Owner performing, permitting, suffering or causing such Alterations to be performed shall, if required either by the Condominium Board and/or the Commercial Board, pay the cost of: (x) any necessary amendment of the Declaration and the floor plans of the Condominium, if appropriate, to reflect any such Alterations; (y) obtaining all necessary governmental permits, authorizations, certificates and licenses for the commencement and completion of any Alterations (copies of which shall be delivered to the Commercial Board (which shall, as appropriate, also cause copies to be delivered to the Condominium Board) promptly after the issuance thereof and prior to the commencement of any Alterations), and obtaining any amendment to the Certificate of Occupancy for such Commercial Unit, if necessary; and (z) any reasonable architectural, engineering and legal fees incurred by the Condominium Board or the Commercial Board, as appropriate, in connection with such work. Neither the Condominium Board, the Commercial Board nor any Unit Owner (other than the Commercial Unit Owner making, permitting, suffering or causing any Alterations to be made in or to its Unit) shall incur any liability, cost or expense either: (1) in connection with the preparation, execution or submission of the applications referred to above; (2) to any contractor, subcontractor, supplier, architect, engineer or laborer on account of any Alterations made, or permitted or caused to be made, by any Commercial Unit Owner; (3) to any person or entity asserting any claim for personal injury or property damage arising therefrom; or (4) arising out of a Commercial Unit Owner's failure to obtain any permit, authorization, certificate or license, or to comply with the Declaration, the Condominium By-Laws, these Commercial By-Laws, the General Rules and Regulations, if any, the Commercial Rules and Regulations, if any, and the provisions of any Laws insofar as the same relates to Alterations. A Commercial Unit Owner making, or causing, permitting or suffering any tenant or occupant to make, any Alteration shall be deemed to have agreed to indemnify and hold the Condominium Board, the Commercial

Board, the managing agents thereof and all other Unit Owners harmless from and against any liability, loss, cost, or expense arising therefrom, and from and against any and all loss, cost, expense (including, but not limited to, attorneys' fees and disbursements), damage, injury or liability, whether direct, indirect or consequential, resulting from, arising out of, or in any way connected with, any of the foregoing.

6.7.3 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 an Alteration in or to any Commercial Unit shall, if and to the extent required by Law or such department or authority, be executed by the Condominium Board, the Commercial Board and/or any affected Residential Unit Owner(s) or Residential Board, in the case of an Alteration which such party has approved (or for which its approval is not required), provided that the Condominium Board, the Commercial Board, the Residential Board and the Residential Unit Owner(s) shall not incur any liability, cost or expense in connection with or by reason of executing such application.

6.7.4 Notwithstanding anything to the contrary contained in this Section 6.7 (but subject to all Laws), Project Declarant (with respect to all Commercial Units), Sponsor (with respect to Office Units only) and their designees shall each have the right pursuant (and subject) to the terms of the Declaration and Condominium By-Laws, without the approval of the Commercial Board, the Condominium Board, the Residential Board or any Residential Unit Owner: (i) to make any alterations, additions, improvements and repairs in or to any Commercial Units or Office Units, as the case may be, that it owns, whether structural or non-structural, interior or exterior, ordinary or extraordinary (including, without limitation, those required under any applicable development (or other) agreement affecting the Property, the Offering Plan, any Purchase Agreement or otherwise); and (ii) to subdivide, combine and change the boundary walls of Commercial Units or Office Units, as the case may be, that it owns. Additionally, an initial purchaser of an Unsold Commercial Unit shall have the right, without approval of the Commercial Board, to make any Alterations in or to its Unit, provided that Project Declarant or Sponsor, as the case may be, shall have expressly consented to the same in writing at or prior to the closing of title to such Unit (which consent may be withheld or conditioned in Project Declarant's or Sponsor's sole discretion, as the case may be) and that such purchaser complies with all of the other requirements of this Section 6.7.

6.7.5 In addition to the requirements set forth above in this Section 6.7, until a permanent Certificate of Occupancy is obtained for the Building, no Commercial Unit Owner shall make any Alterations in or to its Commercial Unit without first notifying Project Declarant (with respect to all Commercial Units) or Sponsor (with respect to Office Units only) of the same in writing and complying with the requirements of Project Declarant and Sponsor, as the case may be, with respect to the same. Such requirements may include, but need not be limited to, the following:

(a) such work not include any change that would result in a delay in obtaining a temporary or permanent Certificate of Occupancy for the Commercial Section and/or the Building, or any amendment to, or extension of, the same if theretofore issued;

(b) such Commercial Unit Owner post a bond or other similar security that is reasonably acceptable to Project Declarant or Sponsor in an amount sufficient (in Project

Declarant's or Sponsor's reasonable judgment) to insure the diligent completion of the work and the filing of any required notices or certificates with respect to such work and the completion of the same with all governmental authorities having jurisdiction;

(c) such work not be commenced until such Commercial Unit Owner causes all required plans, specifications, notices and/or certifications to be filed with all governmental authorities having jurisdiction, procures all required permits and licenses with respect to the same, and delivers copies of all such plans, specifications, notices, certifications, permits and licenses to Sponsor;

(d) such work be diligently prosecuted to completion in compliance with all plans, specifications, notices and/or certifications and in conformity with all permits and licenses;

(e) Project Declarant and Sponsor and their representatives be given reasonable opportunity, from time to time, to inspect such work as it progresses;

(f) promptly after the completion of such work, all necessary inspections and approvals of the same be obtained, all necessary notices and/or certifications be filed with the appropriate governmental authorities and Project Declarant and Sponsor each be given a copy of all such inspections, approvals, notices and certifications;

(g) such Commercial Unit Owner indemnify and hold Project Declarant and Sponsor harmless from any cost, expense, claim, or liability arising, directly or indirectly, from such work, including, without limitation, any cost, expense, claim or liability incurred or suffered by any of them due to any delay in obtaining a temporary or permanent Certificate of Occupancy for the Building (or any amendment to, or extension of, the same if theretofore issued) as a result of such work or the failure to timely make all appropriate governmental filings in connection with the same; and

(h) all contractors shall be duly licensed to the extent required by applicable Laws and, if required under any contract with any union whose members are performing services at the Building (including, without limitation, services directly or indirectly at the behest, for the benefit, or for the account of Project Declarant, Sponsor, any other Unit Owner, the Condominium Board, the Residential Board or the Commercial Board), such work shall be performed solely by union members.

If any Commercial Unit Owner commences any such Alterations in violation of the foregoing terms and conditions of this subsection 6.7.5, or fails to comply with the requirements of Project Declarant and/or Sponsor in connection with the same, Project Declarant and/or Sponsor shall be entitled to cause such work by such Commercial Unit Owner to be halted, including, without limitation, causing the managing agent to deny access to the Building to such Commercial Unit Owner's workers and suppliers, until such Commercial Unit Owner so complies. During the period until such Commercial Unit Owner is permitted hereunder to resume its work, Project Declarant and/or Sponsor shall have the right to cause to be performed (whether by Project Declarant, Sponsor or otherwise) any and all work in and to such Commercial Unit Owner's Unit as shall be necessary, in such party's sole judgment, in order to

avoid any delay in obtaining a temporary or permanent Certificate of Occupancy for the Building (or any amendment to, or extension of, the same if theretofore issued), whether or not such work shall be in compliance with the plans and specifications for the work theretofore performed by, or on behalf of, such Commercial Unit Owner. The cost and expense of any such work so performed shall be borne by such Commercial Unit Owner and shall be paid to Project Declarant and/or Sponsor, as designated by such parties, within fifteen (15) days following written demand therefor.

6.7.6 In the event that a dispute arises between any Commercial Unit Owner and the Condominium Board, the Residential Board or the Commercial Board, as the case may be, regarding any Alteration subject to the approval of either such Board (including, without limitation, the determination of whether any work constitutes an Alteration subject to the approval of only such Board), or if a dispute arises between a Commercial Unit Owner and Project Declarant and/or Sponsor in respect of subsection 6.7.5, such dispute shall be submitted to Arbitration, provided that the parties shall cause such Arbitration to proceed in an expedited manner.

6.7.7 References in this Section 6.7 to Alteration shall also include, as the context requires but otherwise subject to the Declaration, Condominium By-Law and these By-Law, any Repairs.

6.8 Alterations to Commercial Limited Common Elements. Except as otherwise provided in the Declaration, the Condominium By-Laws or these Commercial By-Laws, all Alterations in or to any Commercial Limited Common Elements shall be made by the Commercial Board or by the Commercial Unit Owner(s) required to maintain and repair such Commercial Limited Common Element and the cost thereof shall be charged either to all Commercial Unit Owners as a Commercial Common Expense in the proportion that their respective Common Interests bear to the aggregate Common Interests of all Commercial Unit Owners, or to the Commercial Unit Owner(s) responsible therefor, as the case may be. Whenever the cost of any such Alterations chargeable to the Commercial Board is capital in nature and would, in the judgment of the Commercial Board, exceed $100,000 (subject to increase by the CPI Increase Factor) in any calendar year or $250,000 in the aggregate (subject to increase by the CPI Increase Factor), then such proposed Alteration shall not be made unless first approved by a majority in number and Common Interest of Commercial Unit Owners, including Project Declarant and/or Sponsor, required to bear the cost and expense thereof in accordance with the foregoing and by the Registered Mortgagees and a majority of the Office Mortgagee Representatives, if any; provided that if the aforesaid is in the nature of a non-capital repair or is necessary to comply with Laws, or to remedy any violation imposed against the Property, or a proper work order of an insurer of the Property, or for the health or safety (but not the general comfort or welfare) of the residents or occupants of the Property, such consent shall not be required. In any such event, the Commercial Board may, in its direction, assess each Commercial Unit Owner liable therefor for its pro-rata share of the cost of such Alterations, according to its respective Common Interest, as part of the Commercial Common Charges. Any Alterations costing the amounts set forth above or less, in the aggregate, in any calendar year may be made by the Commercial Board without the approval of the Commercial Unit Owners, the Registered Mortgagees or the Office Mortgagee Representatives.

6.9 Use of Commercial Units. Subject to compliance with all Laws, including, without limitation, the certificate of occupancy for such Unit and any applicable zoning regulations, and except as otherwise provided herein, in the Declaration and in the Condominium By-Laws, each Commercial Unit may be used and operated for any legally permitted purpose. Article 8 of the Declaration provides that none of the Commercial Units may be used as a pornography store, massage parlor (except that in the Club Unit massage therapy and spa-type services are permitted provided that any such areas or facilities are maintained in a reputable manner), drug treatment facility or homeless shelter. No income derived from any use of such Non-Office Commercial Units will constitute income to the Condominium Board, the Residential Board, the Commercial Board, the Residential Unit Owners or the Office Unit Owners (except as may be expressly provided in the Condominium By-Laws or Commercial By-Laws to the contrary or pursuant to separate written agreement by or among the applicable parties).

6.10 Use of Commercial Limited Common Elements.

6.10.1 Except as otherwise provided herein, in the Condominium By-Laws or in the Declaration, Commercial Limited 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.

6.10.2 In no event shall any Commercial Unit Owner impair, restrict or impede the use of the Common Elements by any other Unit Owner(s) having a right thereto (including, without limitation, the Commercial Unit Owners) or anyone claiming by, through or under any other Unit Owner(s), including, but not limited to, the tenants and occupants of the Residential Section and their respective licensees or invitees.

6.10.3 Notwithstanding the foregoing subsections of this Section:

(a) the owner or owners of any one or more Commercial Units, which Commercial Unit or Units are the only Commercial Unit or Units serviced or benefited by any Commercial Limited Common Element adjacent or appurtenant thereto (for example, that portion at the end of any hallway which is directly adjacent to any such Commercial Units located on opposite sides of such hallway) and not affecting access or service (including, without limitation, heating, ventilating and air-conditioning) to any other Unit or to any other portion of the Common Elements shall, to the extent permitted by applicable Law and subject to the consent of the Commercial Board (which consent may be granted or withheld in the Commercial Board's sole discretion and shall not be required if such Commercial Unit Owner or Owners shall be Project Declarant or Sponsor or such Units shall be Unsold Office Units), have the exclusive right to use that portion of the Commercial Limited Common Elements as if it were a part of such Commercial Units (including the right, in the above example of a portion of a hallway, to enclose such portion) and no amendment to the Declaration nor reallocation of Common Interests shall be made by reason thereof; provided, however that, notwithstanding the provisions of Section 6.1 hereof, such Commercial Unit Owner or Owners, at their sole cost and expense: (a) shall be responsible for the operation, maintenance and repair of that portion of the Commercial Limited Common Elements for so long as such Commercial Unit Owner or Owners exercise such exclusive right of use; and (b) shall restore that portion of the Commercial Limited

Common Elements to its original condition, reasonable wear and tear excepted, after such Commercial Unit Owner or Owners cease to exercise such exclusive right of use; and

(b) Project Declarant (with respect to Unsold Commercial Units), Sponsor (with respect to Unsold Office Units only) or any owner of such Units shall have the right, until the tenth anniversary of the First Residential Closing, to use portions of the Commercial Section, without charge, for exhibitions or other promotional functions with respect to a sales program in respect of such Units or otherwise.

6.10.4 Notwithstanding the foregoing, elevator landings which serve a single Commercial Unit may be decorated and/or furnished by the applicable Commercial Unit Owner as they desire, at their expense, provided that such Commercial Unit Owner consents in writing thereto, and the Commercial Board gives its written consent to such decoration and/or furnishing, which consent of the Commercial Board may granted or withheld in such board's sole discretion. After an elevator landing is decorated and/or furnished by the Commercial Unit Owner serviced by the same, the owner of such Commercial Unit, and not the Commercial Board, will be responsible for keeping the decor and furnishings in a first class condition and state of repair and performing, at its own expense, all repairs and maintenance necessary or desirable in order to accomplish the same.

6.11 General Provisions as to Use.

6.11.1 No nuisance shall be allowed in the Commercial Section nor shall any use or practices be allowed in the Commercial Section which interfere with the peaceful possession or proper use thereof by its occupants. No unlawful use shall be made of the Commercial Section or any portion thereof. All Laws relating to any portion of the Commercial Section shall be complied with at the sole expense of whichever of the Unit Owners or the Commercial Board or the Condominium Board shall have the obligation to maintain or repair such portion. In no event may all or any portion of the Commercial Section be used for any pornographic purpose or as an adult book, video or paraphernalia store, peep show or adult entertainment facility.

6.11.2 The Commercial Board may, in its sole discretion, grant permission for the use of a Commercial Unit for a use other than its original intended use, provided such use is permitted by Law, does not violate the then existing Certificate of Occupancy for such Unit, the Declaration, these Commercial By-Laws or the Condominium By-Laws, and the Commercial Unit Owner thereof complies with all applicable Laws. For so long as there remain any Unsold Commercial Units, the consent of Project Declarant (with respect to Unsold Commercial Units), Sponsor (with respect to Unsold Office Units only) or their respective designees as owner of such Unsold Unit(s) shall also be required in connection with any such changed use of any such Unit.

6.11.3 Project Declarant (with respect to Unsold Commercial Units) and Sponsor (with respect to Unsold Office Units only), without the permission of the Commercial Board, may: (a) use or grant permission for the use of any Unsold Commercial Unit or Unsold Office Unit for any purpose, provided such use is permitted by Law, does not violate the then existing Certificate of Occupancy for such Commercial Unit and the user of such Commercial Unit complies with all applicable Laws; (b) use any one or more Unsold Commercial Units or Unsold

Office Units as sales and/or leasing offices in connection with the sale or rental of the Commercial Units or for any other purpose, subject only to compliance with applicable Laws; and (c) lease Unsold Commercial Units to any party(ies).

6.12 Right of Access.

6.12.1 Each Commercial Unit Owner grants a right of access to its Commercial Unit to the Commercial Board and the Condominium Board, the managing agents, superintendents and/or any other person authorized by any of the foregoing, for the purposes, among others, of: making inspections of, or removing violations noted or issued by any governmental authority against, the Common Elements or any other part of the Property; curing defaults hereunder or under the Declaration, the Condominium By-Laws, the Commercial Rules and Regulations, if any, or the General Rules and Regulations, if any, by such Commercial Unit Owner or correcting any conditions originating in its Commercial Unit and having a reasonable likelihood of causing damage to another Unit or all or any part of the Common Elements; performing maintenance, installations, alterations, repairs or replacements to the mechanical, plumbing or electrical services or other portions of the Common Elements within its Commercial Unit or elsewhere in the Building; reading, maintaining or replacing utility meters relating to the Common Elements, its Commercial Unit or any other Unit in the Building; or correcting any condition which violates the provisions of any Registered Mortgage or Permitted Office Mortgage covering another Unit; provided that (a) requests for entry to any Commercial Unit are made not less than one (1) day in advance, and (b) any such right shall be exercised in such a manner as will not unreasonably interfere with the use of the Commercial Units for their permitted purposes. In case of an "emergency", as defined in subsection 6.6.4, such right of entry shall be immediate, without advance notice, whether or not the Commercial Unit Owner or tenant or occupant is present.

6.12.2 Each Commercial Unit Owner grants a right of access to its Commercial Unit and any Commercial Limited Common Elements appurtenant thereto, and the Commercial Board grant rights of access to the Commercial Limited Common Elements to Project Declarant and Sponsor, and their contractors, subcontractors, agents and employees, for the purpose of complying with and fulfilling each such party's obligations as set forth in the Offering Plan and other documents relating to the construction, development and operation of the Property, provided that access thereto shall be exercised by such party, with respect to any Commercial Unit or appurtenant Commercial Limited Common Element, in such a manner as will not unreasonably interfere with the use of such Commercial Unit and/or Commercial Limited Common Element for its or their permitted purposes.

6.13 Commercial Rules and Regulations. The Commercial Board may adopt rules and regulations (the "Commercial Rules and Regulations") concerning the use of the Commercial Units and the Commercial Limited Common Elements, and from time to time modify, amend or add to such Commercial Rules and Regulations, except that: (x) a majority vote (by Common Interest) of Commercial Unit Owners may overrule the Commercial Board with respect to any such modifications, amendments or additions; and (y) no adoption, modification, amendment or addition affecting Project Declarant or Sponsor or the Unsold Commercial Units may be made unless agreed to, in writing, by Project Declarant and/or Sponsor, or by all the owners of such Unsold Commercial Units who are affected by such adoption, modification, amendment or

addition, as the case may be. Copies of any newly adopted Commercial Rules and Regulations, or any modifications, amendments or additions thereto shall be furnished by the Commercial Board to each Commercial Unit Owner not less than thirty (30) days prior to the effective date thereof.

6.14 Water Charges, Sewer Rents and Real Estate Taxes.

6.14.1 Water and sewer services for the Commercial Section shall be supplied by the City of New York or other utilities servicing the Property. Unless and until water charges and sewer rents are billed directly to Commercial Unit Owners by the proper authority, the Commercial Board shall promptly pay such charges, together with all related sewer rents arising therefrom, and allocated as a Commercial Common Expense among the Unit Owners, or the Commercial Unit Owners, as applicable, as reasonably determined by the Commercial Board, based on Common Interests, and the Commercial Unit Owners shall be required to reimburse the Commercial Board, as a Commercial Common Charge, for their share of such charges and rents. Notwithstanding the foregoing, water charges for each tenant of the Retail Units shall be monitored by separate electric submeters. Each tenant shall be required to pay bills for water consumed or used in its Retail Unit (or portion thereof) directly to Con Edison or such other utility company/ies or supplier(s) from time to time serving the Property.

6.14.2 Until the Units are separately assessed and billed for real estate tax purposes, the Condominium Board will pay all real estate taxes with respect to the Property to the Department of Finance of The City of New York (or directly to Project Declarant if Project Declarant has paid such taxes) and allocate the cost thereof among the Commercial Section and the Residential Section in the manner provided in the Condominium By-Laws. The Commercial Board shall, no later than the later to occur of (x) fifteen (15) days after receipt of notice of such allocated amount from the Condominium Board or (y) thirty (30) days prior to the date such taxes are due to The City of New York, pro-rate the share of the Property's real estate taxes so allocated to the Commercial Section among the individual Commercial Units on the basis of each Commercial Unit's proportionate Common Interest, and give notice to each Commercial Unit Owner of the amount payable by such Unit Owner. Each Commercial Unit Owner will then, no later than the later to occur of (i) fifteen (15) days after receipt of notice of such pro-rated amount from the Commercial Board or (ii) fifteen (15) days prior to the date such taxes are due to The City of New York, pay to the Commercial Board its pro-rated share, which amount shall for all purposes constitute part of the Commercial Common Charges payable by such Unit Owner, and the Commercial Board will forward all such amounts, plus any additional amount necessary so that the total shall equal the total amount allocated the Commercial Section, to the Condominium Board no later than five (5) business days prior to the date such taxes are due to The City of New York or shall at the direction of the Condominium Board timely pay the same to the appropriate taxing authority on the Condominium Board's behalf. A Commercial 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.

6.14.3 The Commercial Board shall (or shall cause the Condominium Board on its behalf to) commence, pursue, compromise and settle certiorari proceedings to obtain reduced real estate tax assessments with respect to any or all of the Commercial Units on behalf of and as agent for the respective Commercial Unit Owners thereof; but only with respect to such

Commercial Units as to which the respective Unit Owners thereof have, in writing requested and authorized the Commercial Board to do so, and indemnified the Commercial Board from and against all claims, costs and expenses (including, without limitation, attorneys' fees) resulting from such proceedings. All Commercial Unit Owners making such request to the Commercial Board will share the costs in connection therewith in proportion to the benefits derived therefrom by such Commercial Unit Owners. In the event any Commercial Unit Owner individually seeks to have the assessed valuation of its Unit reduced by bringing a separate certiorari proceeding, the Commercial Board, if necessary for such proceeding, will execute any documents or other papers required for, and otherwise cooperate with such Commercial Unit Owner in pursuing, such reduction, provided that such Commercial Unit Owner indemnifies the Commercial Board from all claims, costs and expenses (including, without limitation, attorneys' fees and expenses) resulting from such proceedings.

6.15 Electricity. Electricity will be provided to the Building by Con Edison or other utility company/ies or supplier(s) from time to time serving the Property and submetered to each Commercial Unit, except with respect to the Retail Units, in which case electricity for each tenant shall be supplied through separate electric meters. Subject to Section 6.4.1 of the Condominium By-Laws, the Owner of each Commercial Unit shall pay for such electricity to the Commercial Board, and the Commercial Board shall be responsible for paying the utility company for the Commercial Section meter and collecting from the Commercial Unit Owners based on the Commercial Unit submeters, except with respect to each Retail Unit Owner (or tenant), which shall be required to pay bills for electricity consumed or used in its Retail Unit (or portion thereof) directly to Con Edison or such other utility company/ies or supplier(s) from time to time serving the Property. Consumption with respect to the Commercial Limited Common Elements will be determined by a separate meter and allocated by the Commercial Board among the Commercial Units on the basis of percentage of Common Interest.

6.16 Gas. Gas will be provided to the Building by Con Edison. Gas for the Commercial Section will be paid for by the Commercial Board. The charges for any other gas utilized at the Commercial Section shall be paid by the Commercial Board as a Commercial Common Expense and allocated among the Commercial Units on the basis of percentage of Common Interests.

6.17 Steam. Steam will be provided to the Building by Con Edison. Steam for the Building shall be purchased by the Condominium Board from Con Edison in bulk. The charges for any other steam utilized at the Commercial Section shall be paid by the Commercial Board as a Commercial Common Expense and allocated to the Commercial Units on the basis of percentage of Common Interests.

6.18 Dispute as to Utilities Charges. In the event that there is a dispute as to the accuracy of assessing the charges for a utility upon the basis of usage, and the disputing Commercial Unit Owners and/or the Commercial Board fail to agree on a manner to accurately allocate such costs, the matter shall be determined by Arbitration.

6.19 Remedies for Violations of By-Laws or Rules and Regulations.

6.19.1 The violation by any Commercial Unit Owner of any of the Commercial Rules and Regulations, if any (or the General Rules and Regulations, if any) or the breach of any of these Commercial By-Laws or the Condominium By-Laws, or the breach of any provision of the Declaration, shall give: (a) the Condominium Board with respect to matters affecting the Condominium By-Laws or the General Common Elements, (b) the Residential Board with respect to matters affecting these Residential By-Laws or the Section, and (c) the Commercial Board, with respect to matters affecting the Commercial Section, the Commercial Limited Common Elements appurtenant thereto or the General Common Elements affecting the use of its Section, the right, in addition to any other rights set forth in these Commercial By-Laws, the Condominium By-Laws or the Declaration: (i) to enter any Commercial Unit or Common Elements in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Commercial Unit Owner, any structure, thing or condition resulting in such violation or breach, provided that the Commercial Unit Owner is given reasonable notice (which may be by telephone or telecopier) that such violation or breach exists and, as the case may be, that abatement, removal, Repairs or Alterations are necessary, and such entry and cure shall not constitute or give rise to any guilt or liability in any matter of trespass, and/or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach, provided that the Commercial Unit Owner is given reasonable notice (which may be by telephone or telecopier) that such violation exists and that repairs, replacements or alterations are necessary, and/or (iii) to have its costs and expenses by reason of such breach or violation repaid to it, and/or (iv) if the party seeking to remedy a breach is the Commercial Board, to levy such fines and penalties as the Commercial Board may deem appropriate, and the Commercial Board shall have the same remedies for non-payment of such fines and penalties as for non-payment of Commercial Common Charges.

6.19.2 The violation or breach of any of the provisions of these Commercial By-Laws, the Condominium By-Laws, the Commercial Rules and Regulations, if any, the General Rules and Regulations, if any, or the Declaration with respect to any rights, easements, privileges or licenses granted to Project Declarant and/or Sponsor shall give to such parties the right, in addition to any other rights set forth in these Commercial By-Laws, the Condominium 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.

6.20 Utility Costs Payable as Commercial Common Charges. All amounts payable to the Commercial Board by the Commercial Unit Owners in respect of utilities shall be considered and payable as Commercial Common Charges and subject to, among other things, the Commercial Board's lien for unpaid Commercial Common Charges.

## ARTICLE 7

## MORTGAGES

7.1 Notice to Commercial Board. Each Office Unit Owner shall have the right to mortgage its Office Unit, subject only to the terms and conditions set forth in this Article 7. An Office Unit Owner which mortgages its Unit shall notify the Commercial Board of the name and

address of the mortgagee, file a conformed copy of the note and mortgage with the Commercial Board and, prior to making such mortgage, satisfy all unpaid liens against its Unit other than Permitted Office Mortgages. An Office Unit Owner who satisfies a mortgage covering its Unit shall so notify the Commercial Board and shall file a conformed copy of the satisfaction of mortgage with the Commercial Board. Further, Non-Office Commercial Unit Owner shall be required to deliver to the Commercial Board a copy of any notice that such Unit Owner is required to give to the Condominium Board pursuant to Section 13.3 of the Condominium By-Laws in connection with the mortgaging of its Unit.

7.2 Notice to Mortgagees.

7.2.1 Unpaid Commercial Common Charges. The Commercial Board shall promptly report to such Permitted Office Mortgagee any sixty (60) day default in the payment of Commercial Common Charges by the Unit Owner of such Office Unit. In addition, whenever so requested in writing by a Permitted Office Mortgagee, the Commercial Board shall also promptly report to such Permitted Office Mortgagee any other default by the Commercial Unit Owner of such Office Unit of which the Commercial Board has given notice to such Office Unit Owner. The Commercial Board, when giving notice to an Office Unit Owner of any such default, shall also send a copy of such notice to any Permitted Office Mortgagee thereof, if so requested in writing by such Permitted Office Mortgagee; however, the Commercial Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Office Mortgagee of any default by its mortgagor described above, provided that the Commercial Board shall advise such Permitted Office Mortgagee of the default promptly after discovering such failure.

7.2.2 Material Casualty or Condemnation. Whenever so requested in writing by a Permitted Office Mortgagee, the Commercial Board shall promptly report to such Permitted Office Mortgagee any condemnation or casualty loss that affects (a) a material portion of the Commercial Section or (b) the Office Unit encumbered by such Permitted Office Mortgagee's mortgage; however, the Commercial Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Office Mortgagee of such casualty or condemnation, provided that the Commercial Board shall advise such Permitted Office Mortgagee of such casualty or condemnation promptly after discovering such failure.

7.2.3 Cancellation or Material Modification of Insurance Policy. Whenever so requested in writing by a Permitted Office Mortgagee, the Commercial Board shall promptly report to such Permitted Office Mortgagee any lapse, cancellation, or material modification of any insurance policy required to be held by the Commercial Board under these Commercial By-Laws or the Condominium By-Laws; however, the Commercial Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Office Mortgagee of such cancellation or material modification, provided that the Commercial Board shall advise such Permitted Office Mortgagee of such cancellation or material modification promptly after discovering such failure.

7.2.4 Actions Requiring Consent of Office Mortgagee Representatives. Whenever so requested in writing by a Permitted Office Mortgagee, the Commercial Board shall promptly report to such Permitted Office Mortgagee any proposed action which requires the

consent of any Office Mortgagee Representative; however, the Commercial Board shall have no liability for any failure, through oversight or negligence, in notifying a Permitted Office Mortgagee of such proposed action, provided that the Commercial Board shall advise such Permitted Office Mortgagee of such proposed action promptly after discovering such failure.

7.3 Performance by Permitted Office Mortgagees. The Commercial Board shall accept payment of any sum of money or performance of any act by any Permitted Office Mortgagee of an Office Unit Owner required to be paid or performed by such Commercial Unit Owner pursuant to the provisions of the Declaration, these Commercial By-Laws, the Condominium By-Laws, the Commercial Rules and Regulations, if any, or the General Rules and Regulations, if any, with the same force and effect as though paid or performed by such Office Unit Owner.

7.4 Examination of Books. Each Office Unit Owner and Permitted Office Mortgagee shall be permitted to examine the books of account of the Commercial Section upon reasonable prior notice, at reasonable times on business days, but not more frequently than once a month.

7.5 Representatives of Office Mortgagees.

7.5.1 The holders of Permitted Office Mortgages constituting a majority of the outstanding principal amount of all Permitted Office Mortgages encumbering the Office Units may, at their election, designate in writing to the Commercial Board one (1) or more (but not more than three (3)) representatives ("Office Mortgagee Representatives"), which Office Mortgagee Representatives shall be empowered to act on behalf of all holders of Permitted Office Mortgages encumbering the Office Units with respect to any matter requiring their consent or approval under the Declaration, these Commercial By-Laws or as applicable the Condominium By-Laws. If any of the Office Mortgagee Representatives are so designated and notice thereof is given to the Commercial 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 Permitted Office Mortgages encumbering the Office Units.

7.5.2 Any designation of an Office Mortgagee Representative shall remain effective until a subsequent designation is made pursuant to the provisions hereof and notice of such subsequent designation is given to the Commercial Board.

7.6 Consent of Mortgagees. Except as otherwise expressly provided for herein, in the Condominium By-Laws or in the Declaration, no consent or approval by any mortgagee shall be required with respect to any determination or act of the Commercial Board or any Office Unit Owner; provided, however, that nothing contained herein shall be deemed to limit or affect the rights of any mortgagee against its mortgagor.

7.7 Mortgaging Non-Office Commercial Units; Registered Mortgages; Rights of Registered Mortgagees. The terms of Section 13.3 of the Condominium By-Laws are incorporated herein by reference and shall govern with respect to the right of Non-Office Commercial Unit Owners to mortgage their respective Units, the treatment of Registered Mortgages and the rights and obligations of Registered Mortgagees.

## ARTICLE 8

## SELLING AND LEASING AND MORTGAGING OF COMMERCIAL UNITS

8.1 Sales, Leases and Mortgages of Non-Office Commercial Units. Subject to the provisions of Section 13.3 of the Condominium By-Laws and Article 7 hereof, each Non-Office Commercial Unit Owner with respect to its respective Unit may, without the prior consent of any Board, Unit Owner or any other Person but subject to compliance with all Laws, the Condominium Documents, sell, assign or otherwise transfer, lease or encumber its Unit (whether by merger, consolidation, sale, lease, mortgage, assignment or otherwise, but subject to the restrictions on use and leasing provided herein or in the Declaration); provided, however, that: (i) no lien to secure repayment of any sum borrowed may be created on any other Unit without the prior written consent of the owner of such other Unit or on any of the Common Elements (as opposed to the applicable Unit Owner's undivided interest therein) without the prior written consent of all affected Boards and Unit Owners; and (ii) no Unit Owner (other than such borrowing Unit Owner), nor any Board, will be liable for repayment of any portion of any such loan, unless all such Unit Owner(s) and Boards, as applicable, otherwise so agree in writing.

8.2 Sales and Leases of Office Units. No Office Unit Owner (other than Sponsor or its designee or the owner of any Unsold Office Unit(s)) may sell or lease its Unit except in compliance with the provisions of this Article 8. Subject to the terms of Section 8.7 hereof, each Office Unit Owner may sell his or her Office Unit, or lease his or her Office Unit for a minimum term of one (1) year, in each instance, provided that no Office Unit Owner (other than Project Declarant or Sponsor) may sell or lease its Office Unit except by complying with the provisions of this Article 8 and, specifically, this Section 8.2. Only an entire Office Unit may be leased.

8.2.1 (a) Subject to the terms of Section 8.8, any contract to sell an Office Unit, together with its appurtenant Common Interest, or any lease of an Office Unit (collectively, the "Sale Agreement or Lease") shall contain the following provision: "This Agreement, and the rights and obligations of the parties hereunder, are hereby expressly subject to the right of first refusal of the Condominium Board of 432 Park Condominium in respect of the transaction described herein, pursuant to the terms of Article 8 of the Commercial By-Laws of 432 Park Condominium." (The Office Unit Owner who has entered into a Sale Agreement or Lease is herein referred to as the "Offeree Unit Owner" and the prospective purchaser or tenant is herein referred to as the "Outside Offeror.")

(b) Promptly after a Sale Agreement or Lease has been fully executed, the Offeree Unit Owner shall send written notice thereof to the Condominium Board, by certified or registered mail, return receipt requested, or by reputable courier providing overnight delivery; such notice shall be accompanied by a fully completed application package, which the Offeree Unit Owner shall obtain from the Condominium Managing Agent, together with a fully executed duplicate original of the Sale Agreement or Lease and any and all related agreements, containing all of the terms offered in good faith by the Outside Offeror. The giving of such notice to the Condominium Board shall constitute an offer by the Offeree Unit Owner to sell its Office Unit, together with its appurtenant Common Interest, or to lease its Office Unit, as the case may be, to the Condominium Board, or its designee (corporate or otherwise), on behalf of all Unit Owners, upon the same terms and conditions as contained in such Sale Agreement or Lease, and shall also

constitute a representation and warranty by the Offeree Unit Owner to the Condominium Board, on behalf of all Unit Owners, that such Sale Agreement or Lease is bona fide in all respects and contains the complete terms of the transaction. The Offeree Unit Owner shall promptly submit in writing such further information with respect thereto as the Condominium Board may reasonably request. The Condominium Board may, by sending written notice, by certified or registered mail, return receipt requested, or by reputable courier providing overnight delivery, to such Offeree Unit Owner not later than twenty (20) days after receipt of such notice, or if further information has been requested, then not later than twenty (20) days after receipt thereof, elect to purchase such Office Unit, together with its appurtenant Common Interest, or elect to lease such Office Unit, as the case may be (or to cause the same to be purchased or leased by its designee), on behalf of all Unit Owners, upon the same terms and conditions as contained in the Sale Agreement or Lease, as such terms and conditions may be modified or supplemented by any additional information provided by and as stated in and supplemented or amended by the Offeree Unit Owner's response(s) to requests by the Condominium Board for further information, as provided for above.

8.2.2 If the Condominium Board shall timely elect to purchase such Office Unit, together with its appurtenant Common Interest, or to lease such Office Unit, as the case may be, or to cause the same to be purchased or leased by its designee, title shall close or a lease shall be executed at the office of the attorneys for the Condominium Board, in accordance with the terms of the Sale Agreement or Lease, within sixty (60) days after the giving of notice by the Condominium Board of its election to accept such offer. However, if the closing date of the purchase or the commencement date of the term of the lease, as the case may be, set forth in the Sale Agreement or Lease shall be later than sixty (60) days after the giving of notice by the Condominium Board of its election to accept the aforesaid offer, the Condominium Board shall be required to perform or cause to be performed all of the terms of the Sale Agreement or Lease to be performed by the Outside Offeror (except as otherwise expressly set forth in this Article 8), including, but not limited to, payment of a down payment or advance rentals and security deposits, or closing of title or acceptance of occupancy, as the case may be, and such closing of title or the commencement of the term of the lease shall be on the date set forth in the Sale Agreement or Lease as the intended closing date or commencement date, as the case may be. If, pursuant to such Sale Agreement or Lease, the Outside Offeror was to assume or take title to the Unit subject to the Offeree Unit Owner's existing mortgage or mortgages, in the case of a sale, the Condominium Board may purchase the Office Unit and assume or take title to the Office Unit subject to said existing mortgage or mortgages, as the case may be. At the closing, the Offeree Unit Owner, if such Office Unit (together with its appurtenant Common Interest) is to be sold, shall convey the same to the Condominium Board, or its designee, on behalf of all Unit Owners, by deed in the form required by Section 339-o of the Real Property Law of the State of New York. Real estate taxes (including water charges and sewer rents, if separately assessed), mortgage interest, if applicable, Commercial Common Charges and rent, if applicable, shall be apportioned between the Offeree Unit Owner and the Condominium Board, or its designee, as of the closing date. In the event such Office Unit is to be leased, the Offeree Unit Owner shall execute and deliver to the Condominium Board, or its designee, a lease between the Offeree Unit Owner, as landlord, and the Condominium Board, or its designee, as tenant, covering such Office Unit, for the rental and term contained in the lease.

8.2.3 In the event the Condominium Board or its designee shall fail to accept such offer within twenty (20) days after receipt of notice and all other documents and information to be provided under this Article 8 (including any additional information requested by the Condominium Board as provided in Section 8.2.1(b) above), or waives such election in writing within such twenty- (20) day period, the Offeree Unit Owner shall have an additional sixty (60) days after the earlier of the expiration of such twenty- (20) day period or waiver in writing by the Condominium Board, as the case may be (or such later date for closing or occupancy provided in the Sale Agreement or Lease, as applicable) to consummate the transaction set forth in the Sale Agreement or Lease. In the event the Offeree Unit Owner shall not, within such sixty- (60) day period (or such later date for closing or occupancy provided in the Sale Agreement or Lease, as applicable), so consummate the transaction, or should the terms of the Sale Agreement or Lease be amended or modified in any way (whether orally, in writing or by a side agreement) to be on terms less favorable to the Offeree Unit Owner, then the Offeree Unit Owner shall be required to again comply with all the terms and provisions of this Section 8.1.

8.2.4 Any deed to an Outside Offeror shall expressly provide that the acceptance thereof by the grantee shall constitute an assumption of all of the provisions of the Declaration, the Condominium By-Laws, these Commercial By-Laws, the Commercial Rules and Regulations, if any, and the General Rules and Regulations, if any, in each case as the same may be amended from time to time, and, in the absence of such express language, the same shall be conclusively deemed to have been included therein.

8.2.5 Any lease to an Outside Offeror shall be consistent with these Commercial By-Laws and shall provide that it may not be modified, amended, extended or assigned without the prior consent in writing of the Condominium Board, that the tenant shall not assign its interest in such 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 shall have 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: (i) a default by the tenant in the performance of its obligations under such lease or a default by or caused by such tenant under any of the provisions of these Commercial By-Laws or the Condominium By-Laws; or (ii) a foreclosure of the lien granted by Section 339-z of the Real Property Law of the State of New York, the Declaration, these Commercial By-Laws, the Condominium By-Laws or otherwise. Such lease shall also provide that it is and shall be subject and subordinate to the Declaration, these Commercial By-Laws, the Condominium By-Laws, the Commercial Rules and Regulations, if any, and the General Rules and Regulations, if any.

8.2.6 Except as hereinbefore set forth, the form and substance of any such lease executed by the Condominium Board or an Outside Offeror shall be the then current form of lease approved by the Condominium Board (as the same may be changed from time to time). Any lease executed by the Condominium Board as tenant shall provide that the Condominium Board may enter into a sublease of the demised premises without the consent of the landlord and without paying to the landlord any portion of the rent received from the subtenant.

8.2.7 If an Office Unit Owner is a corporation, any sale, assignment, transfer or other disposition of any of its stock, or if an Office Unit Owner is a partnership, limited liability

company or other entity, any sale, assignment, transfer or other disposition of any interest in such partnership, company or other entity, in each case, other than through any recognized national securities exchange or "over-the-counter" market, which results in a change in the majority beneficial or legal ownership of such entity, shall also subject the Office Unit owned by such entity to the requirement that the Office Unit first be offered to the Condominium Board, as described in this Section 8.2.

8.2.8 Any purported sale or lease of an Office Unit in violation of this Section 8.2 shall be voidable at the election of the Condominium Board and if the Condominium Board shall so elect, the Office Unit Owner shall be deemed to have authorized and empowered the Condominium Board to institute legal proceedings to eject or evict the purported purchaser or tenant, as the case may be, in the name of said Office Unit Owner as the purported seller or landlord, as the case may be. Said Office Unit Owner shall reimburse the Condominium Board for all expenses (including attorneys' fees and expenses) incurred in connection with such proceedings, promptly upon demand therefor. In no event shall any purported sale or lease of an Office Unit in violation of this Section 8.2 release the Office Unit Owner which is the purported seller or lessor, as the case may be, from any of its obligations under the Declaration, the Condominium By-Laws, these Commercial By-Laws, whether or not such sale or lease is voided by the Condominium Board.

8.2.9 The Condominium Board shall have the right to impose a fee in connection with any waiver of its right of first refusal pursuant to this Section 8.2, either with respect to a sale or a lease of an Office Unit; provided, however, that no fee shall assessed in connection with a renewal of a lease of an Office Unit, which lease the Condominium Board previously waived its right of first refusal pursuant to this Section 8.2.

8.3 Consent of Unit Owners to Purchase or Lease of Office Units by Condominium Board. Subject to the terms of these Commercial By-Laws, the Condominium Board may exercise or waive any option hereinabove set forth to purchase or lease any Office Unit without the prior approval of the Unit Owners.

8.4 No Severance of Ownership. No Commercial Unit Owner shall execute any mortgage or other instrument conveying or mortgaging title to its Commercial Unit, as applicable, without including therein its entire Common Interest appurtenant to such Unit. Any such mortgage or deed 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. Nothing in this Section 8.2 shall prohibit the lease of all or any portion of a Commercial Unit without the simultaneous lease of its appurtenant Common Interest.

8.5 Release by Condominium Board of Right of First Refusal. The right of first refusal contained in Section 8.2 may be released or waived by the Condominium Board only in the manner provided in Section 8.6. In the event the Condominium Board shall release or waive its right of first refusal as to any Office Unit, such Office Unit, together with its appurtenant Common Interest, may be sold, conveyed or leased in accordance with the Sale Agreement or Lease and the other information supplied by the Offeree Unit Owner to the Condominium Board pursuant to Section 8.2 hereof, subject to the provisions of subsection 8.2.3. The Condominium

Board may establish reasonable fees for the consideration of any right of first refusal, which fees shall be payable by the selling or leasing Office Unit Owner (but not Project Declarant or Sponsor), as the case may be.

8.6 Certificate of Termination of Right of First Refusal. A certificate executed and acknowledged by the Secretary or any other officer of the Condominium Board stating that the provisions of 8.2 have been satisfied by an Office Unit Owner or stating that the right of first refusal contained therein has been duly released or waived by the Condominium Board and that, as a result thereof, the rights of the Condominium Board thereunder have terminated, shall be conclusive upon the Condominium Board and the Unit Owners in favor of all persons who rely on such certificate in good faith.

8.7 Exceptions. In addition to any other exceptions hereinbefore set forth, the provisions of Section 8.2 shall not apply to the sale, lease or conveyance of any Office Unit, together with its appurtenant Common Interest, or in the case of an Office Unit Owner which is a corporation, partnership, limited liability company or other entity, the sale, lease or conveyance of an interest in such Office Unit Owner, in each case: (a) to an affiliate or one or more family members (and for purposes of this Section 8.7, an "affiliate" is defined as a person or entity that owns fifty percent (50%) or more of the legal and beneficial interest of such Unit Owner or owner of an interest in a Unit Owner, as the case may be, or an entity with respect to which such Unit Owner or owner of an interest in a Unit Owner owns fifty percent (50%) or more of the legal and beneficial interest, and "family member" is defined as a spouse, domestic partner, adult child, parent or adult sibling, or a trust for the benefit of any one or more of the foregoing and/or one or more minor children of any of the foregoing.); (b) Sponsor or its designee with respect to Unsold Office Units; (c) the Condominium Board; (d) any proper officer conducting the sale of an Office 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 Office Mortgagee, its nominee or assignee, who has acquired title to any Office Unit at any foreclosure sale of its Permitted Office Mortgage or by deed in lieu of such foreclosure delivered in a bona fide transaction; provided, however, that each succeeding Office Unit Owner thereof shall be bound by, and its Office Unit shall be subject to, all of the provisions of this Article 8. In addition, the provisions of Section 8.2 shall not apply to any lease, sale or conveyance of an Office Unit to a Permitted Office Mortgagee or a purchaser at a foreclosure sale of a Permitted Office Mortgage in connection with a foreclosure or to the acceptance of a deed or assignment in lieu of foreclosure, in the event of a default by the mortgagor under such Permitted Office Mortgage.

8.8 Gifts and Devises, etc. Any Office Unit Owner shall be free to convey or transfer his or her Office Unit by gift, or may devise his or her Office Unit by will, or have his or her Office Unit pass by intestacy, without complying with the provisions of 8.2, provided, however, that each succeeding Office Unit Owner shall be bound by, and his or her Office Unit shall be subject to, the provisions of this Article 8.

8.9 Payment of Assessments. No Office Unit Owner shall be permitted to sell, convey, mortgage, pledge, hypothecate or lease its Office Unit unless and until it shall have paid in full to the Commercial Board all unpaid Commercial Common Charges and other amounts required by the Commercial Board to be paid and theretofore assessed against such Office Unit and until such Office Unit Owner shall have satisfied all unpaid liens against their Units, other

than Permitted Office Mortgages. Office Unit Owners shall notify the Condominium Managing Agent at least five (5) business days prior to the closing of any of the aforementioned transactions for confirmation of any unpaid amounts. The provisions of this Section 8.9 shall not apply to Sponsor or its designee or other owner of Unsold Office Units.

8.10 Waiver of Right of Partition with Respect to Units Acquired on Behalf of Commercial Unit Owners as Tenants-in-Common.

8.10.1 In the event that a Non-Office Commercial Unit Owner shall convey its Unit to the Commercial Board (to the extent permitted under the Condominium Documents) in accordance with Section 339-X of the Real Property Law, or any Non-Office Commercial Unit shall be acquired by the Commercial Board or its designees (either at a foreclosure sale 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 as herein provided.

8.10.2 To the extent permitted by Law, each of the Non-Office Commercial Unit Owners and shall be deemed to have waived any and all right to surrender its Non-Office Commercial Unit (in each case, together with its Appurtenant Interests) to the Commercial Board.

8.11 Amendments to Article 8 Concerning Office Units. Notwithstanding any provision contained in these By-Laws to the contrary, no amendment to any provision contained in this Article 8 concerning the Condominium Board's rights with respect to the sale or lease of Office Units (including, but not limited to, Section 8.2 hereof) shall be effective in any way without the prior written consent of the Condominium Board.

## ARTICLE 9

## CONDEMNATION

In the event of the taking in condemnation or by eminent domain of all or any part of the Commercial Limited Common Elements, then, subject to the provisions set forth below and any applicable provisions of the Declaration and the Condominium By-Laws, the Commercial Board will arrange for the prompt repair and restoration of the part of the Commercial Limited Common Elements affected by such taking. The award made for any such taking shall be payable to the Commercial Board; provided, however, that if any such award exceeds $2,500,000, such award shall be payable to the Insurance Trustee (as defined in Section 12.7 hereof) 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 or shared, as the case may be, by the Commercial Unit Owners pro rata in accordance with their respective Common Interests; provided, that the amount of any surplus payable to any Unit Owner shall be lessened by such amounts as may be necessary to reduce unpaid liens (other than mortgages which are not Registered Mortgages or Permitted Office Mortgages) on any such Unit in the order of the priority of such liens. Notwithstanding any provisions contained herein to the contrary, if seventy-five percent (75%) or more of the

Commercial Limited Common Elements are so taken, subject to any applicable provisions of the Declaration and Condominium By-Laws, such repairs or restorations shall not be made unless seventy-five percent (75%) or more of all Commercial Unit Owners (and Project Declarant and/or Sponsor or their designees, if they shall then own any Commercial Units), both in number and in aggregate Common Interests, shall promptly resolve to proceed with the same. In the event that a sufficient number of Commercial Unit Owners shall so resolve, the repairs and restoration shall be performed as set forth above. Conversely, in the event that a sufficient number of Commercial Unit Owners shall either fail or refuse to so resolve, subject to any applicable provisions of the Declaration and Condominium By-Laws, the repairs and restoration shall not be performed and the Commercial Section shall be subject to an action for partition by any Commercial Unit Owner or lienor, as if owned in common, in which event the net proceeds of the sale, and net proceeds of any applicable condemnation awards shall be divided among all Commercial Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of its share of such funds, such amounts as may be necessary to discharge all unpaid liens on its Unit (other than mortgages which are not Registered Mortgages or Permitted Office Mortgages) in the order of the priority of such liens. As used in this Article 9, the words "promptly resolve" shall mean not more than sixty (60) days after the date notice is given of such taking unless a longer period is provided for under the applicable provisions of the Declaration and Condominium By-Laws. Any dispute between the Commercial Board and a Commercial Unit Owner under this Article 9 shall be settled by Arbitration.

## ARTICLE 10

## RECORDS AND AUDITS

10.1 Records. The Commercial Board, or the managing agent therefor, shall keep detailed records of the actions of the Commercial Board, minutes of the meetings of the Commercial Board, minutes of the meetings of the Commercial Unit Owners, and financial records and books of account with respect to the activities of the Commercial Board, including a listing of all receipts and expenditures. In addition, the Commercial Board shall keep a separate account for each Commercial Unit which, among other things, shall contain the amount of each assessment of Commercial Common Charges and other amounts required by the Commercial Board to be paid in respect of each such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid.

10.2 Audits. Within four (4) months after the end of each fiscal year, an annual report of receipts and expenditures, prepared and certified by an independent certified public accountant or an independent certified public accounting firm, shall be submitted by the Commercial Board to all Commercial Unit Owners (and to all Registered Mortgagees and Permitted Office Mortgagees of Commercial Units who have requested the same in writing). The cost of such report submitted by the Commercial Board shall be paid by the Commercial Unit Owners as a Commercial Common Expense.

10.3 Availability of Documents. Copies of the Declaration, these Commercial By-Laws, the Condominium By-Laws, the Commercial Rules and Regulations, if any, the General Rules and Regulations, if any, and the Floor Plans, as the same may be amended from time to

time, shall be maintained at the office of the Commercial Board and shall be available for inspection by Commercial Unit Owners and their authorized agents during reasonable business hours and upon reasonable prior notice.

## ARTICLE 11

## ARBITRATION

11.1 General Procedure. Except as may otherwise be expressly provided in these Commercial By-Laws, the Condominium By-Laws or the Declaration, any Arbitration provided for in these Commercial By-Laws ("Arbitration") shall be conducted before one arbitrator in New York City by the American Arbitration Association or any successor organization thereto, in accordance with its rules then in effect; the decision rendered in such Arbitration shall be binding upon the parties and may be entered in any court having jurisdiction; provided that, in the case of Arbitration of issues arising under Sections 6.4 and 6.5, any arbitrator shall be a real estate professional, having ten (10) or more years' experience in the field of Manhattan residential real property. Notwithstanding the foregoing, any Arbitration held pursuant to these Commercial By-Laws with respect to a dispute which arose prior to the First Annual Commercial Meeting shall be non-binding. 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 New York City before one 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 or her appointment.

11.2 Costs and Expenses. The fees, costs and expenses of the arbitrator shall be borne by the losing party in the Arbitration or, if the position of neither party to a dispute shall be substantially upheld by the arbitrator, such fees, costs and expenses shall be borne equally by the parties to the dispute. Each disputant shall also bear the fees and expenses of its counsel and expert witnesses. Subject to the foregoing, all costs and expenses paid or incurred by the Commercial Board in connection with any Arbitration held hereunder (including, without limitation, the fees and expenses of counsel and expert witnesses) shall constitute Commercial Common Expenses.

11.3 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 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 12

## MISCELLANEOUS

12.1 Consents. Wherever the consent, approval or satisfaction of Project Declarant or Sponsor or its designee is required under these Commercial By-Laws, such consent, approval or

satisfaction shall not be required when there are no remaining Unsold Commercial Units, the Building has been fully completed, a permanent certificate of occupancy therefor has been issued and neither Project Declarant nor Sponsor has any remaining obligations under the Offering Plan or otherwise.

12.2 Waiver. No provision contained in these Commercial By-Laws or the Commercial Rules and Regulations, if any, shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches thereof which may occur.

12.3 Captions. The index hereof and 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 Commercial By-Laws nor the intent of any provision hereof.

12.4 Conflict. In the event of any conflict between the provisions of these Commercial By-Laws or the Commercial Rules and Regulations, if any, and those of the Condominium By-Laws, the provisions of the Condominium By-Laws shall control. In the event of any conflict between the provisions of these Commercial By-Laws or the Commercial Rules and Regulations, if any, and those of the Declaration, the provisions of the Declaration shall control.

12.5 Certain References.

12.5.1 A reference in these Commercial 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.

12.5.2 The terms "herein," "hereof" or "hereunder" or similar terms used in these Commercial By-Laws refer to these Commercial By-Laws in their entirety and not to the particular provision in which the terms are used.

12.5.3 Unless otherwise stated, all references herein to Articles, Sections, subsections, subparagraphs or other provisions are references to Articles, Sections or other provisions of these Commercial By-Laws.

12.5.4 Unless otherwise expressly stated herein to the contrary, all references herein to dollar amounts shall be adjusted from time to time, after the date the Declaration is entered into, to reflect any increase in the cost of living, as reflected by an increase in the CPI Increase Factor. The term "CPI Increase Factor" as used herein shall mean an increase proportionate to any increase in the cost of living from and after such date, as reflected by the change in the Consumer Price Index (CPI-U; All Items; 1982-84 = 100 standard reference base period) for New York, New York (or the smallest measured area including New York, New York), as published by the Bureau of Labor Statistics, United States Department of Labor or, if the same ceases to be published, a commonly used substitute therefor reasonably selected by the Condominium Board.

12.6 Severability. Subject to the provisions of the Declaration, if any provision of these Commercial By-Laws is invalid or unenforceable as against any person, party or under certain circumstances, the remainder of these Commercial By-Laws and the applicability of such

provision to other persons, parties or circumstances shall not be affected thereby. Each provision of these Commercial By-Laws shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by law.

12.7 Insurance Trustee. The Insurance Trustee shall be a bank or trust company having an office located in the City of New York, designated by the Commercial Board and having a capital surplus and undivided profits of $500,000,000 or more. In the event the Insurance Trustee resigns or is replaced by the Commercial Board, the Commercial Board shall appoint a new Insurance Trustee which shall be a commercial bank or trust company having an office located in the City of New York and having a capital surplus and undivided profits of $500,000,000 or more, subject to increase by the CPI Increase Factor. The Commercial Board shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a Commercial Common Expense. The Insurance Trustee shall hold all such proceeds in accordance with Section 254(4) of the Real Property Law of the State of New York.

12.8 Successors and Assigns. The rights and obligations of the Project Declarant and/or Sponsor with respect to the Unsold Commercial Units as set forth herein shall inure to the benefit of, and be binding upon, any successor or assign of the Project Declarant and Sponsor or, with the consent of the Project Declarant and/or Sponsor, any transferee of two or more of the then Unsold Commercial Units. Subject to the foregoing, the Project Declarant and Sponsor (or its designee or other holder of Unsold Commercial Units or Unsold Office Units, as applicable) shall each have the right, at any time, in its sole discretion, to assign or otherwise transfer its interests in the Condominium, whether by merger, consolidation, lease, assignment or otherwise.

12.9 Covenant of Further Assurances.

12.9.1 Any party which is subject to the terms of these Commercial By-Laws, whether such party is a Commercial Unit Owner, a lessee or sublessee of a Commercial Unit Owner, an occupant of a Unit, a Registered Mortgagee or Permitted Office Mortgagee, a member or officer of the Commercial 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 Commercial 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.

12.9.2 If any Commercial Unit Owner or any other party which is subject to the terms of these Commercial 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 Commercial Unit Owner or other party is required to perform pursuant to these Commercial By-Laws, then the Commercial Board or other party is hereby authorized, as attorney-in-fact, coupled with an interest, for such Commercial Unit Owner or other party, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Commercial Unit Owner or other party, and such instrument or action shall be binding on such Commercial Unit Owner or other party, as the case may be.

12.9.3 If any Commercial Unit Owner or any other party which is subject to the terms of these Commercial 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 Commercial Unit Owner or party is required to perform pursuant to these Commercial By-Laws at the request of Project Declarant or Sponsor, then Project Declarant or Sponsor, as the case may be, is hereby authorized, as attorney-in-fact, coupled with an interest, for such Commercial Unit Owner or other party, to execute, acknowledge and deliver such instrument, or to take such action, in the name of such Commercial Unit Owner or other party, and such document or action shall be binding on such Commercial Unit Owner or other party.

12.9.4 If the Commercial Board 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 Commercial Board is required to perform pursuant to these Commercial By-Laws or the Condominium By-Laws at the request of Project Declarant, Sponsor or its designee, then Project Declarant, Sponsor or its designee, as the case may be, is hereby authorized, as attorney-in-fact, coupled with an interest, for the Commercial Board, to execute, acknowledge and deliver such instrument, or to take such action, in the name of the Commercial Board, and such document or action shall be binding on the Commercial Board.

## ARTICLE 13

## AMENDMENTS TO COMMERCIAL BY-LAWS

13.1 Amendments by Commercial Unit Owners. Subject to the provisions contained herein, in the Declaration or in the Condominium By-Laws with respect to amendments, modifications, additions or deletions affecting Project Declarant or Sponsor or its designee, or any Unsold Commercial Units, the Commercial Units or the Commercial Unit Owners, any provision of these Commercial By-Laws or the Commercial Rules and Regulations, if any, may be amended, modified, added to or deleted by the affirmative vote of at least sixty-six and two-thirds percent (66-2/3%) in number and in Common Interest of all Commercial Unit Owners; provided, however, that the Common Interest appurtenant to each Commercial Unit shall not be altered without the written consent of all Commercial Unit Owners affected thereby. Subject to the provisions contained herein, in the Declaration or in the Condominium By-Laws with respect to amendments, modifications, additions or deletions affecting Project Declarant or Sponsor, or its designee or any owner of Unsold Commercial Units or Unsold Office Units, as the case may be, the Residential Units or the Residential Unit Owners, any such amendment, modification, addition or deletion shall be executed by the Commercial Board, as attorney-in-fact, coupled with an interest, for the Commercial Unit Owners, for the purpose of approving and executing any instrument effecting such amendment, modification, addition or deletion, which the Commercial Board is hereby authorized by such Commercial Unit Owners to do as their attorney-in-fact. Notwithstanding the foregoing and subject to the provisions contained herein, in the Declaration or in the Condominium By-Laws with respect to amendments, modifications, additions or deletions affecting Project Declarant or Sponsor, or its designee or any Unsold Commercial Units, the Residential Units or the Residential Unit Owners: (i) no such amendment, modification, addition or deletion shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of the Registered Mortgagees, a majority of the Office Mortgagee Representative(s), if any (and, in the case of amendments having a material

adverse effect on Permitted Office Mortgagees, without the express written consent of the Permitted Office Mortgagees of at least fifty-one percent (51%) of the affected Office Units which are encumbered by Permitted Office Mortgages); and (ii) the provisions of Sections 6.9 and 6.10 may not be amended, modified, added to or deleted unless eighty percent (80%) in Common Interest of all Commercial Unit Owners affected thereby approve such amendment, modification, addition or deletion in the manner set forth above. Each duly adopted amendment, modification, addition or deletion to these Commercial By-Laws shall be effectuated by an instrument recorded in the City Register's Office. Notwithstanding anything to the contrary set forth herein, if and to the extent the approval of the Permitted Office Mortgagees or Office Mortgagee Representative(s) is required hereunder, such approval shall be deemed given when a Permitted Office Mortgagee or Office Mortgagee Representative(s) fails to submit a response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

13.2 Amendments Affecting Project Declarant or Sponsor. Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition to or deletion of these Commercial By-Laws, the Declaration or the Commercial Rules and Regulations, if any, shall be effective in any way against: (a) Project Declarant or Sponsor, for so long as any of the foregoing is the owner of one or more Commercial Units, or any Unsold Unit, unless Project Declarant or Sponsor, as the case may be, has given its prior written consent thereto; or (b) the holder of any present or future mortgage, pledge or other lien or security interest encumbering any Unsold Unit unless such holder has given its prior written consent thereto.

13.3 Amendments Affecting Registered Mortgagees and Permitted Office Mortgagees. Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition to or deletion of Section 6.2.2 or 6.3, or Article 7, shall be effective as against the holder of any Registered Mortgagee or Permitted Office Mortgage theretofore made unless such holder has given its prior written consent thereto.

13.4 Consents of Project Declarant or Sponsor. The provisions of this Article 13 may not be modified, amended, added to or deleted, in whole or in part, without the consent of Project Declarant or Sponsor or its designee, as the case may be.

**EXHIBIT 14**

CERTIFICATIONS

**14A** Sponsor and Principal

**14B** Sponsor's Architect

**14C** Sponsor's Expert Concerning Adequacy of Budget

**14D** Sponsors Expert Concerning Adequacy of Common Charges Payable by the Commercial Unit Owners

**EXHIBIT 14A**

Sponsor and Principal

EXHIBIT A-1

**56th and Park (NY) Owner, LLC**
**515 Madison Avenue, 41st Floor**
**New York, New York 10022**

CERTIFICATION BY SPONSOR AND SPONSOR'S PRINCIPALS
PURSUANT TO SECTION 20.4(b) OF THE REGULATIONS ISSUED
PURSUANT TO GENERAL BUSINESS LAW, ARTICLE 23-A, AS AMENDED

May 30, 2012

New York State Department of Law
120 Broadway
New York, New York 10271
Attn.: Real Estate Finance Bureau

Re: 432 PARK CONDOMINIUM
432 Park Avenue, New York, New York 10016

The undersigned certify as follows:

We are the sponsor and the principal of the sponsor of the condominium offering plan for the captioned property.

We understand that we have primary responsibility for complying with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Department of Law in Part 20 and such other laws and regulations as may be applicable.

We have read the entire offering plan. We have investigated the facts set forth in the offering plan and the underlying facts. We have exercised due diligence to form a basis for this certification. We jointly and severally certify that the offering plan does, and that documents submitted hereafter by us which amend or supplement the offering plan will:

1. set forth the detailed terms of the transaction and be complete, current and accurate;

2. afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;

3. not omit any material fact;

4. not contain any untrue statement of a material fact;

5. not contain any fraud, deception, concealment, suppression, false pretense or fictitious or pretended purchase or sale;

6. not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

7. not contain any representation or statement which is false, where we:

(a) knew the truth;

(b) with reasonable effort could have known the truth;

(c) made no reasonable effort to ascertain the truth; or

(d) did not have knowledge concerning the representation or statement made.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

56TH AND PARK (NY) OWNER, LLC

By: _____

Name: Charles E. Garner II
Title: Vice President

Sworn to before me this
____ day of _____, 2012

_____
Notary Public

See Notary Page

_____
Charles E. Garner II

Sworn to before me this
____ day of _____, 2012

_____
Notary Public

See Notary Page

## CALIFORNIA JURAT WITH AFFIANT STATEMENT

☑ See Attached Document (Notary to cross out lines 1–6 below)
☐ See Statement Below (Lines 1–5 to be completed only by document signer[s], *not* Notary)

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

State of California

County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this

31st (Date) day of May (Month), 20 12 (Year), by

(1) Charles E. Garner II (Name of Signer),

proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (

(and

(2) _____ (Name of Signer),

proved to me on the basis of satisfactory evidence to be the person who appeared before me.)

Signature _____ (Signature of Notary Public)

Lory Ann Apilado, Notary Public

LORY ANN APILADO
Commission # 1834030
Notary Public - California
Los Angeles County
My Comm. Expires Jan 29, 2013

Place Notary Seal Above

### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Further Description of Any Attached Document**

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

| RIGHT THUMBPRINT OF SIGNER #1 | RIGHT THUMBPRINT OF SIGNER #2 |
|---|---|
| Top of thumb here | Top of thumb here |

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## CALIFORNIA JURAT WITH AFFIANT STATEMENT

☑ See Attached Document (Notary to cross out lines 1–6 below)
☐ See Statement Below (Lines 1–5 to be completed only by document signer[s], *not* Notary)

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

State of California

County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 31st day of May, 2012, by

(1) Charles E. Garner II,
Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me.) (/)

(and

(2) _____,
Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me.)

Signature _____
Signature of Notary Public

Lory Ann Apilado, Notary Public

LORY ANN APILADO
Commission # 1834030
Notary Public - California
Los Angeles County
My Comm. Expires Jan 29, 2013

Place Notary Seal Above

### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

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Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

| RIGHT THUMBPRINT OF SIGNER #1 | RIGHT THUMBPRINT OF SIGNER #2 |
|---|---|
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**EXHIBIT 14B**

Sponsor's Architect

# SLCE*Architects*, LLP

CERTIFICATION OF SPONSOR'S ARCHITECT
PURSUANT TO SECTION 20.4(c) OF THE REGULATIONS ISSUED
PURSUANT TO GENERAL BUSINESS LAW, ARTICLE 23-A, AS AMENDED

July 03, 2012

New York State Department of Law
120 Broadway
New York, New York 10271
Attn.: Real Estate Finance Bureau

Re: 432 PARK CONDOMINIUM
432 Park Avenue, New York, New York 10016

841 Broadway
New York, NY 10003
212-979-8400 telephone
212-979-8387 telefax
www.slcearch.com
info@slcearch.com

*Suky Yakas, AIA*
*James S. Davidson, AIA*
*Luigi P. Russo, AIA*
*Robert J. Laudenschlager, AIA*
*Gloria B. Glas, AIA*
*Mario Yao, AIA*

*Consultants*
*Peter Claman, AIA*
*Enzo DePol, AIA*

The undersigned, a licensed architect in the State of New York, hereby certifies as follows:

The sponsor of the condominium offering plan for the captioned property (the "Property") retained our firm to prepare a report describing the construction of the Property (the "Report"). We have examined the building plans and specifications, dated as of 10/25/11, that were prepared by SLCE, Architects LLP and were approved by the New York City Department of Buildings on May 09, 2012, which building plans and specifications were amended by an amendment approved by the New York City Department of Buildings on June 27, 2012. Further, We have prepared the Report, dated as of June 19, 2012, a copy of which is intended to be incorporated into the offering plan so that prospective Purchasers may rely on the Report.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to this Report.

We have read the entire Report and investigated the facts set forth in the Report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

We certify that the Report:

(i) sets forth in narrative form the description and/or physical condition of the entire Property as it will exist upon completion of the construction, provided the construction is in accordance with the plans and specifications that we examined;

(ii) in our professional opinion affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the

description and/or physical condition of the Property as it will exist upon completion of the construction, provided that the construction is in accordance with the plans and specifications that we examined;

(iii) does not omit any material fact;

(iv) does not contain any untrue statement of a material fact;

(v) does not contain any fraud, deception, concealment, or suppression;

(vi) does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(vii) does not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by and have no beneficial interest in the sponsor and that our compensation for preparing this Report is not contingent on the conversion of the Property to a condominium or on the profitability or price of the offering. This statement is not intended as a guarantee or warranty of the physical condition of the Property.

**SLCE ARCHITECTS, LLP**

REGISTERED ARCHITECT GLORIA B. GLAS 020205 STATE OF NEW YORK

By: _____
Name: Gloria B. Glas
Title: Partner

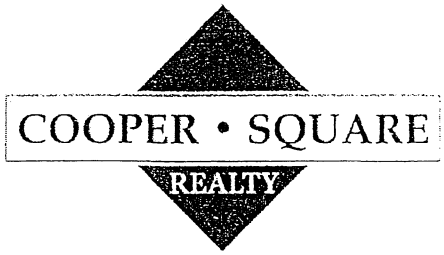
SHERRY LYNN EID
Notary Public, State of New York
No. 01EI6113413
Qualified in New York County
Commission Expires July 26, 2012

Sworn to before me this
31st day of July, 2012

_____
Notary Public

**EXHIBIT 14C**

Sponsor's Expert Concerning Adequacy of Budget




www.coopersquare.com Tel 212.634.8900

CERTIFICATION OF SPONSOR'S EXPERT ON ADEQUACY OF COMMON CHARGES PAYABLE BY THE NON-RESIDENTIAL UNIT OWNERS PURSUANT TO SECTION 20.4(e) OF THE REGULATIONS ISSUED PURSUANT TO GENERAL BUSINESS LAW, ARTICLE 23-A, AS AMENDED

July 3, 2012

New York State Department of Law
120 Broadway
New York, New York 10271
Attn.: Real Estate Finance Bureau

Re: RESIDENTIAL SECTION AT 432 PARK CONDOMINIUM
432 Park Avenue, New York, New York 10016

The undersigned, Cooper Square Realty, Inc., is a licensed real estate brokerage firm in the State of New York. Cooper Square Realty, Inc. has been engaged in the management of over 250 condominium, cooperative and residential rental properties over the course of the past 25 years.

The sponsor of the condominium offering plan for the above captioned property retained us to review Schedule B-1 and Schedule B-2 (together with the notes thereto, the "Schedules") to the offering plan containing projections of common charges payable by the owners of the non-residential units of the condominium for the fiscal year July 1, 2015 to June 30, 2016, the projected first year of condominium operation.

We understand we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to the non-residential units listed in the Schedules.

We have reviewed the Schedules as it impacts upon the non-residential units and have investigated the facts underlying it with due diligence in order to form a basis for this certification. We also have relied on our experience in managing residential and commercial buildings in Manhattan.

We certify that the projections in the Schedules for common charges payable by the owners of non-residential units appear reasonable and adequate under existing circumstances to meet the anticipated operating expenses fairly attributable to such non-residential units for the projected first year of condominium operation, and that the allocation of common charges attributable to the non-residential units also reflects the special or exclusive use or availability or exclusive control of particular common areas.

We certify that the estimates in the Schedules for the common charges payable by the owners of the non-residential units:

(i) set forth in detail the projected common charges for the non-residential units for the projected first year of condominium operation;

(ii) afford potential investors, purchasers, and participants an adequate basis upon which to found their judgment concerning the common charges payable by the owners of the non-residential units during the projected first year of condominium operation;

(iii) do not omit any material fact;

(iv) do not contain any untrue statement of a material fact;

(v) do not contain any fraud, deception, concealment, or suppression;

(vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(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 base units or commercial units for the projected first year of condominium operation.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

**COOPER SQUARE REALTY, INC.**

By: _____
Name: Marc Kotler
Title: Vice President

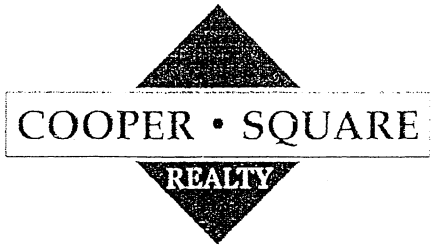
Sworn to before me this
3 day of July, 2012

_____
Notary Public

MARGARET Y WANG
NOTARY PUBLIC STATE OF NEW YORK
QUEENS COUNTY
LIC. #01WA6192672
MY COMMISSION EXPIRES 09/02/2012

**EXHIBIT 14D**

Sponsors Expert Concerning Adequacy of Common Charges
Payable by the Commercial Unit Owners




www.coopersquare.com Tel 212.634.8900

CERTIFICATION OF SPONSOR'S EXPERT
ON ADEQUACY OF CONDOMINIUM BUDGET PURSUANT TO
SECTION 20.4(d) OF THE REGULATIONS ISSUED
PURSUANT TO GENERAL BUSINESS LAW, ARTICLE 23-A, AS AMENDED

July 3, 2012

New York State Department of Law
120 Broadway
New York, New York 10271
Attn.: Real Estate Finance Bureau

Re: RESIDENTIAL SECTION AT 432 PARK CONDOMINIUM
432 Park Avenue, New York, New York 10016

The undersigned, Cooper Square Realty, Inc., is a licensed real estate brokerage firm in the State of New York. Cooper Square Realty, Inc. has been engaged in the management of over 250 condominium, cooperative and residential rental properties over the course of the past 25 years.

The sponsor of the condominium offering plan for the above captioned property retained us to review Schedule B-1 and Schedule B-2 (together with the notes thereto, the "Schedules") to the offering plan containing projections of income and expenses of the Condominium for the fiscal year July 1, 2015 to June 30, 2016, the projected first year of condominium operation.

We understand we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to the Schedules.

We have reviewed the Schedules and investigated the facts set forth in the Schedules and the facts underlying them with due diligence in order to form a basis for this certification. We also have relied on our experience in managing mixed use and residential buildings in Manhattan.

We certify that the projections in the Schedules appear reasonable and adequate under existing circumstances, and the projected income appears to be sufficient to meet the anticipated operating expenses of the Condominium for the projected first year of condominium operation.

We certify that the Schedules:

(i) set forth in detail the projection of income and expenses for the projected first year of condominium operation;

(ii) afford potential investors, purchasers, and participants an adequate basis upon which to found their judgment concerning the projected first year of condominium operation;

(iii) do not omit any material fact;

(iv) do not contain any untrue statement of a material fact;

(v) do not contain any fraud, deception, concealment, or suppression;

(vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(vii) do not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by the sponsor. We understand that a copy of this certification is intended to be incorporated into the offering plan. This statement is not intended as a guarantee or warranty of the income and expenses for the projected first year of condominium operation.

This Certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

**COOPER SQUARE REALTY, INC.**

By: _____
Name: Marc Kotler
Title: Vice President

Sworn to before me this
3 day of July, 2012

_____
Notary Public

MARGARET Y. WANG
NOTARY PUBLIC STATE OF NEW YORK
QUEENS COUNTY
LIC. #01WA6192672
MY COMMISSION EXPIRES 09/02/2012

**EXHIBIT 15**

REAL PROPERTY LAW SECTION 339-kk

**§ *339-kk Real Prop.* Rents.**

(a) For the purposes of this section, "non-occupying owner" shall mean a unit owner in a condominium association who does not occupy the dwelling unit.

(b) If a non-occupying owner rents any dwelling unit to a rental tenant and then fails to make payments due for common charges, assessments or late fees for such unit within sixty days of the expiration of any grace period after they are due, upon notice in accordance with subdivision (c) of this section, all rental payments from the tenant shall be directly payable to the condominium association.

(c) If the common charges, assessments or late fees due for any unit have not been paid in full, within sixty (60) days after the expiration of any grace period of the earliest due date, the board of managers shall provide written notice to the tenant and the non-occupying owner providing that, commencing immediately and until such time as all payments for common charges, assessments or late fees are made current, all rental payments due subsequent to the issuance of such notice are to be made payable to the condominium association at the address listed on the notice. Where a majority of the board of managers has been elected by and from among the unit owners who are in occupancy, the board may elect not to require that rental payments be made payable to the condominium association. At such time as payments for common charges, assessments and late fees from the non-occupying owner are once again current, notice of such fact shall be given within three business days to the rental tenant and non-occupying owner. Thereafter all rental payments shall be made payable to the non-occupying owner or a designated agent. A non-occupying owner who disputes the association's claim to rental payments pursuant to this section shall be entitled to present facts supporting such owner's position at the next scheduled meeting of the board of managers, which must be held within thirty days of the date that such board receives notice that such owner seeks to dispute such claim.

(d) Nothing in this section shall limit any rights of unit owners or of the board of managers existing under any other law or agreement.

(e) Payment by a rental tenant to the condominium association made in connection with this section shall relieve that rental tenant from the obligation to pay such rent to the non-occupying owner and shall be an absolute defense in any non-payment proceeding commenced by such non-occupying owner against such tenant for such rent.

**EXHIBIT 16**

FORM OF STORAGE LICENSE AND ASSIGNMENT AND ASSUMPTION OF LICENSE

# STORAGE LICENSE AGREMEENT

AGREEMENT made this ___ day of _____, 20__ (this "License Agreement") by and between 56th and Park (NY) Owner, LLC, having an office at 515 Madison Avenue, 41st Floor, New York, New York 10022 ("Sponsor"), the board of managers of the Residential Section of 432 Park Condominium on behalf of all Residential Unit Owners, having an address at 432 Park Avenue, New York, New York 10016 (the "Residential Board") (together, Sponsor and the Residential Board are sometimes referred to as "Licensor"), and _____ having an address at 432 Park Avenue, Unit ___, New York, New York 10016 ("Licensee");

WHEREAS, 432 Park Condominium ("Condominium") is governed by a certain Declaration of Condominium dated as of _____ ___, 201_, recorded in the New York County Office of the Register of the City of New York on _____ ___, 201_ as CRFN _____, as the same has been or may be amended from time to time (the "Declaration"), the by-laws of the Condominium, as the same has been or may be amended from time to time (the "Condominium By-Laws") and the general rules and regulations of the Condominium, if any, as the same has been or may be amended from time to time (the "General Rules and Regulations"), the by-laws of the Residential Section, as the same has been or may be amended from time to time (the "Residential By-Laws") and the residential rules and regulations of the Residential Section, as the same has been or may be amended from time to time (the "Residential Rules and Regulations") (the Declaration, the Condominium By-Laws, the General Rules and Regulations, the Residential By-Laws and the Residential Rules and Regulations are collectively referred to as the "Condominium Documents"); and

WHEREAS, there are storage closets ("Storage Closets") that have been installed for use by permitted Unit Owners, which Storage Closets are located on the Subcellar 2 Level and Subcellar 1 Level of the Tower, which are Residential Limited Common Elements ("Licensed Area"); and

WHEREAS, Licensee, owns or simultaneously herewith is acquiring Residential Unit ___ in the Condominium; and

WHEREAS, Licensee desires the right to the exclusive use of Storage Closet #___ for so long as Licensee owns a Residential Unit in the Condominium (the "License");

NOW THEREFORE, in consideration of the sum of $10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Licensor hereby grants to Licensee, its successors and assigns, a license for the exclusive use of Storage Closet #___ ("Designated Storage Closet") and Licensee hereby accepts such License from Licensor for a term commencing on the date hereof.

2. A Storage Closet may only be used for storage purposes and in no event may be used as a dwelling space or for the storage of toxic or inflammable items or Combustibles (as such term is defined in the New York City Building Code). No materials which pose a health or safety threat or which otherwise create a nuisance may be stored in the Storage Closet. To do so

may result in a violation placed against the Building by the Building Department that will be the obligation of the Licensee to remove.

3. Licensee shall not: (a) store any property in the Licensed Area outside of the Designated Storage Closet; or (b) allow any other person to use the License except in accordance with the terms hereof.

4. Licensee will be required to pay a license fee to the Residential Board in an amount equal to $1 per month per square foot of the Designated Storage Closet, which amount shall be subject to biannual increases in accordance with the Residential By-Laws. Further, the license fee is otherwise also subject to change from time to time as the Residential Board deems necessary or appropriate.

5. The License may be assigned by Licensee at any time provided the assignee: (i) is a Residential Unit Owner at the Condominium, (ii) assumes the obligations hereunder in the form annexed hereto, (iii) notification of the assignment is delivered in writing to the Residential Board in compliance with its requirements as the same may be modified from time to time, and (iv) no outstanding monies are owed to the Residential Board by the Licensee and/or the assignee. This License shall automatically terminate at such time as the Licensee no longer owns a Residential Unit in the Condominium unless this License Agreement is assigned to and assumed by another Residential Unit Owner upon or prior to the sale of Licensee's Residential Unit.

6. Licensee represents that it has made a thorough inspection of the Licensed Area and agrees to take the Designated Storage Closet as well as the Licensed Area in "as is" condition as of the date of this License Agreement. Licensee shall throughout the term of this License Agreement take good care of and maintain the Designated Storage Closet. All repairs and replacements to the Designated Storage Closet as well as the Licensed Area shall be performed by the Residential Board and the cost thereof shall be a Residential Common Expense (as defined in the Residential By-Laws), unless such repair or replacement is necessitated by the negligence, misuse, or abuse of a Licensee, then the entire cost and expense of such repair or replacement shall be borne by such Licensee.

7. Neither Licensor nor their respective agents or employees shall be liable for any theft or damage to any property stored in the Licensed Area and the Designated Storage Closet.

8. The terms of this License Agreement are subject to the terms of the Condominium Documents. Nothing contained herein shall be construed as limiting the rights and obligations of the parties under the Condominium Documents. Any conflict between the provisions of this License Agreement and the Condominium Documents shall be resolved in favor of the Condominium Documents.

9. If Licensee defaults in its obligations hereunder or under the Condominium Documents, the Residential Board may, in addition to the rights and remedies set forth in the Condominium Documents: (i) deny access to and use of the Designated Storage Closet until Licensee cures such default, or (ii) terminate this License Agreement upon written notice to Licensee.

10. The Residential Board or its agents shall have the right, but not the obligation, to open the Designated Storage Closet in an emergency at any time, and, at other reasonable times upon prior notice to Licensee, to inspect and examine the Designated Storage Closet and to make such repairs, replacements and improvements as the Residential Board shall deem necessary.

11. This License Agreement shall constitute a License only and shall not be construed under any circumstances to be a sale of the Designated Storage Closet or conveyance of title thereto. In no event shall a landlord/tenant relationship exist between the Licensor and the Licensee with respect to this License Agreement.

12. Licensee shall indemnify and hold Licensor and their respective directors, officers, partners, parent and subsidiary and affiliated companies, agents and employees, harmless from and against any and all liabilities, claims, causes of action, damages, lawsuits, penalties, judgments, and liens, together with any related costs and expenses, including but not limited to reasonable legal fees, asserted against or sustained by any of them in connection with any act, omission, or negligence of Licensee or Licensee's family, servants, employees, agents, guests and invitees in connection with this License.

13. Licensee shall at all times maintain, in full force and effect, insurance covering both the property stored in the Designated Storage Closet as well as coverage for Licensee's liability with minimum limits of liability of $500,000. Licensee further agrees to a waiver of its insurer's right of subrogation against Licensor.

14. Licensee shall be obligated to reimburse Licensor for any legal fees and disbursements incurred by the Licensor in defending the rights of the Licensor under this License Agreement or, in the event Licensee defaults under this License Agreement beyond any applicable grace period, enforcing Licensee's obligations hereunder.

15. Neither this License Agreement nor any provision hereof may be waived, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, amendment, discharge or termination is sought and then only to the extent set forth in such instrument.

16. It is understood and agreed that all understandings and agreements heretofore had between the parties hereto are merged in this License Agreement, which alone fully and completely express their agreement and that this License Agreement supersedes any and all such understandings and agreements with respect to the subject matter hereof.

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

18. 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 License 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.

19. Any failure by the Licensor to insist upon strict performance by Licensee of any of the provisions of this License Agreement shall not be deemed a waiver of any of the provisions hereof, irrespective of the number of violations or breaches which may occur, and Licensor, notwithstanding any such failure, shall have the right thereafter to insist upon strict performance by Licensee of any and all of the provisions of this License Agreement to be performed by Licensee.

[No further text; signature page follows.]

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

Agreed to and Acknowledged by

**LICENSOR:**

THE BOARD OF MANAGERS OF THE RESIDENTIAL SECTION OF 432 PARK CONDOMINIUM

By: _____
Name:
Title:

56TH AND PARK (NY) OWNER, LLC

By: _____
Name:
Title:

**LICENSEE:**

By: _____

By: _____

**ASSIGNMENT AND ASSUMPTION OF LICENSE AGREEEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF LICENSE AGREEEMENT made as of the _____ day of _____, 20__ by and between _____ (hereinafter referred to as the "Assignor"), having an address at _____, New York, New York _____, and _____ (hereinafter referred to as the "Assignee"), having an address at _____.

W I T N E S S E T H:

WHEREAS, Assignor executed a certain License Agreement dated _____ __, 201_ ("License Agreement") to have the exclusive right to use Storage Closet # ___ located at 432 Park Condominium, located at 432 Park Avenue, New York, New York 10016, in accordance with the terms of the Condominium Offering Plan dated _____ ___, 201__ (the "Plan") as amended to date; and

WHEREAS, Assignor desires to assign to Assignee all of Assignor's right, title and interest in and to the License Agreement; and

WHEREAS, Assignee desires to assume all of the obligations and responsibilities of Assignor in and to the License Agreement; and

WHEREAS, the parties hereto wish to set forth their agreements with respect to this Assignment;

NOW, THEREFORE, in consideration of the mutual promises herein contained, and other good and valuable consideration, the parties hereto agree as follows:

1. ASSIGNMENT: Assignor hereby assigns to the Assignee, from and after the date hereof, all of Assignor's right, title and interest in and to the License Agreement, a copy of which is attached hereto and made a part hereof, for a purchase price of $_____.

2. ASSUMPTION: Assignee hereby assumes all of the obligations, promises, covenants and responsibilities of Assignor in and to the License Agreement as if Assignee had signed the License Agreement originally as "Licensee".

3. AUTHORIZATION AND DIRECTION: Assignor and Assignee hereby authorize and direct the Condominium to have the books and records of the Condominium reflect that Assignee has the exclusive right to use Storage Closet # __.

4. EFFECTIVE DATE: This Assignment shall not be deemed effective unless and until signed by each of the parties hereto.

5. DEFINED TERMS: All terms not defined herein shall have the meanings ascribed to them in the Plan.

IN WITNESS WHEREOF, Assignor and Assignee have duly executed this Assignment and Assumption of License Agreement on the day and year first above written.

ASSIGNOR:

_____

ASSIGNOR:

_____

APPROVED BY:

THE BOARD OF MANAGERS OF
THE RESIDENTIAL SECTION OF
432 PARK CONDOMINIUM

By: _____
Name:
Title:

**EXHIBIT 17**

FORM OF WINE CELLAR LICENSE AND ASSIGNMENT AND ASSUMPTION OF LICENSE

# WINE CELLAR LICENSE AGREMEENT

AGREEMENT made this ___ day of _____, 20__ (this "License Agreement") by and between 56th and Park (NY) Owner, LLC, having an office at 515 Madison Avenue, 41st Floor, New York, New York 10022 ("Sponsor"), the board of managers of the Residential Section of 432 Park Condominium on behalf of all Residential Unit Owners, having an address at 432 Park Avenue, New York, New York 10016 (the "Residential Board") (together, Sponsor and the Residential Board are sometimes referred to as "Licensor"), and _____ having an address at 432 Park Avenue, Unit ___, New York, New York 10016 ("Licensee");

WHEREAS, 432 Park Condominium ("Condominium") is governed by a certain Declaration of Condominium dated as of _____ ___, 201_, recorded in the New York County Office of the Register of the City of New York on _____ ___, 201_ as CRFN _____, as the same has been or may be amended from time to time (the "Declaration"), the by-laws of the Condominium, as the same has been or may be amended from time to time (the "Condominium By-Laws") and the general rules and regulations of the Condominium, if any, as the same has been or may be amended from time to time (the "General Rules and Regulations"), the by-laws of the Residential Section, as the same has been or may be amended from time to time (the "Residential By-Laws") and the residential rules and regulations of the Residential Section, as the same has been or may be amended from time to time (the "Residential Rules and Regulations") (the Declaration, the Condominium By-Laws, the General Rules and Regulations, the Residential By-Laws and the Residential Rules and Regulations are collectively referred to as the "Condominium Documents"); and

WHEREAS, there are wine cellars ("Wine Cellars") that have been installed for use by permitted Unit Owners, which Wine Cellars are located on the Subcellar 1 Level of the Tower, which are Residential Limited Common Elements ("Licensed Area"); and

WHEREAS, Licensee, owns or simultaneously herewith is acquiring Residential Unit ___ in the Condominium; and

WHEREAS, Licensee desires the right to the exclusive use of Wine Cellar #___ for so long as Licensee owns a Residential Unit in the Condominium (the "License");

NOW THEREFORE, in consideration of the sum of $10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Licensor hereby grants to Licensee, its successors and assigns, a license for the exclusive use of Wine Cellar #___ ("Designated Wine Cellar") and Licensee hereby accepts such License from Licensor for a term commencing on the date hereof.

2. A Wine Cellar may only be used for the storage of wine and other beverages and in no event may be used as a dwelling space or for the storage of toxic or inflammable items or Combustibles (as such term is defined in the New York City Building Code). No materials which pose a health or safety threat or which otherwise create a nuisance may be stored in the Wine Cellar. To do so may result in a violation placed against the Building by the Building Department that will be the obligation of the Licensee to remove.

3. Licensee shall not: (a) store any property in the Licensed Area outside of the Designated Wine Cellar; or (b) allow any other person to use the License except in accordance with the terms hereof.

4. Licensee will be required to pay a license fee to the Residential Board in an amount equal to $1 per month per square foot of the Designated Wine Cellar, which amount shall be subject to biannual increases in accordance with the Residential By-Laws. Further, the license fee is otherwise also subject to change from time to time as the Residential Board deems necessary or appropriate.

5. The License may be assigned by Licensee at any time provided the assignee: (i) is a Residential Unit Owner at the Condominium, (ii) assumes the obligations hereunder in the form annexed hereto, (iii) notification of the assignment is delivered in writing to the Residential Board in compliance with its requirements as the same may be modified from time to time, and (iv) no outstanding monies are owed to the Residential Board by the Licensee and/or the assignee. This License shall automatically terminate at such time as the Licensee no longer owns a Residential Unit in the Condominium unless this License Agreement is assigned to and assumed by another Residential Unit Owner upon or prior to the sale of Licensee's Residential Unit.

6. Licensee represents that it has made a thorough inspection of the Licensed Area and agrees to take the Designated Wine Cellar as well as the Licensed Area in "as is" condition as of the date of this License Agreement. Licensee shall throughout the term of this License Agreement take good care of and maintain the Designated Wine Cellar. All repairs and replacements to the Designated Wine Cellar as well as the Licensed Area shall be performed by the Residential Board and the cost thereof shall be a Residential Common Expense (as defined in the Residential By-Laws), unless such repair or replacement is necessitated by the negligence, misuse, or abuse of a Licensee, then the entire cost and expense of such repair or replacement shall be borne by such Licensee.

7. Neither Licensor nor their respective agents or employees shall be liable for any theft or damage to any property stored in the Licensed Area and the Designated Wine Cellar.

8. The terms of this License Agreement are subject to the terms of the Condominium Documents. Nothing contained herein shall be construed as limiting the rights and obligations of the parties under the Condominium Documents. Any conflict between the provisions of this License Agreement and the Condominium Documents shall be resolved in favor of the Condominium Documents.

9. If Licensee defaults in its obligations hereunder or under the Condominium Documents, the Residential Board may, in addition to the rights and remedies set forth in the Condominium Documents: (i) deny access to and use of the Designated Wine Cellar until Licensee cures such default, or (ii) terminate this License Agreement upon written notice to Licensee.

10. The Residential Board or its agents shall have the right, but not the obligation, to open the Designated Wine Cellar in an emergency at any time, and, at other reasonable times

upon prior notice to Licensee, to inspect and examine the Designated Wine Cellar and to make such repairs, replacements and improvements as the Residential Board shall deem necessary.

11. This License Agreement shall constitute a License only and shall not be construed under any circumstances to be a sale of the Designated Wine Cellar or conveyance of title thereto. In no event shall a landlord/tenant relationship exist between the Licensor and the Licensee with respect to this License Agreement.

12. Licensee shall indemnify and hold Licensor and their respective directors, officers, partners, parent and subsidiary and affiliated companies, agents and employees, harmless from and against any and all liabilities, claims, causes of action, damages, lawsuits, penalties, judgments, and liens, together with any related costs and expenses, including but not limited to reasonable legal fees, asserted against or sustained by any of them in connection with any act, omission, or negligence of Licensee or Licensee's family, servants, employees, agents, guests and invitees in connection with this License.

13. Licensee shall at all times maintain, in full force and effect, insurance covering both the property stored in the Designated Wine Cellar as well as coverage for Licensee's liability with minimum limits of liability of $500,000. Licensee further agrees to a waiver of its insurer's right of subrogation against Licensor.

14. Licensee shall be obligated to reimburse Licensor for any legal fees and disbursements incurred by the Licensor in defending the rights of the Licensor under this License Agreement or, in the event Licensee defaults under this License Agreement beyond any applicable grace period, enforcing Licensee's obligations hereunder.

15. Neither this License Agreement nor any provision hereof may be waived, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, amendment, discharge or termination is sought and then only to the extent set forth in such instrument.

16. It is understood and agreed that all understandings and agreements heretofore had between the parties hereto are merged in this License Agreement, which alone fully and completely express their agreement and that this License Agreement supersedes any and all such understandings and agreements with respect to the subject matter hereof.

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

18. 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 License 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.

19. Any failure by the Licensor to insist upon strict performance by Licensee of any of the provisions of this License Agreement shall not be deemed a waiver of any of the provisions hereof, irrespective of the number of violations or breaches which may occur, and Licensor, notwithstanding any such failure, shall have the right thereafter to insist upon strict performance by Licensee of any and all of the provisions of this License Agreement to be performed by Licensee.

[No further text; signature page follows.]

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

Agreed to and Acknowledged by

**LICENSOR:**

THE BOARD OF MANAGERS OF THE RESIDENTIAL SECTION OF 432 PARK CONDOMINIUM

By: _____
Name:
Title:

56TH AND PARK (NY) OWNER, LLC

By: _____
Name:
Title:

**LICENSEE:**

By: _____

By: _____

**ASSIGNMENT AND ASSUMPTION OF LICENSE AGREEEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF LICENSE AGREEEMENT made as of the _____ day of _____, 20__ by and between _____ (hereinafter referred to as the "Assignor"), having an address at _____, New York, New York _____, and _____ (hereinafter referred to as the "Assignee"), having an address at _____.

W I T N E S S E T H:

WHEREAS, Assignor executed a certain License Agreement dated _____ __, 201_ ("License Agreement") to have the exclusive right to use Wine Cellar # ___ located at 432 Park Condominium, located at 432 Park Avenue, New York, New York 10016, in accordance with the terms of the Condominium Offering Plan dated _____ ___, 201__ (the "Plan") as amended to date; and

WHEREAS, Assignor desires to assign to Assignee all of Assignor's right, title and interest in and to the License Agreement; and

WHEREAS, Assignee desires to assume all of the obligations and responsibilities of Assignor in and to the License Agreement; and

WHEREAS, the parties hereto wish to set forth their agreements with respect to this Assignment;

NOW, THEREFORE, in consideration of the mutual promises herein contained, and other good and valuable consideration, the parties hereto agree as follows:

1. ASSIGNMENT: Assignor hereby assigns to the Assignee, from and after the date hereof, all of Assignor's right, title and interest in and to the License Agreement, a copy of which is attached hereto and made a part hereof, for a purchase price of $_____.

2. ASSUMPTION: Assignee hereby assumes all of the obligations, promises, covenants and responsibilities of Assignor in and to the License Agreement as if Assignee had signed the License Agreement originally as "Licensee".

3. AUTHORIZATION AND DIRECTION: Assignor and Assignee hereby authorize and direct the Condominium to have the books and records of the Condominium reflect that Assignee has the exclusive right to use Wine Cellar # __.

4. EFFECTIVE DATE: This Assignment shall not be deemed effective unless and until signed by each of the parties hereto.

5. DEFINED TERMS: All terms not defined herein shall have the meanings ascribed to them in the Plan.

IN WITNESS WHEREOF, Assignor and Assignee have duly executed this Assignment and Assumption of License Agreement on the day and year first above written.

ASSIGNOR:

_____

ASSIGNOR:

_____

APPROVED BY:

THE BOARD OF MANAGERS OF
THE RESIDENTIAL SECTION OF
432 PARK CONDOMINIUM

By: _____
Name:
Title:

